

UNITED NATIONS
JURIDICAL YEARBOOK
1985



UNITED NATIONS-NEW YORK

1992

ST/LEG/SER.C/23

UNITED NATIONS PUBLICATION

Sales No. E.92.V.1

ISBN 92-1-133415-2

Copyright © United Nations 1992

All rights reserved

Manufactured in the United States of America

CONTENTS

FOREWORD	Page xiv
ABBREVIATIONS	xv

Part One. Legal status of the United Nations and related intergovernmental organizations

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

1. *Canada*

(a) Privileges and Immunities (International Organizations) Act	3
(i) Working Group of Experts on Marine Pollution from Land-based Sources, Privileges and Immunities Order 1985	3
(ii) WMO Commission for Instruments and Methods of Observation, Privi- leges and Immunities Order, 1985	4
(iii) International Coordination Group for the Tsunami Warning System in the Pacific, Privileges and Immunities Order, 1985	5
(b) Order 758-85 of the Government of Québec, 17 April 1985	5

2. *Federal Republic of Germany*

Ordinance on the Diplomatic Privileges and Immunities in the Field of Social Secu- rity Granted to Organizations Set up Pursuant to Intergovernmental Agree- ments of 5 August 1985	7
---	---

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

A. TREATY PROVISIONS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS

1. <i>Convention on the Privileges and Immunities of the United Nations. Approved by the General Assembly of the United Nations on 13 February 1946</i>	10
2. <i>Agreements relating to installations and meetings</i>	
(a) Exchange of letters constituting an agreement between the United Nations and the Government of the Netherlands (Netherlands Antilles) concerning hosting by the Government of the Netherlands Antilles of the United Nations Inter- regional Seminar on the Use of Non-conventional Water Resources in Develop- ing Countries, to be held in Curaçao from 22 to 26 April 1985. New York, 12 September 1984, and Willemstad, 27 December 1984	10
(b) Agreement between the United Nations and the Government of the Republic of the Niger concerning assistance in the field of statistics and computer sci- ence. Signed on 22 February 1985	12

CONTENTS (continued)

Page

(c)	Exchange of letters constituting an agreement between the United Nations and the Government of Papua New Guinea concerning the arrangements for the Asia and Pacific Regional Seminar 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, to be held at Port Moresby from 4 to 6 March 1985. Port Moresby, 1 March 1985	12
(d)	Exchange of letters constituting an agreement between the United Nations and the Government of Turkey concerning arrangements for an Interregional Symposium on Karst Water Resources, to be held at Ankara and Antalya from 7 to 19 July 1985. New York, 10 January and 4 March 1985	14
(e)	Agreement between the United Nations and the Government of Jamaica regarding arrangements for the eighth session of the Commission on Human Settlements of the United Nations [to be held at Kingston from 29 April to 10 May 1985]. Signed at New York on 5 March 1985	15
(f)	Understanding between the United Nations and the Government of Canada on an Ad Hoc Meeting of Experts to review the United Nations Manual on Criminal Justice Statistics, to be held at Ottawa from 25 to 27 March 1985. Signed at Vienna on 15 March 1985	16
(g)	Agreement between the United Nations (International Development Association) and the Government of India concerning a water resources management study in various basins in Tamil Nadu State. Signed at Washington on 28 and 29 March 1985	17
(h)	Agreement between the United Nations and the Government of the People's Republic of Bulgaria on a United Nations Workshop on Remote Sensing Instrumentation, Data Acquisition and Analysis, organized in cooperation with the Government of the People's Republic of Bulgaria [to be held at Sofia and Stara Zagora from 29 April to 11 May 1985]. Signed at New York on 2 April 1985	17
(i)	Letter of agreement between the United Nations and the Government of the Republic of Tunisia regarding the extraordinary session 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 [Special Committee of 24] in connection with the observance of the twenty-fifth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples, to be held at Tunis from 13 to 17 May 1985. Signed at Tunis on 13 May 1985	18
(j)	Agreement between the United Nations and the Government of the French Republic regarding arrangements for the eleventh session of the World Food Council of the United Nations [to be held in Paris from 10 to 13 June 1985]. Signed at Paris on 15 May 1985	19
(k)	Agreement between the United Nations and the Government of the Union of Soviet Socialist Republics on the United Nations International Seminar on Satellite Communications [to be held in Moscow from 20 to 31 May 1985]. Signed at New York on 17 May 1985	20
(l)	Agreement between the United Nations and the Government of Pakistan [concerning the preparation of feasibility reports for the establishment of high-technology research and development institutes]. Signed at Islamabad on 21 April 1985 and at New York on 23 May 1985	20

CONTENTS (continued)

Page

(m)	Exchange of letters constituting an agreement between the United Nations (United Nations Relief and Works Agency for Palestine Refugees in the Near East) and the Government of Cyprus relating to the assignment of UNRWA staff to Cyprus. Vienna, 26 June 1985, and Nicosia, 5 July 1985	21
(n)	Agreement between the United Nations and the Government of the People's Republic of China on the United Nations Workshop on Advances in Space Science and Technology and its Applications [to be held at Beijing from 21 to 29 October 1985]. Signed at New York on 15 October 1985	22
(o)	Agreement between the United Nations and the Government of India on the United Nations Workshop on Space Science and Technology and its Applications within the Framework of Educational Systems [to be held at Ahmedabad from 4 to 8 November 1985]. Signed at New York on 1 November 1985	23
(p)	Agreement between the United Nations and the Austrian Federal Government regarding the arrangements for the 1986 United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations. Signed at New York on 30 December 1985	24
3.	<i>Agreements relating to the United Nations Children's Fund: revised model agreement concerning the activities of UNICEF</i>	
	Agreement between the United Nations (United Nations Children's Fund) and the Government of the Democratic People's Republic of Korea concerning the activities of UNICEF in the Democratic People's Republic of Korea. Signed at Pyongyang on 25 May 1985	25
4.	<i>Agreements relating to the United Nations Development Programme: standard basic agreement concerning assistance by the United Nations Development Programme</i>	
	Standard Basic Agreement between the United Nations (United Nations Development Programme) and the Government of Saint Christopher and Nevis. Signed at Saint Christopher and Nevis on 30 January 1985	26
5.	<i>Agreements relating to the United Nations Industrial Development Organization</i>	
(a)	Constitution of the United Nations Industrial Development Organization. Adopted at Vienna on 8 April 1979	26
(b)	Exchange of letters constituting an agreement between the United Nations Industrial Development Organization and the Government of Switzerland concerning the continuation of a UNIDO Service in Switzerland for the strengthening of industrial cooperation and promotion of investment in developing countries. Berne and Vienna, 20 June 1985	26
6.	<i>Agreements relating to the United Nations Revolving Fund for Natural Resources Exploration</i>	
	Project Agreements between the United Nations (United Nations Revolving Fund for Natural Resources Exploration) and Saint Lucia (with Letter of Agreement for management services to be provided by UNRFRNRE and financed by USAID), the Republic of Honduras and the People's Republic of the Congo. Signed respectively at Castries on 9 July 1985, at Tegucigalpa on 9 August 1985 and at Brazzaville on 9 September 1985	27

CONTENTS *(continued)*

	<i>Page</i>
B. TREATY PROVISIONS CONCERNING THE LEGAL STATUS OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
1. <i>Convention on the Privileges and Immunities of the Specialized Agencies. Approved by the General Assembly of the United Nations on 21 November 1947</i>	28
2. <i>International Labour Organisation</i>	
Agreement between the International Labour Organisation and the Government of Spain concerning the establishment in Madrid of an Office of the Organisation. Signed on 8 November 1985	29
3. <i>Food and Agriculture Organization of the United Nations</i>	
(a) Agreement for the establishment of an FAO Representative's Office	29
(b) Agreements based on the standard "Memorandum of Responsibilities" in respect of FAO sessions	29
(c) Agreements based on the standard "Memorandum of Responsibilities" in respect of seminars, workshops, training courses or related study tours	29
(d) Exchange of letters between the Government of Sweden and the Food and Agriculture Organization of the United Nations regarding seminars and training courses to be held in Sweden	29
4. <i>United Nations Educational, Scientific and Cultural Organization</i>	
Agreements relating to conferences, seminars and other meetings	30
5. <i>World Health Organization</i>	
(a) Basic Agreements on technical advisory cooperation concluded by WHO	30
(b) Agreements concluded by the Pan American Health Organization	30
6. <i>International Atomic Energy Agency</i>	
(a) Agreement on the Privileges and Immunities of the International Atomic Energy Agency	30
(b) Incorporation of provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency by reference in other agreements	30

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

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

A. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF THE UNITED NATIONS	
1. Disarmament and related matters	35
2. Other political and security questions	43
3. Environmental, economic, social, humanitarian and cultural questions	45
4. Law of the sea	56
5. International Court of Justice	58
6. International Law Commission	70

CONTENTS *(continued)*

	<i>Page</i>
7. United Nations Commission on International Trade Law	72
8. Legal questions dealt with by the Sixth Committee of the General Assembly and by ad hoc legal bodies	74
9. Respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations	79
10. Cooperation between the United Nations and the Asian-African Legal Consultative Committee	79
11. United Nations Institute for Training and Research	80
B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
1. International Labour Organisation	80
2. Food and Agriculture Organization of the United Nations	81
3. United Nations Educational, Scientific and Cultural Organization	91
4. International Civil Aviation Organization	94
5. World Health Organization	95
6. World Bank	96
7. International Monetary Fund	97
8. Universal Postal Union	100
9. World Meteorological Organization	100
10. International Maritime Organization	102
11. World Intellectual Property Organization	103
12. International Fund for Agricultural Development	106
13. International Atomic Energy Agency	110
CHAPTER IV. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	120
CHAPTER V. DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS	
A. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS	
1. Judgement No. 343 (3 June 1985): <i>Talwar v. the Secretary-General of the United Nations</i> Extension of appointment beyond retirement age—Staff regulation 9.5 and General Assembly resolution 33/143—Precedents cannot be established through the exercise of discretionary and exceptional powers	121
2. Judgement No. 348 (14 June 1985): <i>Lugman v. the Secretary-General of the United Nations</i> Correction of personnel data regarding status—Staff rule 104.4 (a)—Lack of any definite rules or guidelines concerning correction of such data—The Applicant waited too long before requesting the correction	121
3. Judgement No. 360 (8 November 1985): <i>Taylor v. United Nations Joint Staff Pension Board</i>	

CONTENTS *(continued)*

	<i>Page</i>
Restoration of prior contributory service—General Assembly resolutions 37/131 and 38/233—Article 21 (<i>b</i>) of the Regulations of the United Nations Joint Staff Pension Fund	122
 B. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL LABOUR ORGANISATION	
1. Judgement No. 666 (19 June 1985): Chomentowski v. European Patent Organization	
Educational allowances paid under article 10 (3) of the Agreement on the integration of the International Patent Institute and the European Patent Organization—Concept of acquired rights to educational allowances—No one is entitled to payment of an allowance which was wrongly paid to others	122
2. Judgement No. 675 (19 June 1985): Perez Del Castillo v. Food and Agriculture Organization of the United Nations	
Non-renewal of a staff member's contract—Question whether the staff member is entitled to know the reason for the non-renewal of his contract—The rule that the non-renewal of a staff member's contract must be the subject of a reasoned decision is an implication of principle of law	123
3. Judgement No. 701 (14 November 1985): Bustos v. Pan American Health Organization (World Health Organization)	
Termination of a short-term contract—Question whether Complainant's duties corresponded to the nature of his contract—Intention of the parties is to be ascertained in order to determine their true legal relationship	124
 C. DECISIONS OF THE WORLD BANK ADMINISTRATIVE TRIBUNAL	
1. Decision No. 23 (22 March 1985): Einthoven v. International Bank for Reconstruction and Development	
Applicant's claim that his assignment was not in accordance with the Bank policy regarding the reassignment of the Operations Evaluation Department staff—Personnel Manual statement 4.04—Competence of the Tribunal under article II (1) of its statute is limited to non-observance of the contract of employment or terms of appointment	124
2. Decision No. 26 (4 September 1985): Mendaro v. International Bank for Reconstruction and Development	
Inadmissibility of the Applicant's complaint under articles II and XVII of the statute of the Tribunal—Non-parties' communications seeking to influence the outcome of a case pending before the Tribunal considered by the Tribunal as an improper and unacceptable attempt to interfere with the mission of the Tribunal	125
 CHAPTER VI. SELECTED LEGAL OPINIONS OF THE SECRETARIATS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
A. LEGAL OPINIONS OF THE SECRETARIAT OF THE UNITED NATIONS (ISSUED OR PREPARED BY THE OFFICE OF LEGAL AFFAIRS)	
1. Practice of the General Assembly with regard to the examination of credentials submitted by Member States	128

CONTENTS (continued)

	<i>Page</i>
2. Decision taken by the General Assembly at its thirty-ninth session to treat the question of apartheid as an important question within the meaning of Article 18 of the Charter of the United Nations—Question of the majority required for the adoption by the General Assembly of decisions in this regard at future sessions of the Assembly	130
3. Conference convened pursuant to a decision of the Governing Council of the United Nations Environment Programme—Question of participation in such a conference in the absence of express provisions on the matter in the convening decision—Practice followed in this respect as regards conferences convened by the General Assembly	131
4. Question whether the Committee on the Exercise of the Inalienable Rights of the Palestinian People can send missions to Governments in the light of General Assembly resolution 39/49 A and the Committee's general mandate	132
5. Question whether the presiding officer of a conference held under the auspices of the United Nations may conduct proceedings in a language other than one of the official languages of the conference	133
6. Adoption of the agenda of the Commission on Human Rights—Question whether, under the rules of procedure of the functional commissions of the Economic and Social Council, a representative of a State not a member of the Commission may propose changes to the Commission's agenda	133
7. Assistance to be provided by the Secretariat of the United Nations to the Committee on the Elimination of Discrimination against Women, under article 17, paragraph 9, of the Convention on the Elimination of All Forms of Discrimination against Women, which established the Committee	134
8. Participation of non-governmental organizations in commodity conferences—Question whether the International Natural Rubber Council's recommendation that the International Rubber Research and Development Board participate as an observer in the United Nations Natural Rubber Conference can be acted on by the Conference itself in the absence of guidance by the convening authority regarding participation of non-governmental organizations in commodity conferences—Current practice with regard to participation by non-governmental organizations in United Nations conferences	134
9. Question whether the Commission on Human Rights has competence to request the Secretary-General to carry out certain responsibilities—Question whether such a request would require approval by the Economic and Social Council	135
10. Proposed publication by an outside publisher of a book of speeches and lectures delivered by a United Nations official—Staff rules 101.6 (e) and 112.7 and paragraph 14 (c) of administrative instruction ST/AI/189/Add.9/Rev.1 and paragraph 8 of administrative instruction ST/AI/190/Rev.1—Question of the Secretary-General's contribution of a foreword to the book	137
11. Proposals that the General Assembly decide that the new interest or discount rate for pension commutation calculations set by the United Nations Joint Staff Pension Board in 1984 to be applicable to service as from 1 January 1985 should instead be applicable in respect of all periods of service by participants as of some specified future date—Questions of competence, acquired rights and non-retroactivity	138
12. Application to diplomatic representatives of domestic legislation providing for payment of a yearly <i>redevance</i> for the use of highways—Question whether the	

CONTENTS (continued)

Page

<p><i>redevance</i> is to be considered as a charge for services within the meaning of Articles 23 (1) and 34 (e) of the Vienna Convention on Diplomatic Relations of 1961 or a tax from which diplomatic agents should be exempted in accordance with the general clause of Article 34 of the Convention—Question whether the official vehicles of the international organizations in the host country should be exempted from the <i>redevance</i> in the light of the Headquarters Agreement</p>	140
<p>13. Transportation of non-United Nations personnel in vehicles or aircraft of peace-keeping missions—Question of the liability of the United Nations in case authorized visitors are injured or die while being transported in vehicles or aircraft of a United Nations peace-keeping mission</p>	142
<p>14. Status and legal rights of the United Nations under the International Telecommunication Convention and the UNIDO Headquarters Agreement in relation to communication facilities controlled by UNIDO in Vienna</p>	143
<p>15. United Nations jurisdiction in the space leased by the Organization—Supplemental agreements to the Headquarters Agreement—Responsibility of the Security and Safety Service with reference to fire prevention and control arrangements in space leased by the United Nations</p>	144
<p>16. Establishment in a Member State of exchange parallel market rates—Under the Standard Basic Assistance Agreement between the United Nations Development Programme and the Member State concerned UNDP remains entitled to the most favourable rate of exchange</p>	146
<p>17. Disposal of an official vehicle of a United Nations Information Centre in the light of customs regulations issued in a host State—Section 7 (b) of the Convention on the Privileges and Immunities of the United Nations</p>	147
<p>18. Conditions under which officials and representatives of members of international organizations are admitted to and reside in the United States</p>	147
<p>19. Personal injury claim brought against the Government of a Member State before United States courts under the Foreign Sovereign Immunities Act of 1976</p>	149
<p>20. Travel regulations of the host State—Incompatibility of those regulations with the international obligations of the host State under the Charter of the United Nations, the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations—Legal and practical capacity of the Organization to implement the regulations</p>	150
<p>21. Denial by a Member State of a request for the issuance of a visa to a staff member of South African nationality assigned to a United Nations Military Observer Group—Sections 17, 18, 24 and 25 of the Convention on the Privileges and Immunities of the United Nations</p>	152
<p>22. Question whether a United Nations official could legitimately be required by a Member State to possess a transit visa issued only upon the submission of a birth or baptismal certificate—Article 105 of the Charter of the United Nations</p>	153
<p>23. Stipulation in a finance law enacted by a Member State that all employees of international organizations of the nationality of that State must pay one twelfth of their annual salary and 20 per cent of their indemnities as a special contribution in 1985—Question of the applicability of the law to United Nations staff members—Sections 17 and 18 (b) of the Convention on the Privileges and Immunities of the United Nations</p>	153

CONTENTS (continued)

	<i>Page</i>
24. Traffic accident involving an employee of a company which is a subcontractor to the United Nations Development Programme—Question whether the person in question could be regarded as having been engaged in official business at the time of the accident	154
25. Trade control regulations issued in a host State—Applicability of the regulations to the shipment of furniture and personal effects to the home country by members of a Permanent Mission to the United Nations—Article 31 of the Vienna Convention on Diplomatic Relations	155
 B. LEGAL OPINIONS OF THE SECRETARIATS OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
United Nations Educational, Scientific and Cultural Organization	
Consequences of the withdrawal of a member State	156
Part Three. Judicial decisions on questions relating to the United Nations and related intergovernmental organizations	
CHAPTER VII. DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS	187
CHAPTER VIII. DECISIONS OF NATIONAL TRIBUNALS	
1. <i>Austria</i>	
Administrative Court	
Appeals against the decisions of the <i>Land</i> Finance Administration for Vienna, Lower Austria and Burgenland: Judgement of 10 January 1985	
Purchase of a plot of land by an official of the International Atomic Energy Agency—Joint liability of all persons involved in the acquisition process for payment of the tax—Article 17, item 4, of the Land Purchase Tax Act of 1955—If the buyer enjoys a tax exemption pursuant to the Agreement regarding the Headquarters of IAEA the sellers are held jointly liable for payment of the land purchase tax	188
2. <i>Belgium</i>	
Court of First Instance of Antwerp	
Republic of Guinea and its public institutions v. Maritime International Nominees Establishment: Decision of 27 September 1985	
Attachment of assets of a party to an International Centre for Settlement of Investment Disputes—Article 26 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1965—Exclusive jurisdiction of the Centre over the dispute	190
3. <i>Switzerland</i>	
The Swiss Federal Court	
Decree of 31 July 1985	
Cantonal tax—Deductibility of interest credited to an international official—Question whether an international official can be regarded as a “taxpayer in Switzerland”	190

CONTENTS (continued)

Part Four. Bibliography

	<i>Page</i>
LEGAL BIBLIOGRAPHY OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
A. INTERNATIONAL ORGANIZATIONS AND PUBLIC INTERNATIONAL LAW	
1. <i>General questions</i>	198
2. <i>Particular questions</i>	199
B. UNITED NATIONS	
1. <i>General</i>	200
2. <i>Particular organs</i>	
General Assembly	202
International Court of Justice	202
Secretariat	205
Security Council	205
3. <i>Particular questions or activities</i>	
Collective security	205
Commercial arbitration	205
Consular relations	206
Diplomatic relations	206
Disarmament	206
Environmental questions	207
Financing	208
Friendly relations and cooperation among States	209
Human rights	209
International administrative law	212
International criminal law	212
International economic law	213
International terrorism	213
International trade law	213
International waterways	214
Intervention	215
Law of the sea	215
Law of treaties	221
Law of war	222
Maintenance of peace	224
Most-favoured-nation clause	225
Namibia	225

CONTENTS *(continued)*

	<i>Page</i>
Narcotic drugs	225
Natural resources	225
Outer space	226
Peaceful settlement of disputes	228
Political and security questions	229
Progressive development and codification of international law (in general)	230
Recognition of States	230
Refugees	230
Right of asylum	231
Self-determination	231
State responsibility	232
State sovereignty	232
State succession	233
Technical cooperation	233
Trade and development	234
Use of force	235
C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
Food and Agriculture Organization of the United Nations	235
General Agreement on Tariffs and Trade	235
International Atomic Energy Agency	236
International Civil Aviation Organization	236
International Labour Organisation	237
International Maritime Organization	237
International Monetary Fund	237
International Telecommunication Union	238
United Nations Educational, Scientific and Cultural Organization	238
World Bank	238
International Centre for Settlement of Investment Disputes	238
World Intellectual Property Organization	239

FOREWORD

By its resolution 1814 (XVII) of 18 December 1962, the General Assembly requested the Secretary-General to publish a *Juridical Yearbook* which would include certain documentary materials of a legal character concerning the United Nations and related intergovernmental organizations, and by its resolution 3006 (XXVII) of 18 December 1972 the General Assembly made certain changes in the outline of the *Yearbook*.

Chapters I and II of the present volume — the twenty-second of the series — contain legislative texts and treaty provisions relating to the legal status of the United Nations and related intergovernmental organizations. With a few exceptions, the legislative texts and treaty provisions which are included in these two chapters entered into force in 1984. Decisions given in 1984 by international and national tribunals relating to the legal status of the various organizations are found in chapters VII and VIII.

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

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

Finally, the bibliography, which is prepared under the responsibility of the Office of Legal Affairs by the Dag Hammarskjöld Library, lists works and articles of a legal character published in 1985.

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

ABBREVIATIONS

FAO	Food and Agriculture Organization of the United Nations
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
ICJ	International Court of Justice
ICSID	International Centre for Settlement of Investment Disputes
IDA	International Development Association
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
ILO	International Labour Organisation
IMF	International Monetary Fund
IMO	International Maritime Organization
ITU	International Telecommunication Union
PAHO	Pan American Health Organization (World Health Organization)
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNDTCD	United Nations Department of Technical Cooperation for Development
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNITAR	United Nations Institute for Training and Research
UNRFNRE	United Nations Revolving Fund for Natural Resources Exploration
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
UPU	Universal Postal Union
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization

Part One

**LEGAL STATUS OF THE UNITED NATIONS
AND RELATED INTERGOVERNMENTAL
ORGANIZATIONS**

Chapter I

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

1. Canada

(a) PRIVILEGES AND IMMUNITIES (INTERNATIONAL ORGANIZATIONS) ACT

- (i) Working Group of Experts on Marine Pollution from Land-based Sources, Privileges and Immunities Order 1985^{1*}

P.C. 1985-1128 4 April 1985

Her Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order respecting the Privileges and Immunities in Canada of the Participants in the Third Session of the Ad Hoc Working Group of Experts on the Protection of the Marine Environment against Pollution from Land-based Sources.

ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE PARTICIPANTS IN THE THIRD SESSION OF THE AD HOC WORKING GROUP OF EXPERTS ON THE PROTECTION OF THE MARINE ENVIRONMENT AGAINST POLLUTION FROM LAND-BASED SOURCES

Short title

1. This Order may be cited as the *Working Group of Experts on Marine Pollution from Land-based sources, Privileges and Immunities Order 1985*.

Interpretation

2. In this Order,

“Convention” means the Convention on the Privileges and Immunities of the United Nations;

“experts performing missions for the Organization” means experts who are invited by the United Nations to attend the meeting;

“Meeting” means the third session of the Ad Hoc Working Group of Experts on the Protection of the Marine Environment against Pollution from Land-based Sources, to be held in Montreal from April 11 to 19, 1985;

“officials of the Organization” means all persons required to attend the Meeting on behalf of the United Nations;

“Organization” means the United Nations and includes the United Nations Environment Programme.

Privileges and immunities

3. (1) During the period commencing on April 4, 1985 and terminating on April 26, 1985, officials of the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in article V of the Convention for officials of the United Nations.

*The notes to each chapter are to be found at the end of that particular chapter.

(2) During the period commencing on April 4, 1985 and terminating on April 26, 1985, experts performing missions for the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in article VI of the Convention for experts on missions for the United Nations.

(ii) **WMO Commission for Instruments and Methods of Observation, Privileges and Immunities Order, 1985²**

P.C. 1985-1685 23 May 1985

Her Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to paragraphs 3 (2) (d) and (e) of the Privileges and Immunities (International Organizations) Act, is pleased hereby to revoke the WMO Commission for Instruments and Methods of Observation, Privileges and Immunities Order 1985, made by Order in Council P.C. 1985-357 of 7 February 1985, and to make the annexed Order respecting the Privileges and Immunities in Canada of the participants to the Ninth Session of the Commission for Instruments and Methods of Observation of the World Meteorological Organization and the related Technical Conference on Instruments and Methods of Observation.

ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE PARTICIPANTS TO THE NINTH SESSION OF THE COMMISSION FOR INSTRUMENTS AND METHODS OF OBSERVATION OF THE WORLD METEOROLOGICAL ORGANIZATION AND THE RELATED TECHNICAL CONFERENCE ON INSTRUMENTS AND METHODS OF OBSERVATION

Short title

1. This Order may be cited as the *WMO Commission for Instruments and Methods of Observation, Privileges and Immunities Order 1985*.

Interpretation

2. In this Order,

“Convention” means the Convention on the Privileges and Immunities of the United Nations;

“experts performing missions for the Organization” means experts who are invited by the World Meteorological Organization to attend the Meeting;

“Meeting” means the participants to the Ninth Session of the WMO Commission for Instruments and Methods of Observation of the World Meteorological Organization and the related Technical Conference on Instruments and Methods of Observation, to be held in Ottawa from July 8, 1985 to July 26, 1985;

“officials of the Organization” means all persons required to attend the Meeting on behalf of the World Meteorological Organization;

“Organization” means the World Meteorological Organization.

Privileges and immunities

3. (1) During the period commencing on July 1, 1985 and terminating on August 2, 1985, officials of the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in article V of the Convention for officials of the United Nations.

(2) During the period commencing on July 1, 1985 and terminating on August 2, 1985, experts performing missions for the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in article VI of the Convention for experts on missions for the United Nations.

(iii) International Coordination Group for the Tsunami Warning System in the Pacific, Privileges and Immunities Order, 1985³

P.C. 1985-2276 24 July 1985

Her Excellency the Governor General in Council, on the recommendation of the Acting Secretary of State for External Affairs, pursuant to paragraphs 3(2)(d) and (e) of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order respecting the Privileges and Immunities in Canada of the participants to the Tenth Biennial Meeting of the International Coordination Group for the Tsunami Warning System in the Pacific.

ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE PARTICIPANTS TO THE TENTH BIENNIAL MEETING OF THE INTERNATIONAL COORDINATION GROUP FOR THE TSUNAMI WARNING SYSTEM IN THE PACIFIC

Short title

1. This Order may be cited as the *International Coordination Group for the Tsunami Warning System in the Pacific, Privileges and Immunities Order 1985*.

Interpretation

2. In this Order,

“Commission” means that portion of the Organization known as the Intergovernmental Oceanographic Commission;

“Convention” means the Convention on the Privileges and Immunities of the United Nations;

“experts performing missions for the Organization” means experts who are invited by the Commission to attend the meeting;

“Meeting” means the Tenth Biennial Meeting of the International Coordination Group for the Tsunami Warning System in the Pacific to be held in Sidney, British Columbia, from July 29, 1985 to August 3, 1985;

“officials of the Organization” means all persons invited or required to attend or service the Meeting on behalf of the Organization;

“Organization” means the United Nations Educational, Scientific and Cultural Organization.

Privileges and immunities

3. (1) During the period commencing on July 21, 1985 and terminating on August 18, 1985, officials of the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in article V of the Convention for officials of the United Nations.

(2) During the period commencing on July 21, 1985 and terminating on August 18, 1985, experts performing missions for the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in article VI of the Convention for experts on missions for the United Nations.

(b) ORDER 758-85 OF THE GOVERNMENT OF QUEBEC, 17 APRIL 1985⁴

Act respecting the Ministère du Revenu (R.S.Q., c. M-31)

Fiscal exemptions—Members of diplomatic and consular corps and non-Canadian representatives to the International Civil Aviation Organization—Amendment

Fiscal exemptions—Members of diplomatic and consular corps and non-Canadian representatives to the International Civil Aviation Organization (Amendment) Regulation

WHEREAS under the Act respecting the Ministère des Relations internationales (R.S.Q., c. M-

25.1), the Minister of International Relations is responsible for awarding privileges and immunities to representatives of foreign countries;

WHEREAS under section 96 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31), the Government may make regulations to exempt from the duties provided for by a fiscal law, under the conditions which it prescribes, functionaries or agents of the Government of a country other than Canada, the members of their families or personnel, prescribed international bodies and their head officers, and official representatives of countries other than Canada on prescribed international bodies;

WHEREAS the Fiscal exemptions—Members of diplomatic and consular corps and non-Canadian representatives to the International Civil Aviation Organization Regulation (Order in Council 238-84 dated 1 February 1984) was made under that Act;

WHEREAS representations have been made to the Minister of Revenue to simplify the fiscal exemption procedure set up under that Regulation in respect of the Retail Sales Tax Act (R.S.Q., c. I-1), the Tobacco Tax Act (R.S.Q., c. I-2) and the Telecommunication Tax Act (R.S.Q., c. T-4);

WHEREAS it is expedient to amend the Regulation in order to provide new procedures for application of the exemption from the retail sales tax, the tobacco tax and the telecommunications tax.

IT IS ORDERED, upon the recommendation of the Minister of International Relations and the Minister of Revenue:

THAT the Regulation attached hereto, entitled "Fiscal exemptions—Members of diplomatic and consular corps and non-Canadian representatives to the International Civil Aviation Organization (Amendment) Regulation", be made.

Fiscal exemptions—Members of diplomatic and consular corps and non-Canadian representatives to the International Civil Aviation Organization (Amendment) Regulation

An Act respecting the Ministère du Revenu

(R.S.Q., c. M-31, s. 96 par. a to c and s. 97)

1. The Fiscal exemptions—Members of diplomatic and consular corps and non-Canadian representatives to the International Civil Aviation Organization Regulation, made by Order in Council 238-84 dated 1 February 1984 and amended by the Regulation made by Order in Council 2113-84 dated 19 September 1984, is further amended by substituting the following paragraph for paragraph (2) of section 2:

"(2) is registered with the Ministère des Relations internationales;"

2. The following sections are substituted for sections 3 and 4 of the Regulation:

"3. A person specified in section 1 is exempted from the duties and taxes levied under the following Acts:

"(1) Succession Duty Act (R.S.Q., c. D-13.2);

"(2) Taxation Act (R.S.Q., c. I-3);

"(3) Telecommunications Tax Act (R.S.Q., c. T-4).

"He is also exempted from the tax levied under the Retail Sales Tax Act (R.S.Q., c. I-1) in respect of the purchase of electricity and the leasing of a telecommunication instrument or telephone service.

"4. Subject to section 3, a person specified in section 1 is exempted, by refund, and upon the filing of vouchers with the Ministère du Revenu through the Ministère des Relations internationales, from the duties and taxes levied under the following Acts:

"(1) Retail Sales Tax Act;

"(2) Tobacco Tax Act (R.S.Q., c. I-2);

"(3) Fuel Tax Act (R.S.Q., c. T-1); and

"(4) Meals and Hotels Tax Act (R.S.Q., c. T-3).

"However, the exemption prescribed by paragraph (1) of the first paragraph only applies, in respect of a purchase of alcohol, where the purchase was made at one of the three branches of the Société des alcools du Québec indicated by the Minister of International Relations."

3. The following section is substituted for section 7 of the Regulation:

“7. The individual who wishes to avail himself of section 6 shall, at the time of the transaction:

“(1) produce to the agent, the identity card issued to him jointly by the Ministère des Relations internationales and by the Ministère du Revenu;

“(2) sign the invoice in the presence of the agent, after the agent has written on the invoice the name and address of the customer and the identification number appearing on the identity card.

“In the case of a purchase of tobacco or alcohol, the individual may also avail himself of section 6 by sending to the tobacco manufacturer or to one of the three branches of the Société des alcools du Québec indicated by the Minister of International Relations, a purchase order bearing his initials as well as the seal of the foreign representation to which he belongs.”

4. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

2. Federal Republic of Germany

ORDINANCE ON THE DIPLOMATIC PRIVILEGES AND IMMUNITIES IN THE FIELD OF SOCIAL SECURITY GRANTED TO ORGANIZATIONS SET UP PURSUANT TO INTERGOVERNMENTAL AGREEMENTS OF 5 AUGUST 1985⁵

Pursuant to

article 3 of the Law of 22 June 1954 on the Accession of the Federal Republic of Germany to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947 and on the Privileges and Immunities granted to other Intergovernmental Organizations (BGB1. 1954 II, p. 639), revised by article 4 of the Law of 16 August 1980 (BGB1. II, p. 941), and

article 3 of the Law of 16 August 1980 to the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 (BGB1. 1980 II, p. 941),

the Government of the Republic of Germany, in agreement with the Bundesrat, decrees:

Article 1

(1) German laws and regulations governing compulsory insurance under the statutory sickness scheme, the statutory accident insurance scheme and the statutory old-age pension insurance scheme, as well as the laws and regulations regarding child benefit and regarding the obligation to pay contributions and levies under the Employment Promotion Act shall not apply, except as provided in paragraphs 2 to 3, to organizations set up pursuant to intergovernmental agreements (organizations) and to their staff members employed, within the scope of application of this ordinance, in respect of such employment,

1. in so far as these staff members are members of the social security system of an organization and
2. in so far as the Federal Republic of Germany, after consultations with the organization, declares to the organization that the benefits of the social security system of the organization are sufficient, and that according to this provision the exemption from German laws and regulations is justified with due regard to the interests of the organization and its employees, and with due regard to article 2, paragraph 1, sentence 2; the exemption from the German laws and regulations takes effect from the date of publication of the declaration of the representative of the Federal Republic of Germany in the *Federal Gazette*; it also takes effect retroactively from a date prior to the date of declaration, this date being specified in the declaration.

(2) In the case of a staff member who, on the making of the declaration pursuant to paragraph 1, sub-item 2, is employed by the organization, an exemption from the German laws and regulations governing compulsory insurance under the statutory old-age pension insurance scheme under paragraph 1 of this article shall only take effect if he declares his consent. The declaration of consent shall be submitted to the old-age pension insurance institution within one year from the date on which the Federal Republic of Germany submitted the declaration, pursuant to paragraph 1, sub-item 2; the deadline shall also be regarded as having been observed where the declaration has been submitted to an old-age pension insurance institution other than the responsible one. The exemption from compulsory insurance takes effect from the date of receipt of the declaration of consent. The staff member may determine that the exemption from compulsory insurance shall take effect from an earlier date of his employment with the organization; this date, however, cannot be prior to the date specified, pursuant to paragraph 1, sub-item 2, second part of the sentence, in the declaration of the Federal Republic of Germany.

(3) The exemption from insurance and the exemption from compulsory insurance shall, in accordance with the provisions of the statutory pension insurance, take preference to the exemption pursuant to paragraphs 1 and 2.

Article 2

(1) Where compulsory contributions to the statutory old-age pension insurance scheme were paid in respect of a period which was not covered by the compulsory insurance referred to under article 1, the contributions shall be refunded in accordance with the laws and regulations governing erroneously paid contributions. They are to be disbursed to the organization, in so far as a refund is asserted, after consultation with the organization pursuant to article 1, paragraph 1, sub-item 2, with priority being given to the establishment or replenishment of future rights of the staff member in the old-age pension insurance scheme of the organization. Notwithstanding the provisions of article 27, paragraph 2, of the Fourth Volume of the Social (Insurance) Security Code, the reimbursement entitlement becomes statute-barred within four years from the end of the calendar year in which the declaration was submitted pursuant to article 1, paragraph 1, sub-item 2, or, in so far as this is required, in which the consent was submitted pursuant to article 1, paragraph 2. Non-refunded contributions shall, without any objection being necessary, be deemed voluntary insurance contributions, provided that the right to voluntary insurance existed at the time of payment.

(2) Compulsory contributions to the statutory health and accident insurance as well as contributions and levies under the Employment Promotion Act, which were made pursuant to article 5, paragraph 1, for the period preceding the entry into force of this ordinance, shall not be reimbursed.

Article 3

The specific national, supranational and intergovernmental provisions applying to individual organizations take preference over articles 1 and 2.

Article 4

Pursuant to article 14 of the Third Transitional Law, this ordinance shall apply, in connection with article 4 of the Law of 22 June 1954, specified in the preamble and revised by the Law of 28 February 1964 (BGBl. II, p. 187), and article 5 of the Law of 16 August 1980, specified in the preamble, also to the *Land Berlin*.

Article 5

(1) This ordinance shall take effect, subject to the provisions of paragraph 2 of this article, on the day after its promulgation.

(2) In so far as the ordinance refers to the application of the laws and regulations governing the statutory old-age pension insurance scheme, it shall enter into force with effect from 1 January 1956.

NOTES

¹See *Canada Gazette*, part II, vol. 119, No. 8.

²*Ibid.*, No. 12.

³*Ibid.*, p. 16.

⁴See *Gazette officielle du Québec*, 24 April 1985, vol. 117, No. 18.

⁵Unofficial translation from German provided by the Permanent Mission of the Federal Republic of Germany to the United Nations. Published in the *Bundesgesetzblatt (Federal Law Gazette)*, No. 28, 1985 (II), p. 961.

Chapter II

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

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

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

No additional State acceded to the Convention in 1985.² As of 31 December 1985, 120 States were party to the Convention.³

2. AGREEMENTS RELATING TO INSTALLATIONS AND MEETINGS

- (a) Exchange of letters constituting an agreement between the United Nations and the Government of the Netherlands (Netherlands Antilles) concerning hosting by the Government of the Netherlands Antilles of the United Nations Interregional Seminar on the Use of Non-conventional Water Resources in Developing Countries,⁴ to be held in Curaçao from 22 to 26 April 1985. New York, 12 September 1984, and Willemstad, 27 December 1984

I

LETTER FROM THE UNITED NATIONS

12 September 1984

I have the honour to refer to conversations held between the representative of the United Nations Development Programme on our behalf, and of the Government of the Netherlands Antilles with respect to hosting the United Nations Interregional Seminar on the Use of Non-conventional Water Resources in Developing Countries in Curaçao from 15 to 19 April 1985.

...

With the present letter I wish to request confirmation of the following:

(a) The Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946, shall be applicable to the Seminar.

(b) The country participants and the consultants invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations by article VI of the above Convention. Officials of the United Nations participating in or performing functions in connection with the Seminar shall enjoy the privileges and immunities provided under articles V and VII of the Convention. Officials of the specialized agencies invited to participate as observers in the Seminar shall be accorded privileges and immunities comparable to those of United Nations officials of the same rank.

(c) Without prejudice to the provisions of the Convention on the Privileges and Immunities of the United Nations, all participants and persons performing functions in connection with the Seminar

shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connection with the Seminar.

(d) Personnel provided by the Government pursuant to this Agreement shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them in their official capacity in connection with the Seminar.

. . .

(f) The Government of the Netherlands Antilles shall deal with any action, claim or other demand against the United Nations or its personnel arising out of (i) injury to person or damage to property in the premises provided for the Seminar; (ii) injury to person or damage to property incurred in using any transportation provided by the Government for the Seminar, and (iii) the employment of local personnel for the Seminar; and the Government shall hold harmless the United Nations and its personnel in respect of any such action, claim or demand.

. . .

Finally, I propose that upon receipt of your confirmation to me in writing of the above, this exchange of letters shall constitute an agreement between the United Nations and the Government of the Netherlands Antilles, acting on behalf of the Kingdom of the Netherlands, regarding the provision of host facilities by the Government for the United Nations Interregional Seminar on the Use of Non-conventional Water Resources in Developing Countries.

This Agreement shall remain in force for the duration of the session and for such additional period as is necessary for its winding up, such period not to exceed one year.

(Signed) Fagir MUHAMMAD
Officer-in-Charge
Department of Technical Cooperation
for Development

II

LETTER FROM THE PRIME MINISTER OF THE NETHERLANDS ANTILLES

27 December 1984

I have the honour to refer herewith to your letter dated 12 September 1984 concerning hosting by the Government of the Netherlands Antilles of the United Nations Interregional Seminar on the Use of Non-conventional Water Resources in Developing Countries in Curaçao from 15 to 19 April 1985, which seminar, I have been informed by our Department of Development Cooperation, will now be held from 22 to 26 April 1985.

In reply I would like to confirm the following as requested in your above-mentioned letter:

[See letter I]

(Signed) M. Ph. LIBERIA-PETERS
Prime Minister of the
Netherlands Antilles

- (b) Agreement between the United Nations and the Government of the Republic of the Niger concerning assistance in the field of statistics and computer science.⁵ Signed on 22 February 1985

Article IV

GENERAL PROVISIONS

4.1. The Government shall guarantee the following, in the event of any question arising out of this Agreement, the provisions of the Convention on the Privileges and Immunities of the United Nations, to which the Government is a party, shall apply to UNDTCD, to its property and assets irrespective of their location or the entity currently in possession of them, and to its officials and any individual designated to provide services under this Agreement.

4.2. The Government shall respond to any suit brought by third parties against UNDTCD, its officials or other persons providing services on its behalf, and shall hold them not liable for any claim or responsibility arising out of the provision of services under this Agreement, unless the Secretary-General of the United Nations and the Government agree that such claim or responsibility is the result of serious or wilful misconduct by the said officials or persons.

4.3. The Basic Assistance Agreement between the United Nations Development Programme (UNDP) and the Government, signed on 2 May 1977, shall apply *mutatis mutandis* to all matters not specifically covered by this Agreement, and the provisions of articles IX and X of that Basic Agreement relating to facilities, exemptions, privileges and immunities shall apply to any individual or legal entity including subcontractors and their staff, providing services under this Agreement. It is understood that UNDTCD is governed by the regulations and guidelines of the United Nations.

- (c) Exchange of letters constituting an agreement between the United Nations and the Government of Papua New Guinea concerning the arrangements for the Asia and Pacific Regional Seminar 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, to be held at Port Moresby from 4 to 6 March 1985.⁶ Port Moresby, 1 March 1985

I

LETTER FROM THE UNITED NATIONS

1 March 1985

I have the honour to refer to the arrangements for the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples: Asia and Pacific Regional Seminar which the United Nations is arranging in Port Moresby, Papua New Guinea, from 4 to 6 March 1985. With the present letter I wish to obtain your Government's acceptance of the following arrangements:

...

2. I wish to propose that the following terms shall apply to the Seminar:

- (a) (i) The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the Seminar. The participants invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations by article VI of the Convention. Officials of the United Nations participating in or performing functions in connection with the Seminar shall enjoy the privileges and immunities provided under articles V and VII of the Convention. Officials of the specialized agencies participating in the Seminar shall be accorded the privileges and immunities provided under articles V and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies;

- (ii) Without prejudice to the provisions of the Convention on the Privileges and Immunities of the United Nations, all participants and persons performing functions in connection with the Seminar shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connection with the Seminar;
- (iii) Personnel provided by the Government pursuant to this Agreement shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them in their official capacity in connection with the Seminar.

. . .

- (c) It is further understood that your Government will be responsible for dealing with any action, claim or other demand against the United Nations arising out of (i) injury or damage to person or property in conference [or] office premises provided for the Seminar; (ii) the transportation provided by your Government; and (iii) the employment for the Seminar of personnel provided or arranged by your Government; and your Government shall hold the United Nations and its personnel harmless in respect of any such action, claim or other demand.

. . .

I further propose that upon receipt of your confirmation in writing of the above this exchange of letters shall constitute an Agreement between the United Nations and the Government of Papua New Guinea regarding the provision of host facilities by your Government for the Seminar.

(Signed) Nour E. DRISS
Principal Secretary,
Asia and the Pacific Regional Seminar,
the Special Committee on the Situation
with regard to the Implementation
of the Declaration on
the Granting of Independence
to Colonial Countries and Peoples

II

LETTER FROM THE GOVERNMENT OF PAPUA NEW GUINEA

1 March 1985

I have the honour to refer to your letter of today's date, the text of which reads as follows:

[See letter I]

I have the honour to confirm that the above arrangements are acceptable to my Government and that your letter together with this reply constitute an understanding between Papua New Guinea and the United Nations which takes effect on today's date.

(Signed) Paulias N. MATANE
Secretary
Department of Foreign Affairs and Trade

- (d) Exchange of letters constituting an agreement between the United Nations and the Government of Turkey concerning arrangements for an Interregional Symposium on Karst Water Resources, to be held at Ankara and Antalya from 7 to 19 July 1985.⁷ New York, 10 January and 4 March 1985

I

LETTER FROM THE UNITED NATIONS

10 January 1985

...

In accordance with existing practice, the following provisions shall apply:

1. The Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946, shall be applicable to the Symposium;

2. The country participants and the consultants invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations by article VI of the above Convention. Officials of the United Nations participating in or performing functions in connection with the Symposium shall enjoy the privileges and immunities provided under articles V and VII of the Convention. Officials of the specialized agencies invited to participate as observers in the Symposium shall be accorded privileges and immunities comparable to those of United Nations officials of the same rank;

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

4. Personnel provided by the Government pursuant to this Agreement shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them in their official capacity in connection with the Symposium;

5. All participants and all persons performing functions in connection with the Symposium shall have the right of unimpeded entry into and exit from Turkey. Visas and entry permits, where required, shall be granted free of charge. When applications are made four weeks before the opening of the Symposium, visas shall be granted not later than two weeks before the opening of the Symposium. If the application is made less than four weeks before the opening, visas shall be granted as speedily as possible and not later than three days before the opening;

6. The Government of Turkey shall deal with any action, claim or other demand against the United Nations or its personnel arising out of: (a) injury to person or damage to property in conference or office premises provided for the Symposium; (b) injury to person or damage to property incurred in using any transportation provided by the Government for the Symposium; and (c) the employment of local personnel for the Symposium; and the Government shall hold harmless the United Nations and its personnel in respect of any such action, claim or demand.

...

Finally, I propose that upon receipt of your confirmation to me in writing of the above, this exchange of letters shall constitute an Agreement between the United Nations and the Government of Turkey regarding the provision of host facilities by your Government for the Symposium on Karst Water Resources.

(Signed) B1 Jilong
Under-Secretary-General
Department of Technical Cooperation
for Development

II

LETTER FROM THE PERMANENT MISSION OF TURKEY TO THE UNITED NATIONS

4 March 1985

I have the honour to acknowledge receipt of your letter dated 10 January 1985, which reads as follows:

[See letter I]

In response, Mr. Under-Secretary-General, I would like to confirm that my Government is in agreement with the contents of your letter above.

(Signed) Ilter TURKMEN
Ambassador
Permanent Representative

- (e) Agreement between the United Nations and the Government of Jamaica regarding arrangements for the eighth session of the Commission on Human Settlements of the United Nations⁸ [to be held at Kingston from 29 April to 10 May 1985]. Signed at New York on 5 March 1985

Article X LIABILITY

The Government shall be responsible for dealing with any actions, claims or other demands against the United Nations arising out of: (a) injury or damage to person or property in the premises referred to in article III above; (b) injury or damage to person or property caused by, or incurred in using, the transport services referred to in article VI above; (c) the employment for the Session of the personnel by the Government to perform functions in connection with the Session. The Government shall indemnify and hold the United Nations and its personnel harmless in respect of any such actions, claims or other demands except where such injury or damage was caused by the gross negligence or wilful misconduct of United Nations personnel.

Article XI PRIVILEGES AND IMMUNITIES

1. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which the Government acceded on 9 September 1963, shall be applicable to the Session.

2. Representatives of States and of the United Nations Council for Namibia participating in the Session shall enjoy the privileges and immunities accorded under article IV of the Convention.

3. Officials of the United Nations performing official duties at the Session shall enjoy the privileges and immunities provided by articles V and VII of the Convention and experts on mission for the United Nations in connection with the Session shall enjoy the privileges and immunities provided under article VI of the Convention.

4. The representatives or observers referred to in article II (d) and (f) shall enjoy immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity in connection with the Session.

5. Representatives or officials of the specialized agencies or the International Atomic Energy Agency participating in the Session shall enjoy the privileges and immunities provided by the Convention on the Privileges and Immunities of the Specialized Agencies⁹ or the Agreement on the Privileges and Immunities of the International Atomic Energy Agency,¹⁰ respectively.

6. Without prejudice to the preceding paragraphs of this article, the persons referred to therein shall enjoy the necessary privileges, immunities and facilities in connection with their participation in the Session.

7. The Government undertakes to ensure that local personnel assigned to the United Nations to perform functions in connection with the Session shall be able to do so without let or hindrance and without impediment to the independent exercise of their functions under the authority of the United Nations.

8. The Government shall impose no impediment to transit to and from the Session of any persons whose presence at the Session is authorized by the United Nations and of any member of their immediate families. Any entry or exit visa required for such persons shall be granted immediately on application and without charge.

9. The Conference premises shall be inviolable for the duration of the Session, including the preparatory stage and the winding up, and access thereto shall be under the control and authority of the United Nations.

10. The participants in the Session, representatives of information media and officials of the secretariat of the Session shall have the right to take out of Jamaica at the time of their departure, without any restrictions, any unexpended portions of the funds they brought into Jamaica in connection with the Session, at the United Nations operations rate of exchange.

(f) Understanding between the United Nations and the Government of Canada on an Ad Hoc Meeting of Experts to review the United Nations Manual on Criminal Justice Statistics, to be held at Ottawa from 25 to 27 March 1985.¹¹ Signed at Vienna on 15 March 1985

...

X. The following terms will apply to the meeting:

(a) *Facilities, privileges and immunities*

- (i) The Convention on the Privileges and Immunities of the United Nations (13 February 1946), to which Canada is a party, will apply to the United Nations, its property, funds and assets, as well as to officials of the United Nations and all experts invited by the United Nations who participate in the work of the meeting.
- (ii) All participants invited or requested by the United Nations to attend the meeting, who are not nationals of Canada, will be granted visas and entry permits, free of charge and as speedily as possible so as to permit them to participate in the meeting without hindrance.

(b) *Liability*

- (i) The Government will be responsible for dealing with any actions, causes of action, claims or other demands which may be brought against the United Nations arising out of:
 - (A) injury or damage to persons or property in the premises referred to in paragraph V (d) above;
 - (B) recruitment for the meeting of the personnel referred to in paragraph V (b), (e) and (f); and the Government will indemnify and hold harmless the United Nations and its officials in respect of any such actions, causes of action, claims or other demands;
- (ii) The Government will be subrogated to the rights and remedies of the United Nations in respect of any action, cause of action, claim or other demand referred to in paragraph X (b) (i) of this Understanding except that it is understood that the Government will not be subrogated to the immunity from legal process enjoyed by the United Nations.
- (iii) The United Nations and the Government will cooperate in the procurement of evidence for a fair hearing and disposal of actions, causes of action, claims and other demands referred to in paragraph X (b) (i).

- (g) Agreement between the United Nations (International Development Association) and the Government of India concerning a water resources management study in various basins in Tamil Nadu State.¹² Signed at Washington on 28 and 29 March 1985

Article VI

6.1. In all matters connected with this Agreement, the Government shall apply to the UNDTCD, its property and assets, wherever located and by whomsoever held, and its officials and any person designated to perform services under this Agreement the provisions of the Convention on the Privileges and Immunities of the United Nations.

6.2. The Government shall be responsible for dealing with any claims which may be brought by third parties against the UNDTCD, its officials or other persons performing services on its behalf, and shall hold them harmless in case of any claims or liabilities resulting from the performance of the Services under this Agreement, except where it is agreed by the Secretary-General of the United Nations and the Government that such claims or liabilities arise from the gross negligence or wilful misconduct of such officials or persons.

6.3. The Special Fund Agreement between United Nations Development Programme (UNDP) and the Government of India, signed on 20 October 1959, shall be applicable, *mutatis mutandis*, to all matters not specifically dealt with in this Agreement, and Appendix II to this Agreement shall constitute the general provisions with respect to the facilities, exemptions, privileges and immunities applicable to contractors and their personnel performing services under this Agreement that, in accordance with article VIII of said Special Fund Agreement, would otherwise be specified in an annex to the respective UNDP Project Document.

- (h) Agreement between the United Nations and the Government of the People's Republic of Bulgaria on a United Nations Workshop on Remote Sensing Instrumentation, Data Acquisition and Analysis, organized in cooperation with the Government of the People's Republic of Bulgaria¹³ [to be held at Sofia and Stara Zagora from 29 April to 11 May 1985]. Signed at New York on 2 April 1985

Article V

FACILITIES, PRIVILEGES AND IMMUNITIES

1. The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the Workshop.

2. Country participants and experts invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations under the Convention on the Privileges and Immunities of the United Nations.

3. Officials of the United Nations participating in or performing functions in connection with the Workshop shall enjoy the privileges and immunities provided under articles V and VII of the Convention.

4. Officials of the specialized agencies participating in the Workshop shall enjoy the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies.

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

6. All participants and all persons performing functions in connection with the Workshop shall have the right of unimpeded entry into and exit from Bulgaria. Visas and entry permits, where required, shall be granted free of charge. When applications are made four weeks before the opening of the Workshop, visas shall be granted not later than two weeks before the opening of the Workshop.

If the application is made less than four weeks before the opening, visas shall be granted as speedily as possible and not later than three days before the opening.

Article VI LIABILITY

The Government shall be responsible for dealing with any actions, claims or other demands arising out of (i) injury or damage to persons or property in the premises referred to in paragraphs 3 (a) and (b) of article IV above; (ii) injury or damage to persons or property occurring during use of the transportation referred to in paragraph 3 (i) and (j) of article IV; (iii) the employment for the Workshop of the personnel referred to in paragraphs 2, and 3 (d), (e), (g) and (j) of article IV; and the Government shall hold the United Nations and its personnel harmless in respect of any actions, claims and other demands.

- (i) Letter of agreement between the United Nations and the Government of the Republic of Tunisia regarding the extraordinary session 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 [Special Committee of 24] in connection with the observance of the twenty-fifth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples, to be held at Tunis from 13 to 17 May 1985.^{14,15} Signed at Tunis on 13 May 1985

...

I propose that the following arrangements should apply to the extraordinary session of the Special Committee of 24:

- (a) (i) The Convention on the Privileges and Immunities of the United Nations shall be applicable to the extraordinary session of the Special Committee of 24. Participants invited by the United Nations shall benefit from the privileges and immunities granted to experts performing missions for the United Nations in accordance with article VI of the Convention. Officials of the United Nations participating in or assigned to the extraordinary session of the Special Committee of 24 shall enjoy the privileges and immunities provided for in articles V and VII of the Convention. Officials of specialized agencies participating in the extraordinary session shall enjoy the privileges and immunities provided for in articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies;
- (ii) Without prejudice to the provisions of the Convention on the Privileges and Immunities of the United Nations, all participants and all persons assigned to the extraordinary session of the Special Committee of 24 shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connection with the extraordinary session;
- (iii) Locally recruited staff shall, in pursuance of this Agreement, enjoy immunity from legal process in respect of any act performed by them in their official capacity in connection with the extraordinary session (including words spoken or written);

...

(c) It shall also be understood that your Government will be responsible for dealing with any action, claim or other demand against the United Nations arising out of (i) injury to persons or damage to property in the premises used for the extraordinary session; (ii) transport services provided by your Government or rented from Tunisian companies; and (iii) the employment of personnel provided by your Government or recruited locally for the extraordinary session; your Government shall hold the United Nations and its personnel harmless in respect of any such action, claim or other demand;

...

I further propose that, upon receipt of your written confirmation of the foregoing arrangements, this exchange of letters shall constitute an agreement between the United Nations and the Government

of the Republic of Tunisia concerning the provision of facilities by your Government for the extraordinary session of the Special Committee of 24.

(Signed) Mahmoud MESTIRI
Secretary of State to the Minister
for Foreign Affairs

(Signed) Rafeeuddin AHMED
Under-Secretary-General
for Political Affairs,
Trusteeship and Decolonization

- (j) Agreement between the United Nations and the Government of the French Republic regarding arrangements for the eleventh session of the World Food Council of the United Nations¹⁶ [to be held in Paris from 10 to 13 June 1985]. Signed at Paris on 15 May 1985

Article VII

1. The Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, shall apply to the session.

2. All the persons mentioned in article II, all the staff members of the Organization assigned to the session and all the experts attending the session on mission for the Organization shall be entitled to enter and to leave France without their movements to or from the session premises being hindered in any way. Any visas and entry permits which they may require shall be issued to them free of charge with the least possible delay. Arrangements shall also be made for visas covering the duration of the session to be issued on arrival to any participants who have been unable to obtain such visas before their departure. Any exit permits which they may require shall be issued free of charge with the least possible delay.

3. For the purposes of applying the Convention on the Privileges and Immunities of the United Nations, the session premises shall be deemed to be the premises of the Organization within the meaning of section 3 of the Convention, and access to them shall be subject to the authority and control of the Organization. The said premises shall be inviolable for the duration of the session, including the preparatory and final stages, in accordance with the provisions of article III.

4. (a) For the purposes of the session, the Organization may, without any restriction:

- (i) Transfer any portion of its funds inside or outside France;
- (ii) Acquire, receive or convert, as necessary, any funds, currency or cash inside France and transfer the proceeds of such acquisition, receipt or conversion inside or outside France.

(b) The staff members of the Organization assigned to the session and the participants in the session referred to in article III, paragraph 1, shall be entitled to bring into France or to take out of France any unspent portion of the funds which they have imported into France at the time of the session or received during their attendance thereof, subject to the following conditions:

- (i) No documentation shall be required in the case of French or foreign banknotes, up to a value of 5,000 French francs (FF) or the equivalent of FF 5,000;
- (ii) The currency declaration form filled out at the customs office at the time of entry into French territory must be presented in the case of foreign banknotes in excess of the aforementioned limit;
- (iii) No limit shall be imposed on traveller's cheques issued in foreign currency abroad and made payable to the person concerned.

5. The Government shall authorize the temporary importation, free of duties and import taxes, of all equipment and supplies required for the session. It shall also authorize, under the same conditions, the importation of such technical equipment as is necessary for the professional activity of the

persons referred to in article III, paragraph 2. It shall authorize the export of such equipment and supplies from France following the conclusion of the session.

- (k) Agreement between the United Nations and the Government of the Union of Soviet Socialist Republics on the United Nations International Seminar on Satellite Communications¹⁷ [to be held in Moscow from 20 to 31 May 1985]. Signed at New York on 17 May 1985

Article V

The provisions of the Agreement between the United Nations and the Government of the Union of Soviet Socialist Republics concerning the holding of seminars symposia workshops organized by the United Nations in the Union of Soviet Socialist Republics, as set forth in the exchange of letters between the Legal Counsel of the United Nations and the Permanent Representative of the Union of Soviet Socialist Republics of 14 and 15 June 1983¹⁸ will be applied to the Seminar. This Agreement constitutes an integral part of this letter . . .

- (l) Agreement between the United Nations and the Government of Pakistan¹⁹ [concerning the preparation of feasibility reports for the establishment of high-technology research and development institutes]. Signed at Islamabad on 21 April 1985 and at New York on 23 May 1985

Article VI

6.1. The Government shall ensure that in all matters connected with this Agreement, the provisions of the Convention on the Privileges and Immunities of the United Nations, to which the Government of Pakistan is a party, shall be applied to UNDTCD, its property and assets, wherever located and by whomsoever held, and its officials and any person designated to perform services under this Agreement.

6.2. The Government shall be responsible for dealing with any claims which may be brought by third parties against UNDTCD, its officials or other persons performing services on its behalf, and shall hold them harmless in case of any claims or liabilities resulting from the performance of the services under this Agreement, except where it is agreed by the Secretary-General of the United Nations and the Government that such claims or liabilities arise from the gross negligence or wilful misconduct of such officials or persons.

6.3. The Special Fund Agreement between United Nations Development Programme (UNDP) and the Government of Pakistan, signed on 25 February 1960, shall be applicable, *mutatis mutandis*, to all matters not specifically dealt with in this Agreement, and Appendix II to this Agreement shall constitute the general provisions with respect to the facilities, exemptions, privileges and immunities applicable to contractors and their personnel performing services under this Agreement that, in accordance with article VIII of said Special Fund Agreement, would otherwise be specified in an annex to the respective UNDP Project Document. It is understood that UNDTCD is governed by United Nations regulations, rules and directives.

APPENDIX II

Facilities, exemptions, privileges and immunities applicable to contractors

Contractors and their personnel (except those employed locally who are nationals of the Government) shall have the right to the following:

- (i) Immunity from legal process in respect of all acts performed by them in their official capacity in the execution of the services;

- (ii) Immunity from national service obligations;
- (iii) Immunity from immigration restrictions;
- (iv) The privilege of bringing into the country reasonable amounts of foreign currency for the purpose of the services or for personal use of such personnel, and of withdrawing any such amounts brought into the country, or in accordance with the relevant foreign exchange regulations, such amounts as may be earned therein by such personnel in the execution of the services;
- (v) The same repatriation facilities in the event of international crises as diplomatic envoys.

The contractors and their personnel shall enjoy inviolability for all papers and documents relating to the services.

The Government shall either exempt from, or bear the cost of, any taxes, duties, fees or levies which it may impose on any foreign firm or organization which may be retained by DTCD, and on the foreign personnel of any such firm or organization in respect of:

- (i) The salaries or wages earned by such personnel in the execution of the services;
- (ii) Any equipment, materials and supplies brought into the country in connection with this Agreement or which, after having been brought into the country, may be subsequently withdrawn therefrom;
- (iii) As in the case of concessions currently granted to the United Nations experts in the country, any property brought, including one privately owned automobile per employee, by the firm or organization or its personnel for their personal use or consumption or which, after having been brought into the country, may subsequently be withdrawn therefrom upon departure of such personnel. If despite this paragraph, taxes or duties are nevertheless collected, then the Government shall make an equivalent cash payment to the agency or person concerned.

The United Nations shall provide the Government with a list of the personnel of the firm or organization to whom these facilities, exemptions, privileges and immunities shall apply.

The privileges and immunities to which such firm or organization and its personnel may be entitled, referred to in paragraphs above, may be waived by the United Nations, if in its opinion the immunity would impede the course of justice and can be waived without prejudice to the successful completion of the services or to the interests of the United Nations.

- (m) Exchange of letters constituting an agreement between the United Nations (United Nations Relief and Works Agency for Palestine Refugees in the Near East) and the Government of Cyprus relating to the assignment of UNRWA staff to Cyprus.²⁰ Vienna, 26 June 1985, and Nicosia, 5 July 1985

1

LETTER FROM THE UNITED NATIONS

26 June 1985

The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) would wish to assign to Cyprus a limited number of its staff. Their function would be to provide administrative and logistical support for UNRWA operations in Lebanon. The assignment would be temporary in nature and the need for it will be reviewed from time to time by UNRWA taking into account the situation in Lebanon.

I should be grateful for confirmation that this is acceptable to Your Excellency's Government. I should also be grateful for confirmation that the Convention on the Privileges and Immunities of the United Nations, 1946, shall apply to UNRWA and its staff and, further, that the UNRWA unit in Cyprus shall be accorded treatment no less favourable than that accorded to any other organ of the United Nations in Cyprus.

In the event of a favourable response from Your Excellency and in view of UNRWA's operational needs, I would propose that UNRWA staff enter upon their duties in Larnaca, Cyprus, soon.

(Signed) Robert S. DILLON
Deputy Commissioner-General
United Nations Relief and Works Agency
for Palestine Refugees in the Near East

II

LETTER FROM THE MINISTER FOR FOREIGN AFFAIRS OF CYPRUS

5 July 1985

With reference to your letter of 26 June 1985 on the assignment to Cyprus of a small part of the staff of the United Nations Relief and Works Agency, I would like to inform you that the Government of the Republic of Cyprus agrees to your request and confirms the following:

(a) that the Convention on the Privileges and Immunities of the United Nations, 1946, shall apply to UNRWA and its staff, and

(b) that the UNRWA unit in Cyprus shall be accorded treatment no less favourable than that accorded to any other organ of the United Nations in Cyprus.

The Protocol Division of the Ministry of Foreign Affairs has been requested to render such assistance and make such arrangements as are necessary to facilitate the work of the unit that is to be assigned to Cyprus.

(Signed) George IACOVOU
Minister for Foreign Affairs

- (n) Agreement between the United Nations and the Government of the People's Republic of China on the United Nations Workshop on Advances in Space Science and Technology and its Applications²¹ [to be held at Beijing from 21 to 29 October 1985]. Signed at New York on 15 October 1985

Article V

FACILITIES, PRIVILEGES AND IMMUNITIES

1. The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the Workshop.

2. Country participants and experts invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations under the Convention on the Privileges and Immunities of the United Nations.

3. Officials of the United Nations participating in or performing functions in connection with the Workshop shall enjoy the privileges and immunities provided under articles V and VII of the Convention.

4. Officials of the specialized agencies participating in the Workshop shall enjoy the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies.

5. Without prejudice to the provisions of the Convention on the Privileges and Immunities of the

United Nations, all participants and all persons performing functions in connection with the Workshop shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connection with the Workshop.

6. All participants and all persons performing functions in connection with the Workshop shall have the right of unimpeded entry into and exit from the People's Republic of China. Visas and entry permits, where required, shall be granted free of charge. When applications are made four weeks before the opening of the Workshop, visas shall be granted not later than two weeks before the opening of the Workshop. If the application is made less than four weeks before the opening, visas shall be granted as speedily as possible and not later than three days before the opening.

Article VI

LIABILITY

The Government shall be responsible for dealing with any actions, claims or other demands arising out of (i) injury or damage to persons or property in the premises referred to in paragraph 3 (a), (b) and (j) of article IV above; (ii) injury or damage to persons or property occurring during use of the transportation referred to in paragraph 3 (h), (i) and (j) of article IV; (iii) the employment for the Workshop of the personnel referred to in paragraphs 2, and 3 (d), (e), (f), (h), (i) and (j) of article IV; and the Government shall hold the United Nations and its personnel harmless in respect of any actions, claims and other demands.

(o) Agreement between the United Nations and the Government of India on the United Nations Workshop on Space Science and Technology and its Applications within the Framework of Educational Systems²² [to be held at Ahmedabad from 4 to 8 November 1985]. Signed at New York on 1 November 1985

Article V

FACILITIES, PRIVILEGES AND IMMUNITIES

1. The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the Workshop.

2. Country participants and experts invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations under the Convention on the Privileges and Immunities of the United Nations.

3. Officials of the United Nations participating in or performing functions in connection with the Workshop shall enjoy the privileges and immunities provided under articles V and VII of the Convention.

4. Officials of the specialized agencies participating in the Workshop shall enjoy the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies.

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

6. All participants and all persons performing functions in connection with the Workshop shall have the right of unimpeded entry into and exit from India. Visas and entry permits, where required, shall be granted free of charge. When applications are made four weeks before opening of the Workshop, visas shall be granted not later than two weeks before the opening of the Workshop. If the application is made less than four weeks before the opening, visas shall be granted as speedily as possible and not later than three days before the opening.

Article VI

LIABILITY

The Government shall be responsible for dealing with any actions, claims or other demands arising out of (i) injury or damage to persons or property in the premises referred to in paragraph 3 (a) and (b) of article IV above; (ii) injury or damage to persons or property occurring during use of the transportation referred to in paragraph 3 (g), (h) and (i) of article IV; (iii) the employment for the Workshop of the personnel referred to in paragraphs 2, and 3 (d), (e), (h) and (i) of article IV; and the Government shall hold the United Nations and its personnel harmless in respect of any actions, claims and other demands except when it is agreed by the parties hereto that such damage or injury is caused by gross negligence or wilful misconduct of the United Nations personnel, in which case steps shall be taken to establish civil liability of the party responsible.

- (p) Agreement between the United Nations and the Austrian Federal Government regarding the arrangements for the 1986 United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations.²³ Signed at New York on 30 December 1985

Article XIII

PRIVILEGES AND IMMUNITIES

1. The provisions relating to privileges and immunities in the Agreement between the United Nations and the Republic of Austria regarding the Headquarters of UNIDO, signed on 13 April 1967,²⁴ shall be applicable with regard to the Conference. The Convention on the Privileges and Immunities of the United Nations is hereby not affected.

2. All representatives of States and of the United Nations Council for Namibia participating in the Conference in accordance with article II, paragraph 1 (a) and (b), of this Agreement shall enjoy the privileges and immunities provided to representatives of Member States under the UNIDO Headquarters Agreement referred to in paragraph 1 of this article.

3. Observers referred to in article II, paragraph 1 (c) and (d), of this Agreement shall enjoy immunity from legal process in respect of words spoken and written and of any act performed by them in their official capacity in connection with the Conference.

4. Representatives of the international intergovernmental organizations participating in the Conference in accordance with article II, paragraph 1 (e) of this Agreement shall enjoy immunity from legal process in respect of words spoken or written and of any act performed by them in the exercise of their official functions in connection with the Conference.

5. Personnel provided by the Government under article XI of this Agreement, with the exception of those who are assigned to hourly rates, shall enjoy immunity from legal process in respect of words spoken or written and of any act performed by them in their official capacity in connection with the Conference. Such immunity shall, however, not apply in case of an accident caused by vehicle, vessel or aircraft.

Article XIV

LIABILITY

1. The Government shall be responsible for dealing with any actions, claims or other demands against the United Nations or its personnel and arising out of:

(a) Injury or damage to person or property in the premises referred to in articles III, IV and V above;

(b) Injury or damage to person or property caused by, or incurred in using, the transport services referred to in article X above;

(c) The employment for the Conference of the personnel referred to in article XI above.

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

3. AGREEMENTS RELATING TO THE UNITED NATIONS CHILDREN'S FUND:
REVISED MODEL AGREEMENT CONCERNING THE ACTIVITIES OF
UNICEF²⁵

Article VI

CLAIMS AGAINST UNICEF

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

Article VII

PRIVILEGES AND IMMUNITIES

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

Agreement between the United Nations (United Nations Children's Fund) and the Government of the Democratic People's Republic of Korea concerning the activities of UNICEF in the Democratic People's Republic of Korea.²⁶ Signed at Pyongyang on 25 May 1985

This Agreement contains articles similar to articles VI and VII of the Revised Model Agreement.

4. AGREEMENTS RELATING TO THE UNITED NATIONS DEVELOPMENT PROGRAMME: STANDARD BASIC AGREEMENT CONCERNING ASSISTANCE
BY THE UNITED NATIONS DEVELOPMENT PROGRAMME²⁷

Article III

EXECUTION OF PROJECTS

. . .

5. [See *Juridical Yearbook*, 1973, p. 24.]

Article IX

PRIVILEGES AND IMMUNITIES

[See *Juridical Yearbook*, 1973, p. 25.]

Article X

FACILITIES FOR EXECUTION OF UNDP ASSISTANCE

[See *Juridical Yearbook*, 1973, pp. 25 and 26.]

Article XIII

GENERAL PROVISIONS

. . .

4. . . . [See *Juridical Yearbook*, 1973, p. 26.]

Standard Basic Agreement between the United Nations (United Nations Development Programme) and the Government of Saint Christopher and Nevis.²⁸ Signed at Saint Christopher and Nevis on 30 January 1985

This Agreement contains provisions similar to articles III.5, IX, X and XIII.4 of the Standard Basic Agreement.

5. AGREEMENTS RELATING TO THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

- (a) Constitution of the United Nations Industrial Development Organization. Adopted at Vienna on 8 April 1979²⁹

Article 21

LEGAL CAPACITY, PRIVILEGES AND IMMUNITIES

1. The Organization shall enjoy in the territory of each of its Members such legal capacity and such privileges and immunities as are necessary for the exercise of its functions and for the fulfilment of its objectives. Representatives of Members and officials of the Organization shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

2. The legal capacity, privileges and immunities referred to in paragraph 1 shall:

(a) In the territory of any Member that has acceded to the Convention on the Privileges and Immunities of the Specialized Agencies in respect of the Organization, be as defined in the standard clauses of that Convention as modified by an annex thereto approved by the Board;

(b) In the territory of any Member that has not acceded to the Convention on the Privileges and Immunities of the Specialized Agencies in respect of the Organization but has acceded to the Convention on the Privileges and Immunities of the United Nations, be as defined in the latter Convention, unless such State notifies the Depositary on depositing its instrument of ratification, acceptance, approval or accession that it will not apply this Convention to the Organization; the Convention on the Privileges and Immunities of the United Nations shall cease to apply to the Organization thirty days after such State has so notified the Depositary;

(c) Be as defined in other agreements entered into by the Organization.

- (b) Exchange of letters constituting an agreement between the United Nations Industrial Development Organization and the Government of Switzerland concerning the continuation of a UNIDO Service in Switzerland for the strengthening of industrial cooperation and promotion of investment in developing countries.³⁰ Berne and Vienna, 20 June 1985

I

LETTER FROM THE GOVERNMENT OF SWITZERLAND

20 June 1985

On behalf of the Government of Switzerland, I have the honour to refer to the interregional project document concerning the continuation of a UNIDO Service in Switzerland for the Promotion of Industrial Investment in Developing Countries.

...

The duration of the project covered by the present arrangement shall be from 1 July 1985 to 30 June 1990. The terms of this arrangement may be modified by mutual agreement in writing.

. . .

The Agreement on the Privileges and Immunities of the United Nations concluded between the Swiss Federal Council and the Secretary-General of the United Nations on 19 April 1946³¹ shall apply to the Service and its personnel.

. . .

I have further the honour to propose that the present Note and your Note in reply thereto confirming on behalf of UNIDO the above-mentioned arrangements, as described in the attached project document, shall be regarded as constituting an agreement between the Government of Switzerland and UNIDO, which will enter into force on the date of your reply.

(Signed) E. ROETHLISBERGER
Delegate of the Federal Council
for Trade Agreements

II

LETTER FROM THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

20 June 1985

I have the honour to acknowledge the receipt of Your Excellency's Note of today's date which reads as follows:

[See letter I]

I have further the honour to confirm on behalf of UNIDO the foregoing arrangements and to agree that Your Excellency's Note and this Note shall be regarded as constituting an agreement between UNIDO and the Government of Switzerland, which will enter into force on the date of this reply.

(Signed) Abd-El Rahman KHANE
Executive Director
United Nations Industrial Development Organization

6. AGREEMENTS RELATING TO THE UNITED NATIONS REVOLVING FUND FOR NATURAL RESOURCES EXPLORATION

Project Agreements between the United Nations (United Nations Revolving Fund for Natural Resources Exploration) and Saint Lucia (with Letter of Agreement for management services to be provided by UNRPNRE and financed by USAID),³² the Republic of Honduras³³ and the People's Republic of the Congo.³⁴ Signed respectively at Castries on 9 July 1985, at Tegucigalpa on 9 August 1985 and at Brazzaville on 9 September 1985

These Agreements contain provisions similar to article V and article VI, sections 6.02 and 6.03, of the Agreement reproduced in *Juridical Yearbook*, 1979, pp. 35-37, except that:

- (a) In the Agreement concluded by Saint Lucia:
 - (i) There is no reference in article V to IAEA;
 - (ii) Section 5.03 of the same article does not exclude "government nationals employed locally" from privileges and immunities provided for in this provision;

- (iii) At the end of the second sentence of section 6.02 of article VI the following words are added: "and provided that each firm or organization acting on behalf of the Fund in carrying out the project or any part thereof shall indemnify itself for any liabilities arising from the carrying out of its normal responsibilities under the project.";
- (iv) The Letter of Agreement for management services to be provided by UNRFNRE and financed by USAID contains the following provision:
 - "12. (a) The terms of the Project Agreement shall be applicable, *mutatis mutandis*, to all matters not specifically dealt with in this Agreement. In particular, the Government has decided to extend the facilities, exemptions, privileges and immunities as specified in articles V and VI of the Project Agreement, to all persons, natural or juridical, including contractors and their personnel performing services under this Agreement.";
 - (b) In the Agreement concluded by the Republic of Honduras:
 - (i) The exemption provided for in section 6.02 of article VI does not apply to "government nationals or permanent residents";
 - (ii) In section 6.03 of the same article there is no sentence describing what the indemnification shall include;
 - (c) In the Agreement concluded by the People's Republic of the Congo, section 5.03 of article V does not exclude "government nationals employed locally" from privileges and immunities provided for in this provision.

B. Treaty provisions concerning the legal status of intergovernmental organizations related to the United Nations

1. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES.³⁵ APPROVED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 21 NOVEMBER 1947

In 1985 the following States parties acceded to the Convention or, if already parties, undertook by a subsequent notification to apply the provisions of the Convention in respect of the specialized agencies indicated below:³⁶

State	Date of receipt of instrument of accession or notification	Specialized agencies
Germany, Federal Republic of . . . Notification	11 June 1985	FAO (second revised text of annex II), IDA (annex XIV), IMO (revised text of annex XII)
Seychelles . . . Accession	24 July 1985	ILO, FAO (second revised text of annex II), ICAO, UNESCO, IMF, IBRD, WHO (third revised text of annex VII), UPU, ITU, WMO, IMO (revised text of annex XII), IFC, IDA, WIPO, IFAD.
United Kingdom . . . Notification	6 August 1985	FAO (second revised text of annex II), WHO (third revised text of annex VII).
Italy . . . Accession	30 August 1985	ILO, FAO (second revised text of annex II), ICAO, UNESCO, IMF, IBRD, WHO (third revised text of annex VII), UPU, ITU, WMO, IMO (revised text of annex XII), IFC, IDA, WIPO, IFAD AND UNIDO ³⁷

2. INTERNATIONAL LABOUR ORGANISATION

Agreement between the International Labour Organisation and the Government of Spain concerning the establishment in Madrid of an Office of the Organisation.³⁹ Signed on 8 November 1985.

3. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(a) Agreement for the establishment of an FAO Representative's Office

In 1985, the organization concluded an agreement for the establishment of an FAO Representative's Office with the following countries: Jordan, Rwanda, Saint Christopher and Nevis and Tunisia. These agreements, *inter alia*, provide for privileges and immunities.

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

Agreements concerning specific sessions held outside FAO headquarters, containing provisions on privileges and immunities of FAO and participants similar to the standard text (reproduced in *Juridical Yearbook*, 1972, p. 32), were concluded in 1985 with the Governments of the following countries acting as hosts to such sessions:

Algeria, Australia,⁴⁰ Barbados, Brazil, Bulgaria, Burkina Faso, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, El Salvador, France,⁴⁰ Germany, Federal Republic of,⁴⁰ India,⁴⁰ Indonesia,⁴⁰ Italy,⁴⁰ Jordan, Lesotho, Malaysia, Maldives, Mali, Mexico,⁴⁰ Morocco, Netherlands,⁴⁰ Panama, Saint Lucia, Senegal, Sri Lanka,⁴⁰ Sweden,⁴⁰ Syrian Arab Republic, Thailand, Togo, Turkey, United Republic of Tanzania, Union of Soviet Socialist Republics, Yugoslavia, Zaire, Zambia, Zimbabwe.

(c) Agreements based on the standard "Memorandum of Responsibilities" in respect of seminars, workshops, training courses or related study tours

Agreements concerning specific training activities, containing provisions on privileges and immunities of FAO and participants similar to the standard text,⁴¹ were concluded in 1985 with the Governments of the following countries acting as hosts to such training activities:

Burkina Faso, Cameroon, China, Cote d'Ivoire, Finland, Honduras, Hungary, Italy,⁴⁰ Kenya, Lesotho, Mauritania, Nepal, Nigeria, Samoa, Senegal, Sierra Leone, Sudan, Swaziland, Syrian Arab Republic,⁴⁰ Togo, Tunisia, Turkey, Uruguay, Zaire, Zimbabwe.

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

The Exchange of Letters of 4 February/3 March 1972 regarding seminars and training courses to be held in 1972⁴¹ was extended on 25 July 1985 to cover seminars and training courses to be held in 1985.

4. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Agreements relating to conferences, seminars and other meetings

- (a) Agreement between the Government of the Czechoslovak Socialist Republic and the United Nations Educational, Scientific and Cultural Organization concerning the Meeting of experts on the evaluation of UNESCO-sponsored postgraduate hydrology courses (Prague, 14-18 October 1985)

"Privileges and immunities"

"The Government of the Czechoslovak Socialist Republic shall apply, in all matters relating to this meeting, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations as well as Annex IV thereof, to which the Czechoslovak Socialist Republic has been a party since 29 December 1966. In particular, the Government shall ensure that no restriction is placed upon the entry into, sojourn in, and departure from the territory of the Czechoslovak Socialist Republic of all persons, of whatever nationality, entitled to attend the meeting by virtue of a decision of the appropriate authorities of UNESCO and in accordance with the Organization's pertinent rules and regulations."

- (b) Agreements containing provisions similar to that referred to in the paragraph above were also concluded between UNESCO and the Governments of other member States.
-

5. WORLD HEALTH ORGANIZATION

- (a) Basic Agreements on technical advisory cooperation concluded by WHO

Basic Agreement on technical advisory cooperation, between WHO and the Republic of San Marino.⁴² Signed at San Marino on 10 October 1985

This Agreement contains provisions similar to article I, paragraph 6, and article V of the Agreement between the World Health Organization and Guyana.⁴³

- (b) Agreements concluded by the Pan American Health Organization

A Basic Agreement on technical advisory cooperation between the Pan American Health Organization and Suriname. Signed at Paramaribo on 15 November 1985

6. INTERNATIONAL ATOMIC ENERGY AGENCY

- (a) Agreement on the Privileges and Immunities of the International Atomic Energy Agency:⁴⁴

- (1) Italy accepted, with reservation, the Agreement on 20 June 1985.
- (2) By the end of 1985, 57 Member States were parties to the Agreement.

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

Article 10 of the Agreement between the Union of Soviet Socialist Republics and the International Atomic Energy Agency for the Application of Safeguards in the Union of Soviet Socialist Republics, signed at Vienna on 21 February 1985 and which entered into force on 10 June 1985⁴⁵

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

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

³For the list of those States, see *Multilateral Treaties Deposited with the Secretary-General* (United Nations publication, Sales No. E.90.V.6).

⁴Came into force on 4 January 1985.

⁵Came into force on the date of signature.

⁶Came into force on 1 March 1985.

⁷Came into force on 6 March 1985.

⁸Came into force on the date of signature.

⁹United Nations, *Treaty Series*, vol. 33, p. 261.

¹⁰*Ibid.*, vol. 374, p. 147.

¹¹Came into force on the date of signature.

¹²Came into force on 29 March 1985.

¹³Came into force on the date of signature.

¹⁴Came into force on the date of signature.

¹⁵Translated from the French original by the Secretariat.

¹⁶Came into force on the date of signature.

¹⁷Came into force on the date of signature.

¹⁸For the text of the exchange of letters, see *Juridical Yearbook*, 1983, p. 32.

¹⁹Came into force on 23 May 1985.

²⁰Came into force on 15 July 1985.

²¹Came into force on the date of signature.

²²Came into force on the date of signature.

²³Came into force on the date of signature.

²⁴United Nations, *Treaty Series*, vol. 600, p. 93.

²⁵UNICEF, Field Manual, vol. II, part IV-2, appendix A (1 October 1964).

²⁶Came into force on the date of signature.

²⁷UNDP, *Basic Documents Manual*, Chapter II, document No. II-1.

²⁸Came into force on the date of signature.

²⁹Came into force on 21 June 1985.

³⁰Came into force on 20 June 1985 with effect from 1 July 1985.

³¹United Nations, *Treaty Series*, vol. 1, p. 163.

³²Came into force on 9 September 1985.

³³Came into force on 20 December 1985.

³⁴Came into force on the date of signature.

³⁵United Nations, *Treaty Series*, vol. 33, p. 261.

³⁶The Convention is in force with regard to each State party which deposited an instrument of accession and in respect of specialized agencies indicated therein or in a subsequent notification as from the date of deposit of such instrument or receipt of such notification.

³⁷The Government of Italy in its instrument of accession has (subject to the declaration made upon accession) undertaken to apply the Convention to the United Nations Industrial Development Organization (UNIDO).

However, the Convention became applicable to UNIDO on 15 September 1987, upon the completion by UNIDO of the procedures provided for by article X, section 37, of the Convention.

Until that time, the provision of article 21 (2) (b) of the Constitution of UNIDO continued to apply.

³⁸For the list of those States, see *Multilateral Treaties Deposited with the Secretary-General* (United Nations publication, Sales No. E.90.V.6).

³⁹This Agreement, pursuant to article 9, paragraph 1, thereof, came into force on the date of signature, i.e., 8 November 1985. It is published in the ILO *Official Bulletin*, vol. LXIX (1986), series A, No. 1.

⁴⁰Certain departures from, or amendments to, the standard text were introduced at the request of the host Government.

⁴¹Reproduced in *Juridical Yearbook*, 1972, p. 33.

⁴²Came into force on the date of signature.

⁴³Reproduced in *Juridical Yearbook*, 1968, p. 56.

⁴⁴Reproduced in document INFCIRC/9/Rev.2. See also United Nations, *Treaty Series*, vol. 374, p. 147.

⁴⁵Reproduced in document INFCIRC/327; United Nations *Treaty Series* registration No. 24031.

Part Two

**LEGAL ACTIVITIES OF THE UNITED NATIONS
AND RELATED INTERGOVERNMENTAL
ORGANIZATIONS**

Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS

(a) Comprehensive approaches to disarmament

(i) *Follow-up of the special sessions of the General Assembly devoted to disarmament*

The general discussion relating to follow-up of the special sessions of the General Assembly devoted to disarmament was held in both the Disarmament Commission and the Conference on Disarmament.

Furthermore, the General Assembly considered the matter at its fortieth session under two collective agenda items entitled "Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session" and "Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly". Altogether, the Assembly adopted 27 resolutions and one decision within the framework of those two items in 1985. By resolution 40/152 I of 16 December 1985,¹ the General Assembly, stressing again the urgent need for an active and sustained effort to expedite the implementation of the recommendations and decisions unanimously adopted at its tenth special session as contained in the Final Document of that session² and confirmed in the Concluding Document of the Twelfth Special Session of the General Assembly,³ called upon all States, in implementing the Final Document, to make active use of the principles and ideas contained in the Declaration on International Cooperation for Disarmament by actively participating in disarmament negotiations, with a view to achieving concrete results, and by conducting them on the basis of the principles of reciprocity, equality, undiminished security and the non-use of force in international relations. And by resolution 40/152 L of the same date,⁴ the General Assembly called upon all States to reaffirm their commitment to the Declaration of the 1980s as the Second Disarmament Decade and to take appropriate steps to halt and reverse the nuclear-arms race with a view to improving the international climate and enhancing the efficacy of disarmament negotiations.

Moreover, by its resolution 40/152 M of 16 December 1985,⁵ the General Assembly urged the Conference on Disarmament to undertake, without further delay, negotiations with a view to elaborating a draft treaty on a nuclear-test ban and to intensify further its work on the elaboration of a draft convention on the prohibition of the development, production and stockpiling of all chemical weapons and on their destruction. And by resolution 40/152 O, also of the same date,⁶ the Assembly called upon Member States to intensify their efforts towards achieving agreements on balanced, mutually acceptable, verifiable and effective arms limitation and disarmament measures.

(ii) *General and complete disarmament*

Member States reaffirmed their commitment to general and complete disarmament under effective international control in 1985 in spite of their apparent scepticism about its feasibility in the foreseeable future. In those circumstances, many countries concentrated on advocating limited and what could be considered interim measures that could pave the way to the ultimate goal, mentioning various approaches to nuclear-arms limitation and other ideas such as regional measures as steps towards more comprehensive arrangements.

By resolution 40/94 I of 12 December 1985,⁷ the General Assembly, reaffirming once again that seas and oceans, being of vital importance to mankind, should be used exclusively for peaceful purposes in accordance with the regime established by the 1982 United Nations Convention on the Law of the Sea,⁸ reaffirmed once again its recognition of the urgent need to start negotiations with the participation of the major naval Powers, in particular the nuclear-weapon States, and other interested States on the limitation of naval activities, the limitation and reduction of naval armaments and the extension of confidence-building measures to seas and oceans, especially to areas with the busiest international sea lanes or to regions where the probability of conflict situations was high. By its resolution 40/94 J, also of 12 December 1985,⁹ the Assembly, emphasizing the interest of all States in the progress of the exploration and use of the seabed and the ocean floor and its resources for peaceful purposes, requested the Conference on Disarmament, in consultation with the States parties to the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and Ocean Floor and in the Subsoil Thereof,¹⁰ to continue its consideration of further measures in the field of disarmament for the prevention of an arms race on the seabed, the ocean floor and in the subsoil thereof. Furthermore, by resolution 40/94 N, also of 12 December 1985,¹¹ the Assembly, taking into account the existence of negotiations in multilateral, regional and bilateral forums, called upon all States faithfully to comply with and implement all provisions of multilateral, regional and bilateral disarmament and arms limitation agreements to which they were a party and to negotiate in good faith for the conclusion of additional treaties and conventions, multilateral, regional or bilateral as appropriate, taking into account the need for strict observance of an acceptable balance of mutual responsibilities and obligations for nuclear- and non-nuclear-weapon States.

(iii) *World Disarmament Conference*

The two different approaches to convening a world disarmament conference prevented the Ad Hoc Committee on the World Disarmament Conference from achieving any tangible results in 1985.

By resolution 40/154 of 16 December 1985,¹² the General Assembly decided to renew the mandate of the Ad Hoc Committee on the World Disarmament Conference and retain the item on its agenda.

(b) *Nuclear disarmament*

(i) *Nuclear arms limitation and disarmament*

As to the consideration of the subject in the Disarmament Commission, the Conference on Disarmament and the General Assembly at its fortieth session, no substantive progress could be observed.

By resolution 40/18 of 18 November 1985,¹³ the General Assembly, noting the agreement between the Union of Soviet Socialist Republics and the United States of America to begin negotiations on "a complex of questions concerning space and nuclear arms, both strategic and intermediate-range", reaffirmed that bilateral negotiations did not in any way diminish the urgent need to initiate and pursue multilateral negotiations on the cessation of the nuclear-arms race and nuclear disarmament and on the prevention of an arms race in outer space. By resolution 40/152 C of 16 December 1985,¹⁴ the Assembly called upon the Conference on Disarmament to proceed without delay to negotiations on the cessation of the nuclear-arms race and nuclear disarmament and especially to begin the elaboration of practical measures for the cessation of the nuclear-arms race and for nuclear disarmament in accordance with paragraph 50 of the Final Document of the Tenth Special Session of the General Assembly, including a nuclear-disarmament programme, and to establish for that purpose an ad hoc committee. By resolution 40/152 P of 16 December 1985,¹⁵ the Assembly again requested the Conference on Disarmament to establish an ad hoc committee at the beginning of its 1986 session to elaborate on paragraph 50 of the Final Document and to submit recommendations to the Conference as to how it could best initiate multilateral negotiations of agreements, with adequate measures of verification, in appropriate stages for: (a) cessation of the qualitative improvement and development of nuclear-weapon systems; (b) cessation of the production of all types of nuclear weapons and their means of delivery, and of the production of fissionable material for weapons purposes; (c) substantial reduction in existing nuclear weapons with a view to their ultimate elimination. And by resolution

40/152 H of the same date¹⁶ the Assembly reaffirmed its request to the Conference on Disarmament to start without delay negotiations within an appropriate organizational framework, with a view to concluding a convention on the prohibition of the development, production, stockpiling, deployment and use of nuclear neutron weapons as an organic element of negotiations, as envisaged in paragraph 50 of the Final Document of the Tenth Special Session of the General Assembly.

(ii) *Non-use of nuclear weapons and prevention of nuclear war*

It was clear in 1985, as in previous years, that while there was agreement on the absolute need to prevent nuclear war if the survival of humankind was to be assured, there was no consensus on how to deal with the issue at the multilateral level.

By resolution 40/152 A of 16 December 1985,¹⁷ the General Assembly considered that the solemn declarations by two nuclear-weapon States made or reiterated at the twelfth special session of the General Assembly, concerning their respective obligations not to be the first to use nuclear weapons, offered an important avenue to decrease the danger of nuclear war; expressed the hope that those nuclear-weapon States that had not yet done so would consider making similar declarations with respect to not being the first to use nuclear weapons; and requested the Conference on Disarmament to consider under its relevant agenda item the elaboration of an international instrument of a legally binding character laying down the obligation not to be the first to use nuclear weapons. Furthermore, by resolution 40/152 Q of 16 December 1985,¹⁸ the Assembly again requested the Conference on Disarmament to undertake, as a matter of the highest priority, negotiations with a view to achieving agreement on appropriate and practical measures for the prevention of nuclear war and to establish for that purpose an ad hoc committee on the subject at the beginning of its 1986 session. And by resolution 40/151 F of the same date,¹⁹ the General Assembly reiterated its request to the Conference on Disarmament to commence negotiations, as a matter of priority, in order to achieve agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances, taking as a basis the text of the draft Convention on the Prohibition of the Use of Nuclear Weapons annexed to the resolution.

(iii) *Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons*

The Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons²⁰ was held at Geneva from 27 August to 21 September 1985. The Conference achieved a consensus substantive Final Document²¹ incorporating, in part I, a Final Declaration comprising a solemn preambular statement and a detailed article-by-article review of the operation of the Treaty, clearly supporting it and yet making purposeful recommendations.

By resolution 40/94 M of 12 December 1985,²² the General Assembly noted with satisfaction that on 21 September 1985, the Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons had adopted by consensus a Final Document.

(iv) *Cessation of nuclear-weapon tests*

In 1985, major differences of viewpoint as to procedures and practical criteria for achieving the cessation of nuclear-weapon tests continued to pervade the consideration of the issue in the various forums. All shades of opinion, however, acknowledged that the complete cessation of nuclear explosive testing was a desirable objective. For the second successive year, the Conference on Disarmament was not able to reach agreement on the establishment of an ad hoc committee to consider the item, because of differences over the question of a mandate for such a body.

By resolution 40/80 A of 12 December 1985,²³ the General Assembly reaffirmed its conviction that a treaty to achieve the prohibition of all nuclear-test explosions by all States for all time was a matter of the highest priority; reaffirmed also its conviction that such a treaty would constitute a contribution of the utmost importance to the cessation of the nuclear-arms race and that the commencement of negotiations on such a treaty was an indispensable element of the obligations of States parties to the Treaty on the Non-Proliferation of Nuclear Weapons under article VI of that Treaty; and appealed to all

States members of the Conference on Disarmament, in particular to the three depository Powers of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, to promote the establishment by the Conference at the beginning of its 1986 session of an ad hoc committee to carry out the multilateral negotiation of a treaty on the complete cessation of nuclear-test explosions. And by resolution 40/80 B, also of 12 December 1985,²⁴ the Assembly, noting that article II of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water provided a procedure for the consideration and eventual adoption of amendments to the Treaty by a conference of its parties, recommended that States parties to the Treaty carry out urgent consultations among themselves as to the advisability and most appropriate method of taking advantage of the provisions of its article II for the conversion of the partial nuclear-test-ban treaty into a comprehensive nuclear-test-ban treaty.

Furthermore, by resolution 40/88 of 12 December 1985,²⁵ the General Assembly urged the Conference on Disarmament to proceed promptly to negotiations on all aspects of cessation and prohibition of nuclear-weapon tests, including adequate measures of verification, with the aim of preparing without delay a draft treaty that would effectively ban all test explosions of nuclear weapons by all States everywhere and would contain provisions, acceptable to all, preventing the circumvention of this ban by means of nuclear explosions for peaceful purposes; welcomed the unilateral cessation by one major nuclear-weapon State of all its nuclear explosions, effective 6 August 1985, as well as the proposal for the suspension of all nuclear tests for a period of 12 months, with the possibility of its extension, contained in the joint message of 24 October 1985 addressed to the leaders of the United States of America and the Union of Soviet Socialist Republics by the Heads of State and Government of six countries; and expressed its hope that all other nuclear-weapon States would also consider joining in such a moratorium.

(v) *Nuclear-arms freeze*

In 1985, the question of a nuclear-arms freeze continued to receive attention in the debates on nuclear-arms limitation and disarmament in the Disarmament Commission, the Conference on Disarmament and the General Assembly. Three General Assembly resolutions calling for a freeze on nuclear armaments were supported by a large majority of Member States; however, a minority continued to doubt that a freeze was either feasible or desirable.

By resolution 40/151 C of 16 December,²⁶ the General Assembly urged once more the Union of Soviet Socialist Republics and the United States of America, as the two major nuclear-weapon States, to proclaim, either through simultaneous unilateral declarations or through a joint declaration, an immediate nuclear-arms freeze, which would be a first step towards the comprehensive programme of disarmament and whose structure and scope would be the following: (a) it would embrace: (i) a comprehensive test ban of nuclear weapons and of their delivery vehicles; (ii) the complete cessation of the manufacture of nuclear weapons and of their delivery vehicles; (iii) a ban on all further deployment of nuclear weapons and of their delivery vehicles; (iv) the complete cessation of the production of fissionable material for weapons purposes; (b) it would be subject to appropriate measures and procedures of verification; (c) it would be of an initial five-year duration, subject to prolongation when other nuclear-weapon States joined in such a freeze, as the Assembly urged them to do. In addition, by resolution 40/151 E of the same date,²⁷ the Assembly once again called upon all nuclear-weapon States to agree to a freeze on nuclear weapons, which would provide for a simultaneous total stoppage of any further production of nuclear weapons and a complete cut-off in the production of fissionable material for weapons purposes.

(vi) *Strengthening of the security of non-nuclear-weapon States*

No tangible progress was achieved in 1985 in reaching agreements on effective international assurances for non-nuclear-weapon States against the use or threat of use of nuclear weapons, either in the Conference on Disarmament or in the General Assembly. The work of those two bodies revealed again that the positions of the States on the main elements of the problem—the scope, substance, nature and form of such assurances—had not changed. Nor had it been possible to bridge the divergent views on how the idea of concluding an international convention on the matter could be realized in

practice. There was also disagreement on the evaluation and practical significance of the unilateral declarations that had been made by the nuclear-weapon States.

By resolution 40/86 of 12 December 1985,²⁸ the General Assembly, bearing in mind paragraph 59 of the Final Document of the Tenth Special Session of the General Assembly, in which it had urged the nuclear-weapon States to pursue efforts to conclude, as appropriate, effective arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, and noting the support expressed in the Conference on Disarmament and in the General Assembly for the elaboration of an international convention on the matter, as well as the difficulties pointed out in evolving a common approach acceptable to all, appealed to all States, especially the nuclear-weapon States, to demonstrate the political will necessary to reach agreement on a common approach and, in particular, on a common formula which could be included in an international instrument of a legally binding character; and recommended that the Conference on Disarmament should actively continue negotiations with a view to reaching early agreement and concluding effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. Furthermore, by resolution 40/85, also of 12 December 1985,²⁹ the Assembly, welcoming once again the solemn declarations made by some nuclear-weapon States concerning non-first use of nuclear weapons and convinced that, if all nuclear-weapon States were to assume obligations not to be the first to use nuclear weapons, that would be tantamount in practice to banning the use of nuclear weapons against all States, including all non-nuclear-weapon States, and considering that the non-nuclear-weapon States having no nuclear weapons on their territories had every right to receive reliable international legal guarantees against the use or threat of use of nuclear weapons, reaffirmed once again the urgent need to reach agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons and to find a common approach acceptable to all, which could be included in an international instrument of a legally binding character.

(vii) *Nuclear-weapon-free zones*

In 1985, in the discussion in the various disarmament forums it was argued that the creation of nuclear-weapon-free zones would prevent further proliferation of nuclear weapons, strengthen the security of the countries concerned and contribute to the building of confidence among them. Two major trends were discernible: an increased interest on the part of many States in the creation of nuclear-weapon-free zones and a growing concern about the violability of such zones in some regions.

*Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)*³⁰

By resolution 40/79 of 12 December 1985,³¹ the General Assembly, recalling that three of the four States to whom Additional Protocol I of the Treaty for the Prohibition of Nuclear Weapons in Latin America was opened—the United Kingdom of Great Britain and Northern Ireland, the Netherlands and the United States of America—had become parties to the Protocol, deplored the fact that the signature of the Additional Protocol I by France, which had taken place in 1979, had not yet been followed by the corresponding ratification and once more urged France not to delay any further such ratification.

Denuclearization of Africa

By resolution 40/89 B of 12 December 1985,³² the General Assembly, recalling that, in the Final Document of the Tenth Special Session of the General Assembly, it had noted that the accumulation of armaments and the acquisition of armaments technology by the racist regimes, as well as their possible acquisition of nuclear weapons, presented a challenging and increasingly dangerous obstacle to the world community, faced with the urgent need to disarm, condemned the massive build-up of South Africa's military machine, in particular its frenzied acquisition of nuclear-weapon capability for repressive and aggressive purposes and as an instrument of blackmail; and called upon all States, corporations, institutions and individuals to terminate forthwith all forms of military and nuclear collaboration with the racist regime.

Establishment of a nuclear-weapon-free zone in the region of the Middle East

By resolution 40/82, also of 12 December 1985,³³ the General Assembly urged all parties directly concerned to consider seriously 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; called upon all countries of the region that had not done so, pending the establishment of the zone, to agree to place all their nuclear activities under International Atomic Energy Agency safeguards; invited those countries, pending the establishment of a nuclear-weapon-free zone in the region of the Middle East, to declare their support for establishing such a zone, consistent with the relevant paragraph of the Final Document of the Tenth Special Session of the General Assembly, and to deposit those declarations with the Security Council; further invited those countries, pending the establishment of the zone, not to develop, produce, test or otherwise acquire nuclear weapons or permit the stationing on their territories, or territories under their control, of nuclear weapons or nuclear explosive devices; and invited the nuclear-weapon States and all other States to render their assistance in the establishment of the zone and at the same time to refrain from any action that ran counter to both the letter and the spirit of the resolution.

Establishment of a nuclear-weapon-free zone in South Asia

By resolution 40/83 of 12 December 1985,³⁴ the General Assembly reaffirmed its endorsement, in principle, of the concept of a nuclear-weapon-free zone in South Asia; urged once again the States of South Asia, and such other neighbouring non-nuclear-weapon States as might be interested, 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; and called upon those nuclear-weapon States that had not done so to respond positively to the proposal and to extend the necessary cooperation in the efforts to establish a nuclear-weapon-free zone in South Asia.

(viii) International cooperation in the peaceful uses of nuclear energy

The General Assembly, by its resolution 40/95 of 12 December 1985,³⁵ approved the new dates of the United Nations Conference for the Promotion of International Cooperation in the Peaceful Uses of Nuclear Energy, namely from 23 March to 10 April 1987, at Geneva. And by its resolution 40/8 of 8 November 1985,³⁶ the Assembly, conscious of the importance of the work of the International Atomic Energy Agency in the implementation of the safeguards provisions of the Treaty on the Non-Proliferation of Nuclear Weapons and other international treaties, conventions and agreements designed to achieve similar objectives, as well as ensuring, as far as it was able, that the assistance provided by the Agency or at its request or under its supervision or control was not used in such a way as to further any military purposes, as stated in article II of its Statute, urged all States to strive for effective and harmonious international cooperation in carrying out the work of the International Atomic Energy Agency, pursuant to its Statute, in promoting the use of nuclear energy and the application of nuclear science and technology for peaceful purposes; in strengthening technical assistance and cooperation for developing countries; and in ensuring the effectiveness and efficiency of the Agency's safeguards system.

(c) Prohibition or restriction of use of other weapons

(i) Chemical and bacteriological (biological) weapons

Intensive work on a convention on a comprehensive prohibition of chemical weapons continued in 1985 in the Ad Hoc Committee on Chemical Weapons of the Conference on Disarmament. Progress was made in the formulation of certain aspects of the convention, including those covering plans for the elimination of chemical weapons. On the other hand, some difficult and controversial questions remained, such as verification by challenge, the precise definition of some basic concepts, the elimination of the existing stocks and production facilities of chemical weapons and the question of so-called permitted activities.

By resolution 40/92 B of 12 December 1985,³⁷ the General Assembly, convinced of the necessity that all efforts be exerted for the continuation and successful conclusion of negotiations on the prohibition of the development, production and stockpiling of all chemical weapons and on their destruction, urged again the Conference on Disarmament, as a matter of high priority, to intensify, during its session in 1986, the negotiations on such a convention and to reinforce further its efforts by increasing the time during the year that it devoted to such negotiations, taking into account all existing proposals and future initiatives, with a view to the final elaboration of a convention at the earliest possible date.

Furthermore, by its resolution 40/92 A of 12 December 1985,³⁸ the General Assembly, recalling paragraph 75 of the Final Document of the Tenth Special Session of the General Assembly and determined, for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons, through the earliest conclusion and implementation of a convention on the prohibition of the development, production and stockpiling of all types of chemical weapons and on their destruction, thereby complementing the obligations assumed under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, reaffirmed its call to all States to conduct serious negotiations in good faith and to refrain from any action that could impede negotiations on the prohibition of chemical weapons and specifically to refrain from the production and deployment of binary and other new types of chemical weapons, as well as from stationing chemical weapons on the territory of other States; and called upon all States that had not yet done so to become parties to the Geneva Protocol of 17 June 1925. Additionally, by resolution 40/92 C of the same date,³⁹ the Assembly reaffirmed the need for strict observance of existing international obligations regarding prohibitions on chemical and biological weapons and condemned all actions that contravened those obligations; and called upon all States, pending the conclusion of such a comprehensive ban, to cooperate in efforts to prevent the use of chemical weapons.

(ii) *Prohibition of the stationing of weapons and
prevention of an arms race in outer space*

On the multilateral level, the main development was the setting up of a subsidiary body by the Conference on Disarmament under its agenda item entitled "Prevention of an arms race in outer space".

By resolution 40/87 of 12 December 1985,⁴⁰ the General Assembly, recalling that the States parties to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, had undertaken, in article III, to carry on activities in the exploration and use of outer space in accordance with international law and the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international cooperation and understanding; reaffirming, in particular, article IV of the Treaty, which had stipulated that States parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies or station such weapons in outer space in any other manner; reaffirming also paragraph 80 of the Final Document of the Tenth Special Session of the General Assembly; welcoming the establishment of an Ad Hoc Committee on the prevention of an arms race in outer space during the 1985 session of the Conference on Disarmament, recalled the obligation of all States to refrain from the threat or use of force in their space activities; reiterated that the Conference on Disarmament, as the single multilateral disarmament negotiating forum, had the primary role in the negotiation of a multilateral agreement or agreements on the prevention of an arms race in outer space in all its aspects; requested the Conference on Disarmament to reestablish an ad hoc committee with an adequate mandate at the beginning of the session in 1986, with a view to undertaking negotiations for the conclusion of an agreement or agreements on the prevention of an arms race in outer space in all its aspects; urged the Union of Soviet Socialist Republics and the United States of America to pursue intensively their bilateral negotiations in a constructive spirit aimed at reaching early agreement for preventing an arms race in outer space, and to advise the Conference on Disarmament periodically of the progress of their bilateral sessions so as to facilitate its work; and called upon all States, especially those with major space capabilities, to refrain, in their activities relating to outer space, from actions

contrary to the observance of the relevant existing treaties or to the objective of preventing an arms race in outer space.

(iii) *New weapons of mass destruction*

As was the case in preceding years, 1985 failed to achieve tangible progress with regard to the prohibition of the development and manufacture of new types of weapons of mass destruction.

By resolution 40/90 of 12 December 1985,⁴¹ the General Assembly, bearing in mind the provisions of paragraphs 39 and 77 of the Final Document of the Tenth Special Session of the General Assembly and expressing once again its firm belief in the importance of concluding an agreement or agreements to prevent the use of scientific and technological progress for the development of new types of weapons of mass destruction and new systems of such weapons, requested the Conference on Disarmament to keep constantly under review the question of the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons with a view to making, when necessary, recommendations on undertaking specific negotiations on the identified types of such weapons; and called upon all States to contribute, immediately following the identification of any new type of weapon of mass destruction, to the commencement of negotiations on its prohibition with the simultaneous introduction of a moratorium on its practical development.

(iv) *Radiological weapons*

The Conference on Disarmament was unable to reach agreement on the prohibition of radiological weapons in 1985, owing to differences among member States on a number of substantive issues.

By resolution 40/94 D of 12 December 1985,⁴² the General Assembly requested the Conference on Disarmament to continue its negotiations on the question of radiological weapons with a view to a prompt conclusion of its work, taking into account all proposals presented to the Conference to that end.

(d) *Consideration of conventional disarmament and other approaches*

(i) *Conventional weapons*

Notwithstanding numerous evidences of mounting international interest, 1985 witnessed no specific achievement in the process of disarmament regarding conventional weapons.

By resolution 40/94 A of 12 December 1985,⁴³ the General Assembly urged Governments, where the regional situation so permitted and on the initiative of the States concerned, to consider and adopt appropriate measures at the regional level with a view to strengthening peace and security at a lower level of forces through the limitation and reduction of armed forces and conventional weapons, under strict and effective international control; endorsed most emphatically the recent regional and subregional initiatives directed towards the conclusion of agreements to limit armaments and reduce military expenditures; requested all States to facilitate progress towards regional disarmament by strictly honouring their commitment to refrain from the threat or use of force and to contribute to the creation of an atmosphere favourable to the realization of conventional disarmament on a regional scale; and urged countries which were suppliers of conventional weapons to cooperate with regional efforts. Furthermore by resolution 40/84 of the same date,⁴⁴ the Assembly noted with satisfaction that an increasing number of States had either signed, ratified, accepted or acceded to 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, which had been opened for signature in New York on 10 April 1981 and had entered into force on 2 December 1983; and urged all States that had not yet done so to exert their best endeavours to become parties to the Convention and the Protocols annexed thereto as early as possible, so as ultimately to obtain universality of adherence.

(ii) *Reduction of military budgets*

Efforts to achieve progress towards international agreements on freezing and reducing military budgets continued in 1985. However, the differences of view which in previous years had prevented it from reaching consensus persisted.

By resolution 40/91 A of 12 December 1985,⁴⁵ the General Assembly, considering that the identification and elaboration of the principles that should govern further actions of States in freezing and reducing military budgets and the other current activities within the framework of the United Nations related to the question of the reduction of military budgets should be regarded as having the fundamental objective of reaching international agreements on the reduction of military expenditures, declared again its conviction that it was possible to achieve international agreements on the reduction of military budgets without prejudice to the right of all States to undiminished security, self-defence and sovereignty; appealed to all States, in particular to the most heavily armed States, pending the conclusion of agreements on the reduction of military expenditures, to exercise self-restraint in their military expenditures with a view to reallocating the funds thus saved to economic and social development, particularly for the benefit of developing countries; and urged all Member States, in particular the most heavily armed States, to reinforce their readiness to cooperate in a constructive manner with a view to reaching agreements to freeze, reduce or otherwise restrain military expenditures. Furthermore, by resolution 40/91 B of the same date,⁴⁶ the Assembly, reaffirming its conviction that provisions for defining, reporting, comparing and verifying military expenditures would have to be basic elements of any international agreement to reduce such expenditures, took note with appreciation of the report of the Group of Experts on the Reduction of Military Budgets.

(iii) *Declaration of the Indian Ocean as a Zone of Peace*

In 1985, the Ad Hoc Committee on the Indian Ocean was able to achieve some further progress in its preparatory work for the Conference on the subject.

By resolution 40/153 of 16 December 1985,⁴⁷ the General Assembly emphasized its decision to convene the Conference on the Indian Ocean at Colombo as a necessary step for the implementation of the Declaration of the Indian Ocean as a Zone of Peace, adopted in 1971; and requested the Ad Hoc Committee on the Indian Ocean to complete preparatory work relating to the Conference during 1986 in order to enable the opening of the Conference at Colombo at an early date soon thereafter.

2. OTHER POLITICAL AND SECURITY QUESTIONS

(a) Implementation of the Declaration on the Strengthening of International Security⁴⁸

In its resolution 40/158 of 16 December 1985,⁴⁹ adopted on the recommendation of the First Committee,⁵⁰ the General Assembly reaffirmed the validity of the Declaration on the Strengthening of International Security and called upon all States to contribute effectively to its implementation; called upon all States to promote the role of the General Assembly and the Secretary-General on the strengthening of international security, in accordance with the Charter of the United Nations; stressed that there was an urgent need to enhance the effectiveness of the Security Council in discharging its principal role of maintaining international peace and security and, to that end, emphasized the need to examine mechanisms and working methods on a continued basis in order to enhance the authority and enforcement capacity of the Council, in accordance with the Charter; and considered that respect for and promotion of human rights and fundamental freedoms in their civil, political, economic, social and cultural aspects, on the one hand, and the strengthening of international peace and security, on the other, mutually reinforced each other.

(b) Legal aspects of the peaceful uses of outer space

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its twenty-fourth session at United Nations Headquarters from 18 March to 4 April 1985.⁵¹

In continuing its consideration of the agenda item entitled "Legal implications of remote sensing of the Earth from space, with the aim of formulating draft principles", the Subcommittee re-established its Working Group on the item. Two working papers were submitted to the Subcommittee

tee during the current session, one by the delegation of France entitled "Memorandum on remote sensing",⁵² and the other by the delegation of Kenya.⁵³ The Working Group proceeded in the first instance to a preliminary review of the draft principles as they appeared at the conclusion of the twenty-third session of the Subcommittee and, thereafter, commenced a preliminary review of the provisions of the draft principles contained in the French working paper submitted at the twenty-third session of the Subcommittee⁵⁴ ending, because of time constraints, with its draft principle VII. Suggestions for clarifications or rewording of language were made with respect to some of the draft principles.

The Subcommittee also re-established its Working Group on the agenda item "The possibility of supplementing the norms of international law relevant to the use of nuclear power sources in outer space". The Working Group agreed that it should consider the following themes: assistance to States; notification prior to re-entry of a space object with nuclear power sources on board; State responsibility; safety measures concerning radiological protection; and protection of space objects with nuclear power sources on board. The Working Group, in the time allocated to it by the Subcommittee, was able to discuss only the first two themes and worked out the formulations regarding them.

The Subcommittee re-established as well its Working Group on the item "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". The 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 Committee on the Peaceful Uses of Outer Space at its twenty-eighth session, held at United Nations Headquarters from 17 to 28 June 1985, took note with appreciation of the report of the Legal Subcommittee on the work of its twenty-fourth session and made recommendations concerning the agenda of the Subcommittee at its twenty-fifth session.⁵⁵

With regard to the item entitled "Legal implications of remote sensing of the Earth from space, with the aim of formulating draft principles", the Committee conducted extensive consultations with a view to finalizing the principles on the basis of the working document prepared by the Chairman of the Working Group on Remote Sensing. The delegation of Austria submitted a working document on the principles relating to remote sensing based on the above-mentioned consultations.⁵⁶

During the discussion on the item entitled "The possibility of supplementing the norms of international law relevant to the use of nuclear power sources in outer space", some delegations noted that it was important to have norms for international liability in that area and that such liability should include direct, indirect and delayed damage.

Regarding the agenda of the Legal Subcommittee, the Committee recommended that the Subcommittee should continue the work on its current agenda items.

At its fortieth session, by resolution 40/162 of 16 December 1985,⁵⁷ adopted on the recommendation of the Special Political Committee,⁵⁸ 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 space⁵⁹ to give consideration to ratifying or acceding to those treaties; and endorsed the recommendations of the Committee that the Legal Subcommittee at its twenty-fifth session should in its working groups: (a) continue its detailed consideration of the legal implications of remote sensing of the Earth from space, with the aim of finalizing the draft set of principles; (b) undertake the elaboration of draft principles relevant to the use of nuclear power sources in outer space; (c) and continue 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.

(c) Question of Antarctica

By its resolution 40/156 A of 16 December 1985,⁶⁰ adopted on the recommendation of the First Committee,⁶¹ the General Assembly requested the Secretary-General to update and expand the study

on the question of Antarctica⁶² by addressing questions concerning the availability to the United Nations of information from the Antarctic Treaty Consultative Parties on their respective activities in and their deliberations regarding Antarctica, the involvement of the relevant specialized agencies and intergovernmental organizations in the Antarctic Treaty system and the significance of the United Nations Convention on the Law of the Sea in the southern ocean. Furthermore, by its resolution 40/156 B of the same date,⁶³ adopted also on the recommendation of the First Committee,⁶⁴ the Assembly, aware that negotiations were in progress among the Antarctic Treaty Consultative Parties, with the non-Consultative Parties as observers, to which other States were not privy, with a view to establishing a regime regarding Antarctic minerals, affirmed that any exploitation of the resources of Antarctica should ensure the maintenance of international peace and security in Antarctica, the protection of its environment, the non-appropriation and conservation of its resources and the international management and equitable sharing of the benefits of such exploitation; and invited the Antarctic Treaty Consultative Parties to inform the Secretary-General of their negotiations to establish a regime regarding Antarctic minerals.

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

(a) Environmental questions

Thirteenth session of the Governing Council of the United Nations Environment Programme⁶⁵

The thirteenth session of the Governing Council of the United Nations Environment Programme was held at UNEP headquarters, Nairobi, from 14 to 24 May 1985.

By its decision 13/18⁶⁶ entitled "Environmental law", the Governing Council, in section I (Protection of the ozone layer), took note of the adoption of the Vienna Convention for the Protection of the Ozone Layer on 22 March 1985;⁶⁷ urged all States which had not already done so to sign and ratify the Convention; requested the Executive Director, in consultation with the signatories to the Convention and in close cooperation with the World Meteorological Organization and other relevant United Nations bodies, to make arrangements required for the interim secretariat of the Convention in order to promote achievement of the objective of the Convention; further requested the Executive Director, on the basis of the work of the Ad Hoc Working Group of Legal and Technical Experts for the Elaboration of a Global Framework Convention for the Protection of the Ozone Layer, to convene a working group to continue work on a protocol that could address both short-term and long-term strategies for the equitable control of the global production, emissions and use of fully halogenated chlorofluorocarbons, taking into account the particular situation of developing countries as well as recent scientific and economic research; and authorized the Executive Director, pending the entry into force of the Convention, to convene a diplomatic conference, in consultation with the signatories to the Convention, if possible in 1987, for the purpose of adopting such a protocol; in section II (Protection of the marine environment against pollution from land-based sources), took note of the final report of the Ad Hoc Working Group of Experts on the Protection of the Marine Environment against Pollution from Land-based Sources;⁶⁸ encouraged States and international organizations to take the Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-based Sources into account in the process of developing bilateral, regional and, as appropriate, global agreements in the field; in section III (Other topics of the Montevideo Programme for the Development and Periodic Review of Environmental Law),⁶⁹ requested the Executive Director to take all appropriate measures to continue implementation of the Montevideo Programme, within available resources; requested the Executive Director to convene a further session of the Ad Hoc Working Group of Experts on the Environmentally Sound Management of Hazardous Wastes to enable it to complete the preparation of guidelines and principles on the environmentally sound management of hazardous wastes with a view to their consideration by the Council at its fourteenth session; requested the Executive Director to take all appropriate measures to expedite the preparation by the Ad Hoc Working Group of Experts for the

Exchange of Information on Potentially Harmful Chemicals (in particular Pesticides) in International Trade of the guidelines with a view to their early consideration by the Council; and requested the Executive Director to enable the Working Group of Experts on Environmental Law to complete the development of guidelines and principles for environmental impact assessment in time for their submission to the Council for consideration at its fourteenth session; in section IV (Shared natural resources and legal aspects of offshore mining and drilling), took note of the report of the Executive Director on shared natural resources and legal aspects of offshore mining and drilling⁷⁰ and authorized him to transmit it on behalf of the Council to the General Assembly at its fortieth session in accordance with Assembly resolution 37/217 of 20 December 1982; and called on Governments to make use of the principles of conduct in the field of the environment for the guidance of States in the conservation and harmonious utilization of natural resources shared by two or more States, contained in the report of the Intergovernmental Working Group of Experts on Natural Resources Shared by Two or More States established under Council decision 44 (III) of 25 April 1975,⁷¹ and the conclusions of the study of the legal aspects concerning the environment related to offshore mining and drilling within the limits of national jurisdiction undertaken by the Working Group of Experts on Environmental Law,⁷² as guidelines and recommendations in the formulation of bilateral or multilateral conventions, on the basis of the principle of good faith and in the spirit of good neighbourliness, and in such a way as to enhance and not adversely affect development and the interests of all countries, in particular those of the developing countries; in section V (Convention on the Conservation of Migratory Species of Wild Animals),⁷³ noted that the Executive Director had convened the first meeting of the Conference of the Parties to the Convention at Bonn from 21 to 26 October 1985; and called upon all States not yet parties to the Convention to consider early adherence to it; and in section VI (International conventions and protocols in the field of the environment), took note of the report of the Executive Director on international conventions and protocols in the field of the environment.⁷⁴

Furthermore, by its decision 13/25, entitled "Marine pollution", the Governing Council called upon the Executive Director to complete the preparatory phase leading to the adoption of action plans and regional conventions for those regions where such action plans and conventions had yet to be adopted (the Eastern African region, the South Asian Seas region and the South Pacific region) and to continue to assist States to implement the adopted action plans as agreements in all other regions.

Consideration by the General Assembly

At its fortieth session the General Assembly, by its resolution 40/200 of 17 December 1985,⁷⁵ adopted on the recommendation of the Second Committee,⁷⁶ the General Assembly took note of the report of the Governing Council of the United Nations Environment Programme on the work of its thirteenth session and endorsed the decisions contained therein, as adopted; and also took note of the progress on international conventions and protocols in the field of the environment during 1985, including the adoption of the Vienna Convention for the Protection of the Ozone Layer and of an international protocol to the 1979 Convention on Long-range Transboundary Air Pollution, on sulphur emissions and fluxes, and the organization of the first meeting of the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals.

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

By its resolution 40/184 of 17 December 1985,⁷⁷ adopted on the recommendation of the Second Committee,⁷⁸ the General Assembly, taking note of the decision adopted on 5 June 1985 by the United Nations Conference on an International Code of Conduct on the Transfer of Technology, at its sixth session,⁷⁹ in which it had requested the General Assembly to take the measures necessary for further action, including the possible reconvening of negotiations on an international code of conduct on the transfer of technology, noted that progress had been made in the negotiations on an international code but that there were still important problems outstanding; further noted that, at the sixth session of the United Nations Conference on an International Code of Conduct on the Transfer of Technology, progress had been made in identifying common ground, as well as divergences, in respect of the issues outstanding in chapter 4 of the draft code, on restrictive practices, and in chapter 9, on applicable law and settlement of disputes; and expressed the belief that further work was required in the search for

possible solutions to the outstanding issues in order to complete successfully the negotiations on a code of conduct.

(c) Office of the United Nations High Commissioner for Refugees⁸⁰

During the reporting period, UNHCR faced the challenge of attaining durable solutions to refugee problems in the midst of seriously deteriorating situations in some parts of the world and the onset of a major emergency in Africa. UNHCR continued to extend its international protection to large numbers of refugees and victims of man-made disasters across the world. Problems in this field were accentuated by the continuing complexity of the causes of refugee movements and the increasing difficulties in finding durable solutions to the plight of persons of concern to the Office. Violations of the physical safety of refugees continued to cause grave anxiety.

It should be recognized that refugees included not only persons who were outside their countries due to fear of persecution but also persons who had fled their country due to armed conflicts, internal turmoil and situations involving gross and systematic violations of human rights. Even though the majority of the refugees of the day were persons who did not fall within the classical refugee definition in the UNHCR statute, they had, as helpless victims of man-made disasters, come to be recognized as persons of the High Commissioner's concern through successive resolutions of the General Assembly.

The reporting period was also characterized by the continuing willingness of many States in all regions of the world—even when faced with serious economic difficulties—to grant asylum to refugees and to ensure that they were treated in accordance with internationally recognized standards.

It was also encouraging to note that 97 States had become parties to one or both of the basic international refugee instruments: the 1951 Convention relating to the Status of Refugees⁸¹ and the 1967 Protocol relating to the Status of Refugees.⁸²

There was a continuing recognition by many States of the importance of the determination of refugee status in enabling refugees to take advantage of the various rights and standards of treatment accorded them by the international community and to avail themselves of the international protection extended to refugees by the High Commissioner's Office. It was encouraging to note in this regard that in elaborating criteria for determining refugee status reliance had been placed by courts in various countries on the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*.

The High Commissioner continued his activities in the field of the promotion, advancement and dissemination of the principles of refugee law. Those activities formed an integral part of his protection function and were aimed not only at advancing the acceptance of and adherence to existing principles but also at promoting the development of international refugee law to meet the demands of contemporary refugee situations.

At the thirty-sixth session of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, held at Geneva from 7 to 18 October 1985, the Committee recognized the crucial importance of the High Commissioner's international protection function, the exercise of which had become increasingly difficult owing to the growing complexity of present-day refugee problems; noted with satisfaction the progress achieved in the further development of international refugee law and the strengthening of internationally recognized standards for the treatment of refugees; welcomed the fact that a large number of States had now acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees and expressed the hope that additional States would accede to those instruments in the near future, thereby strengthening the framework of international solidarity and burden-sharing of which those instruments were an integral part; reiterated the importance of the Office's continued efforts to promote the development and strengthening of international refugee law, in particular through its cooperation with the International Institute of Humanitarian Law in San Remo, Italy; and, reaffirming the significance of its 1980 conclusion on voluntary repatriation⁸³ as reflecting basic principles of international law and practice, adopted also the further conclusions on the matter.⁸⁴

By its resolution 40/118 of 13 December 1985,⁸⁵ adopted on the recommendation of the Third Committee,⁸⁶ the General Assembly strongly reaffirmed the fundamental nature of the High Commis-

sioner's function to provide international protection and the need for Governments to continue to cooperate fully with the Office in order to facilitate the effective exercise of that function, in particular by acceding to and implementing the relevant international and regional refugee instruments and by scrupulously observing the principles of asylum and non-refoulement; urged all States, in cooperation with the Office of the High Commissioner and other competent international bodies, to take all measures necessary to ensure the safety of refugees and asylum-seekers; and endorsed the conclusions on voluntary repatriation adopted by the Executive Committee of the Programme of the High Commissioner at its thirty-sixth session and urged States to extend their full cooperation to the High Commissioner to that effect.

(d) International drug control

In the course of 1985, three more States became parties to the 1971 Convention on Psychotropic Substances,⁸⁷ two more States became parties to the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961,⁸⁸ and two 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, 1961.⁸⁹

By its resolution 40/120 of 13 December 1985,⁹⁰ adopted on the recommendation of the Third Committee,⁹¹ the General Assembly, reaffirming its conviction that the magnitude and complexity reached in illicit trafficking and its grave consequences emphasized the urgent need to carry out the mandate given by the General Assembly, in its resolution 39/141 of 14 December 1984, to the Commission on Narcotic Drugs, through the Economic and Social Council, to initiate, as a matter of priority, the preparation of a draft convention against illicit traffic in narcotic drugs which would consider the various aspects of the problem as a whole, in particular those not envisaged in existing international instruments, requested the Economic and Social Council to instruct the Commission on Narcotic Drugs to decide on the elements that could be included in the convention and to request the Secretary-General to prepare a draft on the basis of those elements; requested the Secretary-General to submit to the International Conference on Drug Abuse and Illicit Trafficking, to be held in 1987, a report on progress made towards completing a new convention against drug trafficking; and urged once again all States that had not yet done so to adhere to and ratify the Single Convention on Narcotic Drugs of 1961, the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1961 and the Convention on Psychotropic Substances of 1971.

By its resolution 40/121 of the same date,⁹² adopted also on the recommendation of the Third Committee,⁹³ the General Assembly recommended to the Commission on Narcotic Drugs that it should advise the interregional meeting to examine in depth the most important aspects of the problem, especially those that would enhance ongoing bilateral and multilateral efforts, in particular the preparation of a draft convention against illicit traffic in narcotic drugs and psychotropic substances and the proposed International Conference on Drug Abuse and Illicit Trafficking, to recommend action on: (a) extradition; (b) mechanisms that would enhance interregional coordination and cooperation on a permanent basis; (c) modalities of ensuring rapid and secure means of communication between law enforcement agencies at the national, regional and international levels; (d) techniques of controlled delivery; and (e) measures to reduce the vulnerability of States affected by the transit of illicit drugs.

Furthermore, by its resolution 40/122 of the same date,⁹⁴ adopted on the recommendation of the Third Committee,⁹⁵ the General Assembly decided to convene, in 1987, an International Conference on Drug Abuse and Illicit Trafficking at the ministerial level at the Vienna International Centre as an expression of the political will of nations to combat the drug menace, with the mandate to generate universal action to combat the drug problem in all its forms at the national, regional and international levels and to adopt a comprehensive multidisciplinary outline of future activities which would focus on concrete and substantive issues directly relevant to the problems of drug abuse and illicit trafficking, *inter alia*: to achieve as much harmonization as possible and to reinforce national legislation, bilateral treaties, regional arrangements and other international legal instruments; and to support strongly current high-priority initiatives and programmes of the United Nations, including the elaboration of a convention against illicit traffic in narcotic drugs and psychotropic substances which

would consider, in particular, those aspects of the problem not envisaged in existing international instruments.

(e) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Covenants on Human Rights*⁹⁶

In 1985, two more States became parties to the International Covenant on Economic, Social and Cultural Rights,⁹⁷ one more State became party to the International Covenant on Civil and Political Rights⁹⁸ and two more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights.⁹⁹

By its resolution 40/115 of 13 December 1985,¹⁰⁰ adopted on the recommendation of the Third Committee,¹⁰¹ the General Assembly took note with appreciation of the report of the Human Rights Committee on its twenty-third, twenty-fourth and twenty-fifth sessions;¹⁰² 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, as well as to consider acceding to the Optional Protocol 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; recommended to States parties that they continually review whether any reservation made in respect of the provisions of the International Covenants on Human Rights should be upheld; welcomed the decision of the Economic and Social Council, in its resolution 1985/17 of 28 May 1985, to establish the Committee on Economic, Social and Cultural Rights, which would be entrusted from 1987 on with the important task of overseeing the implementation of the International Covenant on Economic, Social and Cultural Rights; also welcomed the progress already made towards the publication of the official public records of the Human Rights Committee in bound volumes and looked forward to receiving in the near future the volumes covering the first two sessions; and encouraged all Governments to publish the texts of the International Covenants on Human Rights in as many languages as possible and to distribute them and make them known as widely as possible in their territories.

And by its resolution 40/114 of the same date,¹⁰³ adopted also on the recommendation of the Third Committee,¹⁰⁴ the General Assembly, convinced that the full realization of civil and political rights were inseparably linked with the enjoyment of economic, social and cultural rights, recognizing the fundamental rights of every people to exercise full sovereignty over its natural wealth and resources and recognizing also that the realization of the right to development could help to promote the enjoyment of economic, social and cultural rights, recognized that equal attention should be given to the implementation, promotion and protection of economic, social and cultural rights and civil and political rights; and appealed to all States, on the occasion of the twentieth anniversary of the adoption of the International Covenants on Human Rights, to pursue policies directed to the full implementation of the rights contained therein.

Moreover, by its resolution 40/116 of the same date,¹⁰⁵ adopted also on the recommendation of the Third Committee,¹⁰⁶ the General Assembly, recognizing once again and with deeper concern the burden that several coexisting reporting systems placed upon Member States that were parties to various conventions, which in future might become more acute in relation to the ratification of other conventions, took note with appreciation of the very comprehensive second report of the Secretary-General on reporting obligations of States parties to the United Nations conventions on human rights;¹⁰⁷ expressed its deep concern about the alarming number of reports overdue from many States parties to the international conventions on human rights; took note with interest of Economic and Social Council decision 1985/132 of 28 May 1985, by which, while maintaining the first six-year cycle of the reporting procedures on the implementation of the International Covenant on Economic, Social and Cultural Rights, the Council had decided to establish a nine-year period for the subsequent cycles; expressed the belief that new timely steps were needed in order to ascertain better the most relevant causes of the current situation regarding the non-submission of reports and to devise feasible types of action intended to remove the difficulties being encountered; fully concurred with the consid-

erations and suggestions of the Secretary-General on the question of consolidating the guidelines of the supervisory bodies entrusted with the consideration of reports of the States parties on the implementation of the conventions on human rights; and took note with appreciation of the compilation of the general guidelines elaborated by the various supervisory bodies and of the list of articles dealing with related rights under the five conventions, both of which were very helpful for States parties in the preparation of their reports.

(ii) *International Convention on the Elimination of All Forms of Racial Discrimination*¹⁰⁸

In 1985, no additional State became party to the International Convention on the Elimination of All Forms of Racial Discrimination.

In its resolution 40/26 of 29 November 1985,¹⁰⁹ adopted on the recommendation of the Third Committee,¹¹⁰ the General Assembly requested those States that had not yet become parties to the Convention on the Elimination of All Forms of Racial Discrimination to ratify it or accede thereto; called upon States parties to the Convention to consider the possibility of making the declaration provided for in article 14 of the Convention; and reaffirmed once again its conviction that ratification of or accession to the Convention on a universal basis and implementation of its provisions were necessary for the realization of the objectives of the Second Decade to Combat Racism and Racial Discrimination.¹¹¹ And by its resolution 40/28 of the same date,¹¹² adopted also on the recommendation of the Third Committee,¹¹³ the Assembly called upon Member States to adopt effective legislative, socio-economic and other measures in order to ensure the prevention or elimination of discrimination based on race, colour, descent or national or ethnic origin; further called upon the States parties to the Convention to protect fully, by the adoption of the relevant legislative and other measures, in conformity with the Convention, the rights of national or ethnic minorities and persons belonging to such minorities, as well as the rights of indigenous populations; and commended the States parties to the Convention on measures taken to ensure, within their jurisdiction, the availability of appropriate recourse procedures for the victims of racial discrimination.

(iii) *International Convention on the Suppression and Punishment of the Crime of Apartheid*¹¹⁴

In 1985, two more States became parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

By its resolution 40/27 of 29 November 1985,¹¹⁵ adopted on the recommendation of the Third Committee,¹¹⁶ the General Assembly appealed once again to those States that had not yet done so to ratify or to accede to the Convention without further delay, in particular those States that had jurisdiction over transnational corporations operating in South Africa and Namibia and without whose cooperation such operations could not be halted; took note with appreciation of the report of the Group of Three of the Commission on Human Rights, established in accordance with article IX of the Convention, and, in particular, of the conclusions and recommendations contained in that report;¹¹⁷ and requested the Commission on Human Rights to intensify, in cooperation with the Special Committee against Apartheid, its efforts to compile periodically the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as those against whom or which legal proceedings had been undertaken.

(iv) *Convention on the Elimination of All Forms of Discrimination against Women*¹¹⁸

In 1985, 20 more States became parties to the Convention on the Elimination of All Forms of Discrimination against Women.

By its resolution 40/39 of 29 November 1985,¹¹⁹ adopted on the recommendation of the Third Committee,¹²⁰ the General Assembly urged all States that had not yet ratified or acceded to the Convention to do so as soon as possible, taking into account the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi from 15 to 26 July 1985; and also urged States parties to make all possible efforts to submit their initial implementation reports in accordance with article 18 of the Convention and the guidelines of the Committee on the Elimination of Discrimination against Women.

(v) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*¹²¹

By its resolution 40/128 of 13 December 1985,¹²² adopted on the recommendation of the Third Committee,¹²³ the General Assembly expressed its satisfaction at the number of States that had signed the Convention since it was opened for signature, ratification and accession on 4 February 1985; requested all States that had not yet done so to sign and to ratify the Convention as a matter of priority; and invited all States, upon ratification of or accession to the Convention, to consider the possibility of making the declarations provided for in articles 21 and 22 of the Convention.

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

By its resolution 40/24 of 29 November 1985,¹²⁴ adopted on the recommendation of the Third Committee,¹²⁵ 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. Furthermore, by its resolution 40/25¹²⁶ of the same date, adopted also on the recommendation of the Third Committee,¹²⁷ the General Assembly called upon all States to implement fully and faithfully all the resolutions of the United Nations regarding the exercise of the right to self-determination and independence by peoples under colonial and foreign domination; reaffirmed the legitimacy of the struggle of peoples for their independence, territorial integrity, national unity and liberation from colonial domination, apartheid and foreign occupation by all available means, including armed struggle; and reaffirmed the inalienable right of the Namibian people, the Palestinian people and all peoples under foreign and colonial domination to self-determination, national independence, territorial integrity, national unity and sovereignty without foreign interference.

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

By its resolution 40/124 of 13 December 1985,¹²⁸ adopted on the recommendation of the Third Committee,¹²⁹ the General Assembly reiterated its request that the Commission on Human Rights continue its current work on the overall analysis with a view to further promoting and improving human rights and fundamental freedoms, in accordance with the provisions and concepts of General Assembly resolution 32/130 of 16 December 1977 and other relevant texts; 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 each human being, that all human rights and fundamental freedoms were indivisible and interrelated and that the promotion of one category of rights should never exempt or excuse States from the promotion and protection of the others; affirmed its profound conviction that equal attention and urgent consideration should be given to the implementation, promotion and protection of both civil and political and economic, social and cultural rights; reaffirmed that it was of paramount importance for the promotion of human rights and fundamental freedoms that Member States should undertake specific obligations through accession to, or ratification of, international instruments in that field and, consequently, that the standard-setting work within the United Nations system in the field of human rights and the universal acceptance and implementation of the relevant international instruments should be encouraged; expressed concern at the current situation with regard to the achievement of the objectives and goals for the establishment of the new international economic order and its adverse effects on the full realization of human rights, in particular the right to development; and reaffirmed that the right to development was an inalienable human right.

Moreover, by its resolution 40/123 of the same date,¹³⁰ adopted also on the recommendation of the Third Committee,¹³¹ the General Assembly emphasized the importance of developing, in accordance with national legislation, effective national institutions for the protection and promotion of human rights, and of maintaining their independence and integrity; and encouraged all Member States to take appropriate steps for the establishment or, where they already existed, the strengthening of national institutions for the protection and promotion of human rights.

(4) *Summary or arbitrary executions*

By its resolution 40/143 of 13 December 1985,¹³² adopted on the recommendation of the Third Committee,¹³³ the General Assembly strongly condemned the large number of summary or arbitrary executions, including extra-legal executions, which continued to take place in various parts of the world; demanded that the practice of summary or arbitrary executions be brought to an end; welcomed Economic and Social Council resolution 1985/40 of 30 May 1985, in which the Council had decided to continue the mandate of the Special Rapporteur for a further year and requested the Commission on Human Rights to consider the question of summary or arbitrary executions as a matter of high priority at its forty-second session; and again requested the Secretary-General to continue to use his best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights appeared not to be respected.

(5) *Measures to improve the situation and ensure the human rights and dignity of all migrant workers*

By its resolution 40/130 of 13 December 1985,¹³⁴ adopted on the recommendation of the Third Committee,¹³⁵ the General Assembly, reiterating that, in spite of the existence of an already established body of principles and standards, there was a need to make further efforts to improve the situation and ensure the human rights and dignity of all migrant workers and their families, took note with satisfaction of the reports of the Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families, and, in particular, of the progress made by the Working Group on the drafting, in second reading, of the draft convention.

(6) *Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live*

By its resolution 40/144 of 13 December 1985,¹³⁶ adopted on the recommendation of the Third Committee,¹³⁷ the General Assembly adopted the Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live, which was annexed to the resolution.

ANNEX

Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live

The General Assembly,

Considering that the Charter of the United Nations encourages universal respect for and observance of the human rights and fundamental freedoms of all human beings, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in that Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the Universal Declaration of Human Rights proclaims further that everyone has the right to recognition everywhere as a person before the law, that all are equal before the law and entitled without any discrimination to equal protection of the law, and that all are entitled to equal protection against any discrimination in violation of that Declaration and against any incitement to such discrimination,

Being aware that the States parties to the International Covenants on Human Rights undertake to guarantee that the rights enunciated in these Covenants will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Conscious that, with improving communications and the development of peaceful and friendly relations among countries, individuals increasingly live in countries of which they are not nationals,

Reaffirming the purposes and principles of the Charter of the United Nations,

Recognizing that the protection of human rights and fundamental freedoms provided for in international instruments should also be ensured for individuals who are not nationals of the country in which they live,

Proclaims this Declaration:

Article 1

For the purposes of this Declaration, the term "alien" shall apply, with due regard to qualifications made in subsequent articles, to any individual who is not a national of the State in which he or she is present.

Article 2

1. Nothing in this Declaration shall be interpreted as legitimizing the illegal entry into and presence in a State of any alien, nor shall any provision be interpreted as restricting the right of any State to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay or to establish differences between nationals and aliens. However, such laws and regulations shall not be incompatible with the international legal obligations of that State, including those in the field of human rights.

2. This Declaration shall not prejudice the enjoyment of the rights accorded by domestic law and of the rights which under international law a State is obliged to accord to aliens, even where this Declaration does not recognize such rights or recognizes them to a lesser extent.

Article 3

Every State shall make public its national legislation or regulations affecting aliens.

Article 4

Aliens shall observe the laws of the State in which they reside or are present and regard with respect the customs and traditions of the people of that State.

Article 5

1. Aliens shall enjoy, in accordance with domestic law and subject to the relevant international obligations of the State in which they are present, in particular the following rights:

(a) The right to life and security of person; no alien shall be subjected to arbitrary arrest or detention; no alien shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law;

(b) The right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence;

(c) The right to be equal before the courts, tribunals and all other organs and authorities administering justice and, when necessary, to free assistance of an interpreter in criminal proceedings and, when prescribed by law, other proceedings;

(d) The right to choose a spouse, to marry, to found a family;

(e) The right to freedom of thought, opinion, conscience and religion; the right to manifest their religion or beliefs, subjects only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others;

(f) The right to retain their own language, culture and tradition;

(g) The right to transfer abroad earnings, savings or other personal monetary assets, subject to domestic currency regulations.

2. Subject to such restrictions as are prescribed by law and which are necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others, and which are consistent with the other rights recognized in the relevant international instruments and those set forth in this Declaration, aliens shall enjoy the following rights:

(a) The right to leave the country;

(b) The right to freedom of expression;

(c) The right to peaceful assembly;

(d) The right to own property alone as well as in association with others, subject to domestic law.

3. Subject to the provisions referred to in paragraph 2, aliens lawfully in the territory of a State shall enjoy the right to liberty of movement and freedom to choose their residence within the borders of the State.

4. Subject to national legislation and due authorization, the spouse and minor or dependent children of an alien lawfully residing in the territory of a State shall be admitted to accompany, join and stay with the alien.

Article 6

No alien shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and, in particular, no alien shall be subjected without his or her free consent to medical or scientific experimentation.

Article 7

An alien lawfully in the territory of a State may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons why he or she should not be expelled and to have the case reviewed by, and be represented for the purpose before, the competent authority or a person or persons specially designated by the competent authority. Individual or collective expulsion of such aliens on grounds of race, colour, religion, culture, descent or national or ethnic origin is prohibited.

Article 8

1. Aliens lawfully residing in the territory of a State shall also enjoy, in accordance with the national laws, the following rights, subject to their obligations under article 4:

(a) The right to safe and healthy working conditions, to fair wages and equal remuneration for work of equal value without distinction of any kind, in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(b) The right to join trade unions and other organizations or associations of their choice and to participate in their activities. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary, in a democratic society, in the interests of national security or public order or for the protection of the rights and freedoms of others;

(c) The right to health protection, medical care, social security, social services, education, rest and leisure, provided that they fulfil the requirements under the relevant regulations for participation and that undue strain is not placed on the resources of the State.

2. With a view to protecting the rights of aliens carrying on lawful paid activities in the country in which they are present, such rights may be specified by the Governments concerned in multilateral or bilateral conventions.

Article 9

No alien shall be arbitrarily deprived of his or her lawfully acquired assets.

Article 10

Any alien shall be free at any time to communicate with the consulate or diplomatic mission of the State of which he or she is a national or, in the absence thereof, with the consulate or diplomatic mission of any other State entrusted with the protection of the interests of the State of which he or she is a national in the State where he or she resides.

(7) Question of a convention on the rights of the child

By its resolution 40/113 of 13 December 1985,¹³⁸ adopted on the recommendation of the Third Committee,¹³⁹ the General Assembly, convinced that an international convention on the rights of the child would make a positive contribution to ensuring the protection of children's rights and their well-being, invited all Member States to offer their active contribution to the completion of the draft convention on the rights of the child at the forty-second session of the Commission on Human Rights.

(8) Elimination of all forms of religious intolerance

By its resolution 40/109 of 13 December 1985,¹⁴⁰ adopted on the recommendation of the Third Committee,¹⁴¹ the General Assembly, reaffirming its resolution 36/55 of 25 November 1981, in which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,¹⁴² reaffirmed that freedom of thought, conscience, religion and belief was a right guaranteed to all without discrimination; urged States, therefore, in accordance with their respective constitutional systems, to provide, where they had not already done so, adequate constitu-

tional and legal guarantees of freedom of thought, conscience, religion and belief; and endorsed the request of the Commission on Human Rights to the Secretary-General, contained in its resolution 1985/51 of 14 March 1985,¹⁴³ to prepare a compendium of the national legislation and regulations of States on the question of freedom of religion or belief, with particular regard to the measures taken to combat intolerance or discrimination in that field.

(9) *Measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror*

By its resolution 40/148 of 13 December 1985,¹⁴⁴ adopted on the recommendation of the Third Committee,¹⁴⁵ the General Assembly again condemned all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist ideologies, based on racial or ethnic exclusiveness or intolerance, hatred and terror, which deprived people of basic human rights and fundamental freedoms and equality of opportunity, and expressed its determination to combat those ideologies and practices; urged all States to draw attention to the threat to democratic institutions by the above-mentioned ideologies and practices and to consider taking measures, in accordance with their national constitutional systems and with the provisions of the Universal Declaration of Human Rights and the International Covenants on Human Rights, to prohibit or otherwise deter activities by groups or organizations or whoever was practising those ideologies; and invited Member States to adopt, in accordance with their national constitutional systems and with the provisions of the above-mentioned Declaration and Covenants, as a matter of high priority, measures declaring punishable by law any dissemination of ideas based on racial superiority or hatred and of war propaganda, including Nazi, Fascist and neo-Fascist ideologies.

(10) *Human rights and scientific and technological developments*

By its resolution 40/112 of 13 December 1985,¹⁴⁶ adopted on the recommendation of the Third Committee,¹⁴⁷ the General Assembly stressed the importance of the implementation by all States of the provisions and principles contained in the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind¹⁴⁸ in order to promote human rights and fundamental freedoms.

Moreover, by its resolution 40/110 of the same date,¹⁴⁹ adopted also on the recommendation of the Third Committee,¹⁵⁰ the General Assembly, reaffirming its conviction that detention of persons in mental institutions on account of their political views or on other non-medical grounds was a violation of their human rights, again urged the Commission on Human Rights and, through it, the Subcommission on Prevention of Discrimination and Protection of Minorities to expedite their consideration of the draft body of guidelines, principles and guarantees, so that the Commission could submit its views and recommendations, including a draft body of guidelines, principles and guarantees, to the General Assembly at its forty-second session, through the Economic and Social Council.

(f) *Crime prevention and criminal justice*

(1) *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders*

By its resolution 40/32 of 29 November 1985,¹⁵¹ adopted on the recommendation of the Third Committee,¹⁵² the General Assembly expressed its satisfaction with the report of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders;¹⁵³ approved the Milan Plan of Action,¹⁵⁴ adopted by consensus by the Seventh Congress, as a useful and effective means of strengthening international cooperation in the field of crime prevention and criminal justice; and recommended the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order¹⁵⁵ for national, regional and international action, as appropriate, taking into account the political, economic, social and cultural circumstances and traditions of each country on the basis of the principles of the sovereign equality of States and of non-interference in their internal affairs.

Moreover, by its resolution 40/33 of the same date,¹⁵⁶ adopted on the recommendation of the Third Committee,¹⁵⁷ the General Assembly adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice recommended by the Seventh Congress, contained in the annex to the resolution, and approved the recommendation of the Congress that the Rules should be known as "the Beijing Rules"; invited Member States to adopt, wherever this was necessary, their national legislation, policies and practices, particularly in training juvenile justice personnel, to the Beijing Rules and to bring the Rules to the attention of relevant authorities and to the public in general; and called upon the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Beijing Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders. Furthermore, by its resolution 40/146 of 13 December 1985,¹⁵⁸ adopted also on the recommendation of the Third Committee,¹⁵⁹ the General Assembly, guided by the principles embodied in articles 3, 5, 9, 10 and 11 of the Universal Declaration of Human Rights, as well as the relevant provisions of the International Covenant on Civil and Political Rights, in particular article 6, which explicitly stated that no one shall be arbitrarily deprived of his life, welcomed the Basic Principles on the Independence of the Judiciary, adopted unanimously by the Seventh Congress,¹⁶⁰ and invited Governments to respect them and to take them into account within the framework of their national legislation and practice; took note with appreciation of the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners,¹⁶¹ also adopted unanimously by the Seventh Congress, and invited Member States to take the Model Agreement into account in establishing treaty relations with other Member States or in revising existing treaty relations; also took note with appreciation of the recommendations made by the Congress with a view to ensuring more effective application of existing standards, in particular the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials,¹⁶² and safeguards guaranteeing the rights of those facing the death penalty; and called upon Member States to spare no effort in providing for adequate mechanisms, procedures and resources so as to ensure the implementation of those recommendations, both in law and in practice.

(2) *Convention on the Prevention and Punishment of the Crime of Genocide*¹⁶³

By its resolution 40/142 of the 13 December 1985,¹⁶⁴ adopted on the recommendation of the Third Committee,¹⁶⁵ the General Assembly once again strongly condemned the crime of genocide; reaffirmed the necessity of international cooperation in order to liberate mankind from such an odious scourge; took note with appreciation of the fact that many States had ratified the Convention or had acceded thereto; and urged those States that had not yet become parties to the Convention to ratify it or accede thereto without further delay.

(3) *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*

By its resolution 40/34 of 29 November 1985,¹⁶⁶ adopted on the recommendation of the Third Committee,¹⁶⁷ the General Assembly affirmed the necessity of adopting national and international measures in order to secure the universal and effective recognition of, and respect for, the rights of victims of crime and of abuse of power; and adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, annexed to the resolution, which was designed to assist Governments and the international community in their efforts to secure justice and assistance for victims of crime and victims of abuse of power.

4. LAW OF THE SEA

*Status of the United Nations Convention on the Law of the Sea*¹⁶⁸

As of 31 December 1985, 159 States had signed and 25 States and the United Nations Council for Namibia had ratified the United Nations Convention on the Law of the Sea.

*Preparatory Commission for the International Seabed Authority and
the International Tribunal for the Law of the Sea*¹⁶⁹

The Preparatory Commission met twice during 1985. It held its third session at Kingston, Jamaica, from 11 March to 4 April 1985, and a meeting at Geneva, from 12 August to 4 September 1985.

During the Geneva meeting the Commission adopted a Declaration¹⁷⁰ in which it recalled the Declaration of Principles in General Assembly resolution 2749 (XXV) of 17 December 1970 proclaiming that the deep seabed and its resources were the common heritage of mankind, and that article 137 of the Convention on the Law of the Sea proclaimed that "no State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with Part IX of the Convention". It expressed its deep concern that some States had undertaken certain actions which undermined the Convention and which were contrary to the mandate of the Preparatory Commission. The Commission declared that any claim, agreement or action regarding the Area and its resources undertaken outside the Preparatory Commission which was incompatible with the United Nations Convention on the Law of the Sea and its related resolutions should not be recognized and rejected "such claim, agreement or action as a basis for creating legal rights and regards it wholly illegal".

The plenary of the Commission completed the second reading of the draft rules of procedure of the Assembly and had provisionally adopted a considerable number of those rules. The plenary also began consideration of the draft rules of procedure of the Council.

The four Special Commissions of the Preparatory Commission had been considering the substantive work allocated to them. Special Commission 1, which was undertaking studies on the problems which would be encountered by developing land-based producer States from seabed mineral production, continued its consideration of the data and information on the mineral market, the identification of developing land-based producer States most likely to be affected and possible measures that might be taken in the event of adverse effects. Special Commission 2, which was preparing for the establishment of the Enterprise, considered a project profile for a deep seabed mining operation. The other important subject discussed was that of training in relation to the manpower requirements of the Enterprise. Special Commission 3, which was preparing the rules, regulations and procedures for the exploration and exploitation of the deep seabed, began consideration of the draft regulations on prospecting, exploration and exploitation of polymetallic nodules in the Area. Special Commission 4, which was dealing with the preparation of recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea, continued its examination of the draft rules of procedure for the Tribunal. The Commission also considered a draft set of rules dealing with procedures for the prompt release of vessels and crew.

The Secretary-General's report in its part two also provided a general overview of the activities of the Office of the Special Representative of the Secretary-General for the Law of the Sea.

Consideration by the General Assembly

By its resolution 40/63 of 10 December 1985,¹⁷¹ 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; took note of the Declaration adopted by the Preparatory Commission for the Seabed Authority and for the International Tribunal for the Law of the Sea on 30 August 1985; called for an early adoption of the rules for registration of pioneer investors in order to ensure the effective implementation of resolution II of the Third United Nations Conference on the Law of the Sea, including the registration of pioneer investors; and called upon the Secretary-General to continue to assist States in the implementation of the Convention and in the development of a consistent and uniform approach to the new legal regime thereunder, as well as in their national, subregional and regional efforts towards the full realization of

the benefits therefrom and invited the organs and organizations of the United Nations system to cooperate and lend assistance in those endeavours.

5. INTERNATIONAL COURT OF JUSTICE^{172,173}

Cases before the Court

A. CONTENTIOUS CASES BEFORE THE FULL COURT

(i) *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*)¹⁷⁴

By a letter dated 18 January 1985, the Agent of the United States made it known that, notwithstanding the Judgment of 26 November 1984, in the view of the United States "the Court is without jurisdiction to entertain the dispute and that the Nicaraguan Application of 9 April 1984 is inadmissible" and that accordingly "the United States intends not to participate in any further proceedings in connection with this case". On 22 January 1985 the Agent of Nicaragua informed the President that his Government maintained its Application and availed itself of the rights provided for in Article 53 of the Statute whenever one of the Parties does not appear before the Court or fails to defend its case.

By an Order dated 22 January 1985,¹⁷⁵ the President fixed time-limits for the filing of pleadings on the merits. The Government of Nicaragua filed its Memorial within the prescribed time-limit (30 April 1985). No Counter-Memorial was filed by the Government of the United States within the time-limit allotted to it, which expired on 31 May 1985, nor did it request any extension of the time-limit.

Between 12 and 20 September 1985, the Court held nine public sittings during which arguments were presented on behalf of Nicaragua. Five witnesses called by Nicaragua gave evidence before the Court. The United States was not represented at the sittings.

(ii) *Continental Shelf (Libyan Arab Jamahiriya/Malta)*¹⁷⁶

Between 26 November and 14 December 1984, and 4 and 24 February 1985, the Court held 25 public sittings during which speeches were made on behalf of the Libyan Arab Jamahiriya and Malta.

On 3 June 1985, the Court at a public sitting delivered its Judgment,¹⁷⁷ of which a summary outline and the complete text of the operative clause are given below.

Proceedings and Submissions of the Parties (paras. 1-13)

The Court begins by recapitulating the various stages in the proceedings and setting out the provisions of the Special Agreement concluded between the Libyan Arab Jamahiriya and Malta for the purpose of submitting to the Court the dispute between them concerning the delimitation of their respective continental shelves.

By Article 1 of the Special Agreement, the Court is requested to decide the following question:

"What principles and rules of international law are applicable to the delimitation of the area of continental shelf which appertains to the Republic of Malta and the area of continental shelf which appertains to the Libyan Arab Republic, and how in practice such principles and rules can be applied by the two Parties in this particular case in order that they may without difficulty delimit such area by an agreement as provided in Article III."

According to Article III:

"Following the final decision of the International Court of Justice the Government of the Republic of Malta and the Government of the Libyan Arab Republic shall enter into negotiations for determining the area of their respective continental shelves and for concluding an agreement for that purpose in accordance with the decision of the Court."

Having described the *geographical context* (paras. 14-17) in which the delimitation of the conti-

mental shelf, the subject of the proceedings, is to be carried out, the Court explains its approach to the task which it has to discharge (paras. 18-23).

The Parties agree on the task of the Court as regards the definition of the principles and rules of international law applicable in the case, but disagree as to the way in which the Court is to indicate the practical application of these principles and rules. Malta takes the view that the applicable principles and rules are to be implemented in practice by the drawing of a specific line (in this case, a median line) whereas Libya maintains that the Court's task does not extend to the actual drawing of the delimitation line. Having examined the intentions of the Parties to the Special Agreement, from which its jurisdiction derives, the Court considers that it is not debarred by the terms of the Special Agreement from indicating a delimitation line.

Turning to the scope of the Judgment, the Court emphasizes that the delimitation contemplated by the Special Agreement relates only to areas of continental shelf "which appertain" to the Parties, to the exclusion of areas which might "appertain" to a third State. Although the Parties have in effect invited the Court not to limit its Judgment to the area in which theirs are the sole competing claims, the Court does not regard itself as free to do so, in view of the interest shown in the proceedings by Italy, which in 1984 submitted an Application for permission to intervene under Article 62 of the Statute, an Application which the Court found itself unable to grant. As the Court had previously indicated in its Judgment of 21 March 1984, the geographical scope of the present decision must be limited, and must be confined to the area in which, according to information supplied by Italy, that State has no claims to continental shelf rights. Thus the Court ensures to Italy the protection which is sought to obtain by intervening. In view of the geographical location of these claims the Court limits the area within which it will give its decision, on the east by the 15° 10' E meridian, including also that part of the meridian which is south of the 34° 30' N parallel, and on the west by excluding a pentagonal area bounded on the east by the 13° 50' E meridian. The Parties have no grounds for complaint since, as the Court says, by expressing a negative opinion on the Italian Application to intervene, they had shown their preference for a restriction in the geographical scope of the Judgment which the Court would be required to deliver.

*

The Court observes that no decisive role is played in the present case by considerations derived from the *history of the dispute*, or from legislative and exploratory activities in relation to the continental shelf (paras. 24 and 25). In these the Court finds neither acquiescence by either Party to claims by the other, nor any helpful indication of any view of either Party as to what would be equitable differing in any way from the view advanced by that Party before the Court. Its decision must accordingly be based upon the application to the submissions made before it of principles and rules of international law.

*

The applicable principles and rules of international law (paras. 26-35)

The two Parties agree that the dispute is to be governed by customary international law. Malta is a party to the 1958 Geneva Convention on the Continental Shelf, while Libya is not; both Parties have signed the 1982 United Nations Convention on the Law of the Sea, but that Convention has not yet entered into force. However, the Parties are in accord in considering that some of its provisions constitute the expression of customary law, while holding different views as to which provisions have this status. In view of the major importance of this Convention—which has been adopted by an overwhelming majority of States—it is clearly the duty of the Court to consider how far any of its provisions may be binding upon the Parties as a rule of customary law.

In this context the Parties have laid some emphasis on a distinction between the law applicable to the *basis of entitlement* to areas of continental shelf and the law applicable to the *delimitation* of areas of shelf between neighbouring States. On the second point, which is governed by article 83 of the 1982 Convention, the Court notes that the Convention sets a goal to be pursued, namely "to achieve an equitable solution", but is silent as to the method to be followed to achieve it, leaving it to States themselves, or to the courts, to endow this standard with specific content. It also points out that both Parties agree that, whatever the status of article 83 of the 1982 Convention, the delimitation is to be effected in accordance with equitable principles and taking account of all relevant circumstances.

However, on the legal basis of title to continental shelf rights the views of the Parties are irreconcilable. For Libya, the natural prolongation of the land territory of a State into the sea remains the fundamental basis of legal title to continental shelf areas. For Malta, continental shelf rights are no longer defined in the light of physical criteria; they are controlled by the concept of distance from the coast.

In the view of the Court, the principles and rules underlying the regime of the exclusive economic zone cannot be left out of consideration in the present case, which relates to the delimitation of the continental shelf. The two institutions are linked together in modern law, and one of the relevant circumstances to be taken into account for the delimitation of the continental shelf of a State is the legally permissible extent of the exclusive economic zone appertaining to that same State. The institution of the exclusive economic zone, with its rule on entitlement by reason of distance, is shown by the practice of States to have become a part of customary law; and although the institutions of the continental shelf and the exclusive economic zone are different and distinct, the rights which the exclusive economic zone entails over the sea-bed of the zone are defined by reference to the regime laid down for the continental shelf. Although there can be a continental shelf where there is no exclusive economic zone, there cannot be an exclusive economic zone without a corresponding continental shelf. It follows that, for juridical and practical reasons, the distance criterion must now apply to the continental shelf as well as to the exclusive economic zone; and this quite apart from the provision as to distance in article 76 of the 1982 Convention. Within 200 miles of the coast, natural prolongation is in part defined by distance from the shore. The concepts of natural prolongation and distance are not opposed but complementary; and both remain essential elements in the juridical concept of the continental shelf. The Court is thus unable to accept the Libyan contention that distance from the coast is not a relevant element for the decision of the present case.

The Libyan "rift zone" argument (paras. 36-41)

The Court goes on to consider Libya's argument based on the existence of a "rift zone" in the region of the delimitation. From Libya's contention that the natural prolongation, in the physical sense, of the land territory into the sea is still a primary basis of title to continental shelf, it would follow that, if there exists a fundamental discontinuity between the shelf area adjacent to one Party and the shelf area adjacent to the other, the boundary should lie along the general line of that fundamental discontinuity. According to Libya, in the present case there are two distinct continental shelves divided by what it calls the "rift zone", and it is "within, and following the general direction of, the Rift Zone" that the delimitation should be carried out.

The Court takes the view that, since the development of the law enables a State to claim continental shelf up to as far as 200 miles from its coast, whatever the geological characteristics of the corresponding seabed and subsoil, there is no reason to ascribe any role to geological or geophysical factors within that distance. Since in the present instance the distance between the coasts of the Parties is less than 400 miles, so that no geophysical feature can lie more than 200 miles from each coast, the "rift zone" cannot constitute a fundamental discontinuity terminating the southward extension of the Maltese shelf and the northward extension of the Libyan as if it were some natural boundary. Moreover, the need to interpret the evidence advanced for and against the Libyan argument would compel the Court first to make a determination upon a disagreement between scientists of distinction as to the more plausibly correct interpretation of apparently incomplete scientific data, a position which it cannot accept. It therefore rejects the so-called "rift zone" argument of Libya.

Malta's argument respecting the primacy of equidistance (paras. 42-44)

Neither, however, is the Court able to accept Malta's argument that the new importance of the idea of distance from the coast has conferred a primacy on the method of equidistance for the purposes of delimitation of the continental shelf, at any rate between opposite States, as is the case with the coasts of Malta and Libya. Malta considers that the distance principle requires that, as a starting-point of the delimitation process, consideration must be given to an equidistance line, subject to verification of the equitableness of the result achieved by this initial delimitation. The Court is unable to accept that, even as a preliminary step towards the drawing of a delimitation line, the equidistance method is one which must necessarily be used. It is neither the only appropriate method of delimitation, nor the

only permissible point of departure. Moreover, the Court considers that the practice of States in this field falls short of proving the existence of a rule prescribing the use of equidistance, or indeed of any method, as obligatory.

Equitable principles (paras. 45-47)

The Parties agree that the delimitation of the continental shelf must be effected by the application of equitable principles in all the relevant circumstances in order to achieve an equitable result. The Court lists some of these principles: the principle that there is to be no question of refashioning geography; the principle of non-encroachment by one Party on areas appertaining to the other; the principle of the respect due to all relevant circumstances; the principle that "equity does not necessarily imply equality" and that there can be no question of distributive justice.

The relevant circumstances (paras. 48-54)

The Court has still to assess the weight to be accorded to the relevant circumstances for the purposes of the delimitation. Although there is no closed list of considerations which a court may invoke, the Court emphasizes that the only ones which will qualify for inclusion are those which are pertinent to the institution of the continental shelf as it has developed within the law, and to the application of equitable principles to its delimitation.

Thus it finds to be unfounded in the practice of States, in the jurisprudence or in the work of the Third United Nations Conference on the Law of the Sea the argument of Libya that the land mass provides the legal justification of entitlement to continental shelf rights, such that a State with a greater land mass would have a more intense natural prolongation. Nor does the Court consider, contrary to the contentions advanced by Malta, that a delimitation should be influenced by the relative economic position of the two States in question. Regarding the security or defence interests of the two Parties, the Court notes 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 these questions a particular consideration. As for the treatment of islands in continental shelf delimitation, Malta has drawn a distinction between island States and islands politically linked to a mainland State. In this connection the Court merely notes that, Malta being independent, the relationship of its coasts with the coasts of its neighbours is different from what it would be if it were part of the territory of one of them. This aspect of the matter also seems to the Court to be linked to the position of the Maltese islands in the wider geographical context, to which it will return.

The Court rejects another argument of Malta, derived from the sovereign equality of States, whereby the maritime extensions generated by the sovereignty of each State must be of equal juridical value, whatever the length of the coasts. The Court considers that if coastal States have an equal entitlement, *ipso jure* and *ab initio*, to their continental shelves, this does not imply an equality in the extent of these shelves, and thus reference to the length of coasts as a relevant consideration cannot be excluded *a priori*.

Proportionality (paras. 55-59)

The Court then considers the role to be assigned in the present case to proportionality, Libya having attached considerable importance to this factor. It recalls that, according to the jurisprudence, proportionality is one possibly relevant factor among several others to be taken into account, without ever being mentioned among "the principles and rules of international law applicable to the delimitation" or as "a general principle providing an independent source of rights to areas of continental shelf". Libya's argument, however, goes further. Once the submission relating to the rift zone has been dismissed, there is no other element in the Libyan submissions, apart from the reference to the lengths of coastline, which is able to afford an independent principle and method for drawing the boundary. The Court considers that to use the ratio of coastal lengths as self-determinative of the seaward reach and area of continental shelf proper to each is to go far beyond the use of proportionality as a test of equity, in the sense employed in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*. Such use finds no support in the practice of States or their public statements, or in the jurisprudence.

*

The delimitation operation and the drawing of a provisional equidistance line (paras. 60-64)

In order to apply the equitable principles which were elicited by taking account of the relevant circumstances, the Court proceeds by stages; it begins by making a provisional delimitation, which it then compares with the requirements derived from other criteria which may call for an adjustment of this initial result.

Stating that the law applicable to the present dispute is based on the criterion of distance in relation to the coast (the principle of adjacency measured by distance), and noting that the equitableness of the equidistance method is particularly marked in cases where the delimitation concerns States with opposite coasts, the Court considers that the tracing of a median line between the coasts of Malta and Libya, by way of a provisional step in a process to be continued by other operations, is the most judicious manner of proceeding with a view to the eventual achievement of an equitable result. The equidistance method is not the only possible method, and it must be demonstrated that it in fact leads to an equitable result—this can be ascertained by examining the result to which it leads in the context of applying other equitable principles to the relevant circumstances. At this stage, the Court explains that it finds it equitable not to take account of the uninhabited Maltese island of Filfla in the construction of the provisional median line between Malta and Libya, in order to eliminate the disproportionate effect which it might have on the course of this line.

Adjustment of the equidistance line, taking account especially of the lengths of the respective coasts of the Parties (paras. 65-73)

The Court examines whether, in assessing the equitableness of the result, certain relevant circumstances may carry such weight as to justify their being taken into account, requiring an adjustment of the median line which has provisionally been drawn.

One point argued before the Court has been the considerable disparity in the lengths of the relevant coasts of the Parties. Here, the Court compares Malta's coasts with the coasts of Libya between Ras Ajdir (the boundary with Tunisia) and Ras Zarruq (15° 10') and notes that there is a marked disparity between the lengths of these coasts, since the Maltese coast is 24 miles long and the Libyan coast 192 miles long. This is a relevant circumstance which warrants an adjustment of the median line, to attribute a greater area of shelf to Libya. However, it remains to determine the extent of this adjustment.

A further geographical feature must be taken into consideration as a relevant circumstance: this is the southern location of the coasts of the Maltese islands, within the general geographical context in which the delimitation is to be effected. The Court points to a further reason for not accepting the median line, without adjustment, as an equitable boundary: namely that this line is to all intents and purposes controlled on each side, in its entirety, by a handful of salient points on a short stretch of the coast (two points 11 miles apart for Malta; several points concentrated immediately east of Ras Tadjoura for Libya).

The Court therefore finds it necessary that the delimitation line be adjusted so as to lie closer to the coasts of Malta. The coasts of the Parties being opposite to each other, and the equidistance line lying broadly west to east, this adjustment can be satisfactorily and simply achieved by transposing it in an exactly northward direction.

The Court then establishes what should be the extreme limit of such a transposition. It reasons as follows: were it supposed that the Maltese islands were part of Italian territory, and that there was a question of the delimitation of the continental shelf between Libya and Italy, the boundary would be drawn in the light of the coasts of Libya to the south and of Sicily to the north. However, account would have to be taken of the islands of Malta, so that this delimitation would be located somewhat south of the median line between Sicily and Libya. Since Malta is not part of Italy, but is an independent State, it cannot be the case that, as regards continental shelf rights, it will be in a worse position because of its independence. It is therefore reasonable to assume that an equitable boundary between Libya and Malta must be to the south of a notional median line between Libya and Sicily. That line intersects the 15° 10' E meridian at a latitude of approximately 34° 36' N. The median line between Malta and Libya (drawn to exclude the islet of Filfla) intersects the 15° 10' E meridian at a latitude of

approximately 34° 12' N. A transposition northwards of 24' of latitude of the Malta-Libya median line would therefore be the extreme limit of such an adjustment.

Having weighed up the various circumstances in the case as previously indicated, the Court concludes that a shift of about two thirds of the distance between the Malta-Libya median line and the line located 24' further north gives an equitable result, and that the delimitation line is to be produced by transposing the median line northwards through 18' of latitude. It will intersect the 15° 10' E meridian at approximately 34° 30' N. It will be for the Parties and their experts to determine the exact position.

The test of proportionality (paras. 74-75)

While considering that there is no reason of principle why a test of proportionality, based on the ratio between the lengths of the relevant coasts and the areas of shelf attributed, should not be employed to verify the equity of the result, the Court states that there may be certain practical difficulties which render this test inappropriate. They are particularly evident in the present case, *inter alia*, because the area to which the Judgment will apply is limited by reason of the existence of claims of third States, and to apply the proportionality test simply to the areas within these limits would be unrealistic. However, it seems to the Court that it can make a broad assessment of the equity of the result without attempting to express it in figures. It concludes that there is certainly no manifest disproportion between areas of shelf attributed to each of the Parties, such that it might be claimed that the requirements of the test of proportionality as an aspect of equity are not satisfied.

The Court presents a *summary of its conclusions* (paras. 76-78) and its decision, the full text of which follows (para. 79):

Operative clause (para. 79)

“For these reasons,

THE COURT,

by fourteen votes to three,

finds that, with reference to the areas of continental shelf between the coasts of the Parties within the limits defined in the present Judgment, namely the meridian 13° 50' E and the meridian 15° 10' E:

A. The principles and rules of international law applicable for the delimitation, to be effected by agreement in implementation of the present Judgment, of the areas of continental shelf appertaining to the Socialist People's Libyan Arab Jamahiriya and to the Republic of Malta respectively, are as follows:

- (1) the delimitation is to be effected in accordance with equitable principles and taking account of all relevant circumstances, so as to arrive at an equitable result;
- (2) the area of continental shelf to be found to appertain to either Party not extending more than 200 miles from the coast of the Party concerned, no criterion for delimitation of shelf areas can be derived from the principle of natural prolongation in the physical sense.

B. The circumstances and factors to be taken into account in achieving an equitable delimitation in the present case are the following:

- (1) the general configuration of the coasts of the Parties, their oppositeness, and their relationship to each other within the general geographical context;
- (2) the disparity in the lengths of the relevant coasts of the Parties and the distance between them;
- (3) the need to avoid in the delimitation any excessive disproportion between the extent of the continental shelf areas appertaining to the coastal State and the length of the relevant part of its coast, measured in the general direction of the coastlines.

C. In consequence, an equitable result may be arrived at by drawing, as a first stage in the process, a median line every point of which is equidistant from the low-water mark of the relevant coast of Malta (excluding the islet of Filfla), and the low-water mark of the relevant coast of

Libya, that initial line being then subject to adjustment in the light of the above-mentioned circumstances and factors.

D. The adjustment of the median line referred to in subparagraph C above is to be effected by transposing that line northwards through eighteen minutes of latitude (so that it intersects the meridian 15° 10' E at approximately latitude 34° 30' N), such transposed line then constituting the delimitation line between the areas of continental shelf appertaining to the Socialist People's Libyan Arab Jamahiriya and to the Republic of Malta respectively.

IN FAVOUR: *President* Elias; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Ruda, Ago, El-Khani, Sir Robert Jennings, de Lacharrière, Mbaye, Bedjaoui; *Judges ad hoc* Valticos, Jiménez de Aréchaga.

AGAINST: *Judges* Mosler, Oda and Schwebel."

*

Judge El-Khani appended a declaration to the Judgment,¹⁷⁸ Judges Ruda and Bedjaoui, and Judge *ad hoc* Jiménez de Aréchaga appended a joint opinion,¹⁷⁹ Judge Mbaye and Judge *ad hoc* Valticos each appended separate opinions,¹⁸⁰ Judges Mosler, Oda and Schwebel appended dissenting opinions to the Judgment.¹⁸¹

(iii) *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya)*¹⁸²

Between 13 and 18 June 1985 the Court held six public sittings during which arguments were presented on behalf of Tunisia and the Libyan Arab Jamahiriya.

The Court was composed as follows: Judge Nagendra Singh, *President*; Judge G. L. de Lacharrière, *Vice-President*; Judges M. Lachs, J. M. Ruda, T. O. Elias, S. Oda, R. Ago, J. Sette-Camara, S. M. Schwebel, K. Mbaye, M. Bedjaoui, Ni Zhengyu; Judges *ad hoc* S. Bastid, E. Jiménez de Aréchaga.

On 10 December 1985, the Court delivered its Judgment¹⁸³ at a public sitting. A summary outline of the Judgment and the complete text of the operative clause are given below.

Procedure and Submissions of the Parties (paras. 1-10)

In the Application instituting proceedings which it filed on 27 July 1984, Tunisia submitted to the Court several separate requests: a request for revision of the Judgment delivered by the Court on 24 February 1982¹⁸⁴ (hereinafter "the 1982 Judgment") submitted on the basis of Article 61 of the Statute of the Court; a request for interpretation of that Judgment, submitted under Article 60 of the Statute; and a request for correction of an error. To these was later added a request for the Court to order an expert survey. The Court dealt with these requests in a single Judgment.

Question of the admissibility of the application for revision (paras. 11-40)

Under Article 61 of the Statute, proceedings for revision are opened by a judgment of the Court declaring the application admissible on the grounds contemplated by the Statute. Proceedings on the merits are only undertaken if the Court has found the application admissible. Accordingly, the Court must deal first with the admissibility of the application for revision of the 1982 Judgment submitted by Tunisia. The conditions of admissibility are set out in Article 61, paragraphs 1, 4 and 5 of which read as follows:

"1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment."

The fact which, according to Tunisia, was unknown either to the Court or to itself before the delivery of the 1982 Judgment was the text of the Resolution of the Libyan Council of Ministers of 28 March 1968, which determined the "real course" of the north-western boundary of a petroleum concession, granted by Libya, known as Concession No. 137, to which reference was made in the Judgment, especially in the operative part.

Tunisia affirmed that the real course of that boundary was very different from that resulting from the various descriptions given by Libya to the Court during the proceedings leading up to the 1982 Judgment. It also observed that the delimitation line passing through point 35° 55' N 12° E would allocate to Libya areas of continental shelf lying within the Tunisian permit of 1966, contrary to what has been clearly decided by the Court, whose entire decision, according to Tunisia, was based on the idea of alignment between the permits and concessions granted by the two Parties and on the resultant absence of any overlapping of claims up to 1974.

Without disputing the geographic facts as to the positions of the boundaries of the relevant concessions, as stated by Tunisia, Libya emphasized that it did not present a misleading picture of its concessions. It refrained from making any statement as to the precise connection between Libyan Concession No. 137 and the Tunisian permit of 1966, and confined itself to indicating the existence of a boundary common to both these concessions, following a direction of approximately 26° from Ras Ajdir.

However, Libya disputed the admissibility of the Application for revision, for reasons of fact and law. According to Libya, the Application failed to comply with any of the conditions stated in Article 61 of the Statute, with the exception of the condition as to the ten-year limit laid down in paragraph 5. It contended

- that the fact now relied on was known to Tunisia at the time when the 1982 Judgment was delivered, or at all events earlier than six months before the filing of the Application,
- that if the fact was unknown to Tunisia, that ignorance was due to negligence on its part, and
- that Tunisia had failed to show that the fact discovered was "of such a nature as to be a decisive factor".

The Court recalled that everything known to the Court must be taken to be known also to the party seeking revision, and a party cannot claim to have been unaware of a fact regularly brought before it.

The Court examined the question raised by Tunisia, on the basis of the idea that the fact supposedly unknown in 1982 related solely to the coordinates defining the boundary of Concession No. 137, since the existence of an overlap between the north-western edge of Libyan Concession No. 137 and the south-eastern edge of the Tunisian permit could hardly have escaped Tunisia. It noted that, according to Libya, the information supplied to the Court was accurate as far as it went, but the exact coordinates of Concession No. 137 were not supplied to the Court by either Party, so that Tunisia would not have been able to ascertain the exact location of the Libyan Concession from the pleadings and other material then before the Court. The Court must, however, consider whether the circumstances were such that means were available to Tunisia to ascertain the exact coordinates of the Concession from other sources; and indeed whether it was in Tunisia's own interests to do so. If such were the case, it did not appear to the Court that it was open to Tunisia to rely on those coordinates as a fact unknown to it within the meaning of Article 61, paragraph 1, of the Statute. Having considered the opportunities available to Tunisia to obtain this information, and arguing from these that the exact concession boundary coordinates were obtainable by Tunisia and that it was in its interests to obtain them, the Court concluded that one of the essential conditions of admissibility of a request for revision, laid down in Article 61, paragraph 1, of the Statute—ignorance of a new fact not due to negligence—was lacking.

The Court found it useful to consider also whether the fact relating to the Concession coordinates was "of such a nature as to be a decisive factor", as required by Article 61, paragraph 1. It pointed out that, according to Tunisia, the coincidence of the boundaries of the Libyan concessions and of the Tunisian Permit of 1966 was "an essential element [of] the delimitation . . . and, in truth the *ratio*

decidendi of the Judgment". The view of Tunisia as to the decisive character of that coincidence derived from its interpretation of the operative part of the 1982 Judgment. That operative clause, however, according to the Court, fell into two distinct parts. In the first part, the Court established the starting-point of the delimitation line, that point being at the intersection of the limit of the territorial sea of the Parties and a line which it called the "determining line", drawn from the frontier point of Ras Ajdir through the point 33° 55' N 12° E. In the second part, the Court added that the line ran at a specified approximate bearing, and that that bearing corresponded to the angle formed by the boundary of the concessions mentioned. It then defined the actual delimitation line as running from that intersection point north-east on that same bearing (approximately 26°) through the point 33° 55' N 12° E.

The Court found that in the operative clause of the Judgment there was a single precise criterion for the drawing of the delimitation line, namely that it was to be drawn through two specifically defined points. The other considerations were not mentioned as part of the description of the delimitation line itself; they appear in the operative clause only as an explanation, not a definition, of the "determining line".

The Court then considered whether it would have arrived at another decision if it had known the precise coordinates of Concession No. 137. Here it made three observations. First, the line resulting from the grant of petroleum concessions was by no means the sole consideration taken into account by the Court, and the method indicated by the Court for achieving an equitable delimitation derived in fact from a balance struck between a number of considerations.

Secondly, the argument of Tunisia that the fact that the Libyan concessions did not match the Tunisian boundary on the west would have induced the Court, had it been aware of it, to adopt a different approach proceeded from a narrow interpretation of the term "aligned" employed in the operative clause of the 1982 Judgment. It was evident that by using that word, the Court did not mean that the boundaries of the relevant concessions formed a perfect match in the sense that there was neither any overlap nor any seabed area left open between the boundaries. Moreover, from what had been said during the proceedings, it knew that the Libyan boundary was a straight line (at a bearing of 26°) and the Tunisian boundary a stepped line, creating either open areas or areas of overlap. The Tunisian boundary followed a general direction of 26° from Ras Ajdir and, according to the Court, the boundary of the Libyan concession was aligned with that general direction.

Thirdly, what was significant for the Court in the "alignment" of the concession boundaries was not merely the fact that Libya had apparently limited its 1968 concession so as not to encroach on Tunisia's 1966 permit. It was the fact that both parties had chosen to use as boundary of the permits or concessions granted by them a line corresponding roughly to a line drawn from Ras Ajdir at 26° to the meridian. Their choice was an indication that, at the time, a 26° line was considered equitable by both States.

From the foregoing it followed that the Court's reasoning in 1982 was wholly unaffected by the evidence now produced as to the boundaries of Concession No. 137. This did not mean that if the coordinates of Concession No. 137 had been clearly indicated to the Court, the 1982 Judgment would have been identically worded. Some additional details might have been given. But in order for an application for revision to be found admissible, it was not sufficient that the new fact relied on might, had it been known, have made it possible for the Court to be more specific in its decision; it must also have been a fact "of such a nature as to be a decisive factor". Yet, far from constituting such a fact, the details of the correct coordinates of Concession No. 137 would have not changed the decision of the Court as to the first sector of the delimitation. Accordingly, the Court must conclude that the application by Tunisia for a revision of the 1982 Judgment was not admissible according to the terms of Article 61 of the Statute.

Request for interpretation in the first sector of the delimitation (paras. 41-50)

In the event that the Court did not find admissible its Application for revision, Tunisia had submitted a subsidiary request for interpretation as regarded the first sector of the delimitation line, based on Article 60 of the Statute. The Court first dealt in this respect with a jurisdictional objection raised by Libya. The latter claimed that, if explanations or clarifications were necessary, the Parties must go

back together to the Court in accordance with Article 3 of the Special Agreement on the basis of which the Court was originally seized.¹⁸⁵ The question therefore arose of the link between the procedure contemplated in article 3 of the Special Agreement, and the possibility of either of the Parties unilaterally requesting interpretation of a judgment under Article 60 of the Statute. Having examined the contentions of the Parties, the Court concluded that the existence of article 3 of the Special Agreement did not pose an obstacle to the request for interpretation submitted by Tunisia on the basis of Article 60 of the Statute.

The Court went on to consider whether the Tunisian request fulfilled the conditions for admissibility. It considered that a dispute indeed existed between the Parties as to the meaning and scope of the 1982 Judgment, since they did not agree as to whether the indication in the 1982 Judgment that the line should pass through the point 33° 55' N 12° E did or did not constitute a matter decided with binding force; Libya argued that it did; Tunisia that it did not. The Court therefore concluded that the Tunisian request for interpretation in relation to the first sector was admissible.

The Court went on to specify the significance of the principle of *res judicata* in the case. In particular, it observed that even though the Parties did not entrust it with the task of drawing the delimitation line itself, they undertook to apply the principles and rules indicated by the Court in its Judgment. As for the figures given by the Court, each element must be read in its context, to establish whether the Court intended it as a precise statement, or merely as an indication subject to variation.

Tunisia stated that, in the first sector, the object of its request for interpretation was "to obtain some clarifications, notably as regards the hierarchy to be established between the criteria adopted by the Court, having regard to the impossibility of simultaneously applying these criteria to determine the starting-point of the delimitation line . . ." It argued that the boundary to be taken into consideration for the establishment of a delimitation line could only be the south-eastern boundary of the Tunisian Permit of 1966. The Court had already explained, in connection with the request for revision, that the 1982 Judgment laid down for the purposes of the delimitation a single precise criterion for the drawing of the line, namely that it was to be a straight line drawn through two specifically defined points. The Tunisian request for interpretation was therefore founded upon a misreading of the purport of the relevant passage of the operative clause of the 1982 Judgment. The Court therefore found that it could not uphold Tunisia's submission concerning the interpretation of the Judgment in that respect, and that there was nothing to be added to what it had already said, in its reasoning on the admissibility of the request for revision, as to the meaning and scope of the 1982 Judgment.¹⁸⁶

Request for the correction of an error in the first sector of the delimitation (paras. 51 and 52)

As regarded the Tunisian request for the correction of an error, submitted as a subsidiary request to replace the coordinates 35° 55' N 12° E with other coordinates, the Court considered that it was based upon the view expressed by Tunisia that the choice of that point by the Court resulted from the application of a criterion whereby the delimitation line was not to encroach upon the Tunisian Permit of 1966. However, this was not the case; the point in question was chosen as a convenient concrete means of defining the 26° line from Ras Ajdir. Accordingly, Tunisia's request in this regard appeared to be based on a misreading, and had thus become without object. Thus no decision thereon was called for.

Request for interpretation in the second sector of the delimitation (paras. 53-63)

The Court then turned to the request made by Tunisia for an interpretation of the 1982 Judgment as it concerned the second sector of the delimitation. According to that Judgment, the delimitation line in the first sector was to be drawn "to the point of intersection with the parallel passing through the most westerly point of the Tunisian coastline between Ras Kaboudia and Ras Ajdir, that is to say, the most westerly point of the shoreline (low-water mark) of the Gulf of Gabès". Beyond that parallel, the delimitation line was to reflect the radical change in direction of the Tunisian coastline marked by the Gulf of Gabès. No coordinates, even approximate, were indicated in the operative part of the Judgment to identify what in the Court's view was the most westerly point of the Gulf of Gabès. According to the Judgment, "the precise coordinates of this point will be for the experts to determine, but it appears to the Court that it will be approximately 34° 10' 30" north".

Tunisia maintained that the coordinate 34° 10' 30" N given in the Judgment was not binding on the Parties, since it was not repeated in the operative part. Libya, on the other hand, argued that since the Court had already made its own calculations, the exact plotting of the point by the experts involved a margin "perhaps of seconds" at most. That being so, the Court took the view, for the purposes of the conditions of admissibility which it had initially to examine, that there was certainly a dispute between the Parties as to what in the 1982 Judgment had been decided with binding force. It also seemed to it that the real purpose of Tunisia's request was to obtain a clarification by the Court of "the meaning and scope of what the Court has decided" on that question in the 1982 Judgment. It therefore found admissible the Tunisian request for interpretation in respect of the second sector.

Tunisia attached great importance to the fact that the parallel 34° 10' 30" indicated by the Court met the coastline in the mouth of a wadi. While recognizing that there was a point in the region of that parallel where tidal waters extended as far as a more westerly longitude than any of the other points considered, Tunisia disregarded this, and fixed the most westerly point on the shoreline of the Gulf of Gabès at 34° 05' 20" N (Carthage). Explaining its grounds for rejecting this, the Court said that by "the most westerly point on the shoreline (low-water mark) of the Gulf of Gabès", it simply meant the point on the shoreline which was further to the west than any other point on the same shoreline and had the advantage of being open to objective definition. As for the presence of a wadi at approximately the latitude referred to by the Court, the Court referred merely to the familiar concept of the "low-water mark". It did not intend to refer to the most westerly point on the baselines from which the breadth of the territorial sea was, or might be, measured; and the idea that it might have referred to such baselines to exclude from its definition of the "most westerly point" a point located in the mouth of a wadi must be regarded as untenable.

As to the significance to be attached to the Court's reference in the 1982 Judgment to the latitude 34° 10' 30" N, the Court explained that it took that latitude as a practical definition of the point in relation to which the bearing of the delimitation line was to change. The definition was not binding upon the Parties, and it was significant in that respect that the word "approximately" was used to describe the latitude, also that the operative part of the Judgment made no mention of it. Moreover, the task of determining the precise coordinates of the "most westerly point" was left to the experts. It followed that the Court could not uphold Tunisia's submission that the most westerly point was situated at 34° 05' 20" N (Carthage). It expressly decided in 1982 that the precise coordinates were to be determined by the experts, and it would not be consistent with that decision for the Court to state that a specific coordinate constituted the most westerly point of the Gulf of Gabès.

That being so, the Court gave some indications for the experts, saying that they were to identify the most westerly point on the low-water mark by using the available maps, disregarding any straight baselines, and proceeding if necessary to a survey *in loco*, whether or not that point was situated in a channel or in the mouth of a wadi, and whether or not it could be considered as marking a change in direction of the coastline.

Request for an expert survey (paras. 64-68)

During the oral proceedings, Tunisia made a subsidiary submission for the ordering of an expert survey for the purpose of ascertaining the exact coordinates of the most westerly point of the Gulf of Gabès. The Court commented in that respect that it could only accede to the request of Tunisia if the determination of the coordinates of this point were required to enable it to give judgment on the matter submitted to it. However, the Court was seized of a request for interpretation of a previous judgment, and in 1982 it stipulated that it did not purport to determine these coordinates with accuracy, that task being left for the experts of the Parties. At that time, it refrained from appointing an expert itself, what was at issue being a necessary element in its decision as to the practical methods to be used. Its decision in that respect was covered by the force of *res judicata*. However, this did not prevent the Parties from returning to the Court to present a joint request that it should order an expert survey, but they would have to do so by means of an agreement. The Court concluded that there is no cause at present for it to order an expert survey for the purpose of ascertaining the exact coordinates of the most westerly point of the Gulf of Gabès.

For the future, the Court recalled that the Parties were obliged to conclude a treaty for the purpose

of the delimitation. They must ensure that the 1982 Judgment is implemented so that the dispute is finally disposed of, and must consequently act in such a way that their experts engage in a sincere exercise to determine the coordinates of the most westerly point, in the light of the indications furnished in the Judgment.

Operative clause (para. 69)

“THE COURT,

A. Unanimously,

Finds inadmissible the request submitted by the Republic of Tunisia for revision, under Article 61 of the Statute of the Court, of the Judgment given by the Court on 24 February 1982;

B. Unanimously,

(1) *Finds admissible* the request submitted by the Republic of Tunisia for interpretation, under Article 60 of the Statute of the Court, of the Judgment of 24 February 1982 as far as it relates to the first sector of the delimitation contemplated by that Judgment;

(2) *Declares*, by way of interpretation of the Judgment of 24 February 1982, that the meaning and scope of that part of the Judgment which relates to the first sector of the delimitation are to be understood according to paragraphs 32 to 39 of the present Judgment;

(3) *Finds* that the submission of the Republic of Tunisia of 14 June 1985, relating to the first sector of the delimitation, cannot be upheld;

C. Unanimously,

Finds that the request of the Republic of Tunisia for the correction of an error is without object and that the Court is therefore not called upon to give a decision thereon;

D. Unanimously,

(1) *Finds admissible* the request submitted by the Republic of Tunisia for interpretation, under Article 60 of the Statute of the Court, of the Judgment of 24 February 1982 as far as it relates to the ‘most westerly point of the Gulf of Gabès’;

(2) *Declares*, by way of interpretation of the Judgment of 24 February 1982,

(a) that the reference in paragraph 124 of that Judgment to approximately 34° 10' 30" north is a general indication of the latitude of the point which appeared to the Court to be the most westerly point on the shoreline (low-water mark) of the Gulf of Gabès, it being left to the experts of the Parties to determine the precise coordinates of that point; that the latitude of 34° 10' 30" was therefore not intended to be itself binding on the Parties but was employed for the purpose of clarifying which was decided with binding force in paragraph 133 C (3) of that Judgment;

(b) that the reference in paragraph 133 C (2) of that Judgment to “the most westerly point of the Tunisian coastline between Ras Kaboudia and Ras Ajdir, that is to say, the most westerly point on the shoreline (low-water mark) of the Gulf of Gabès”, and the similar reference in paragraph 133 C (3) are to be understood as meaning the point on that shoreline which is furthest to the west on the low-water mark; and

(c) that it will be for the experts of the Parties, making use of all available cartographic documents and, if necessary, carrying out an *ad hoc* survey *in loco*, to determine the precise coordinates of that point, whether or not it lies within a channel or the mouth of a wadi, and regardless of whether or not such point might be regarded by the experts as marking a change in direction of the coastline;

(3) *Finds* that the submission of the Republic of Tunisia, that the most westerly point of the Gulf of Gabès lies on latitude 34° 05' 20" N (Carthage), cannot be upheld;

E. Unanimously,

Finds that, with respect to the submission of the Republic of Tunisia of 14 June 1985, there is at the present time no cause for the Court to order an expert survey for the purpose of ascertaining the precise coordinates of the most westerly point of the Gulf of Gabès.”

*

Judges Ruda, Oda, Schwebel and Judge *ad hoc* Bastid appended separate opinions to the Judgment.¹⁸⁷

B. CONTENTIOUS CASES BEFORE A CHAMBER

*Frontier Dispute (Burkina Faso/Mali)*¹⁸⁸

On 14 October 1983 the Governments of the Republic of Upper Volta (since renamed Burkina Faso) and the Republic of Mali jointly notified to the Registrar a Special Agreement concluded by them on 16 September 1983, having entered into force on that same day and registered with the United Nations Secretariat, by which they submitted to a chamber of the Court the question of the delimitation of part of the land frontier between the two States.

The Special Agreement provided for the seizure of a chamber under Article 26, paragraph 2, of the Statute of the Court. This Article states that the Court may form a chamber for dealing with a particular case.

On 14 March 1985 the Parties, duly consulted by the President, indicated that they desired the formation of a chamber of five members, of whom two would be judges *ad hoc* chosen by themselves in accordance with Article 31 of the Statute, and confirmed that they desired the Court to proceed immediately to the formation of the chamber.

Both States chose a judge *ad hoc* under Article 31 of the Statute of the Court. Burkina Faso appointed Mr. F. Luchaire, and Mali appointed Mr. G. Abi-Saab.¹⁸⁹

On 3 April 1985 the Court unanimously adopted an Order whereby it acceded to the request of the two Governments to form a Special Chamber of five judges to deal with the frontier dispute between them.¹⁹⁰ It declared that it had elected Judges Lachs, Ruda and Bedjaoui to form, with the judges *ad hoc* appointed by the Parties, the Chamber to be seized of the case.

The Chamber formed to deal with the case elected as its President Judge M. Bedjaoui. Its composition is as follows: President M. Bedjaoui; Judges M. Lachs and J. M. Ruda; Judges *ad hoc* F. Luchaire and G. Abi-Saab.

On 29 April 1985 the Chamber held its first public sitting at which Judges *ad hoc* Luchaire and Abi-Saab made the solemn declaration required by the Statute and the Rules of Court.

The Parties having confirmed the indications given in the Special Agreement and the Chamber having been consulted, the President of the Court, by an Order made on 12 April 1985¹⁹¹ fixed 3 October 1985 as the time-limit for the filing of Memorials by both Parties. Those pleadings were filed within the prescribed time-limit.

By an Order of 3 October 1985, the President of the Chamber fixed 2 April 1986¹⁹² as the time-limit for the filing of Counter-Memorials by the Parties.

6. INTERNATIONAL LAW COMMISSION¹⁹³

THIRTY-SEVENTH SESSION OF THE COMMISSION¹⁹⁴

The International Law Commission held its thirty-seventh session at Geneva from 6 May to 26 July 1985. The Commission considered all items on its agenda except for item "International liability for injurious consequences arising out of acts not prohibited by international law".

On the question of the draft Code of Offences against the Peace and Security of Mankind, the Commission had before it the third report on the topic submitted by the Special Rapporteur.¹⁹⁵ In his third report the Special Rapporteur presented to the Commission a possible outline of the future Code and indicated his intention to follow the Commission's decision at its thirty-sixth session that the draft Code should be limited at that stage to offences committed by individuals, without prejudice to subsequent consideration of the possible application to States of the notion of international criminal responsibility and to include the offences covered by the 1954 code with appropriate modification of form

and substance. Following its discussion of the topic, the Commission decided to refer to the Drafting Committee the following articles submitted by the Special Rapporteur: article 1 on scope; the first alternative for article 2, on persons covered by the draft Code; both alternatives for article 3, on the definition of an offence against the peace and security of mankind; and article 4, section A, on aggression.

Regarding the question of State responsibility, the Commission had before it the Special Rapporteur's sixth report.¹⁹⁶ The report set out the four draft articles with commentaries, already provisionally adopted by the Commission at its thirty-fifth session, and the remaining 12 draft articles with commentaries proposed by the Special Rapporteur at the thirty-sixth session, intended together to constitute Part Two of the draft articles on State responsibility. In the discussion the overall structure of the set of draft articles for Part Two was generally considered acceptable, though several members expressed the opinion that the special legal consequences of international crimes should be further elaborated in the draft articles. The Commission, at the conclusion of its discussions, decided to refer articles 7 to 16 to the Drafting Committee and, having considered the report of the Drafting Committee, provisionally adopted draft article 5. In view of the shortage of time the Drafting Committee was unable to give consideration to articles 6 to 16.

With respect to the question of the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, the Commission considered the sixth report submitted by the Special Rapporteur.¹⁹⁷ The report contained proposed or revised texts of and explanations to draft articles 23, 36, 37, 38, 39, 42 and 43. The Commission decided to refer draft articles 23 and 36 to 43 to the Drafting Committee. After discussing the report of the Drafting Committee, the Commission also provisionally adopted draft articles 18, 21, 22, 23, 24, 25, 26 and 27 and commentaries thereto, as well as proposed on the deletion of the brackets from paragraph 2 of article 12 and the adoption of a new commentary to that paragraph.

Regarding the question of jurisdictional immunities of States and their property, the Commission had before it articles 19 and 20 which remained from the sixth report¹⁹⁸ submitted by the Special Rapporteur at the thirty-sixth session of the Commission. Those two draft articles completed Part III of the draft. In addition, the Commission had before it the seventh report submitted by the Special Rapporteur¹⁹⁹ introducing the last two remaining Parts of the outline of his topic, namely Part IV entitled "State immunity in respect of property from attachment and execution" and Part V entitled "Miscellaneous provisions". Owing to lack of time the Commission was not in a position to take up Part V and limited its discussion to draft articles 19 and 20 from Part III and draft articles 21 to 24 from Part IV. The Commission decided to refer draft articles 19 to 24 to the Drafting Committee and, on the recommendation of that Committee, provisionally adopted draft articles 19 and 20.

On the question of the topic entitled "Relations between States and international organizations", the Commission had before it second report²⁰⁰ submitted by the Special Rapporteur. In his second report the Special Rapporteur examined the question of the notion of an international organization and possible approaches to the scope of the future draft articles on the topic, as well as the question of the legal personality of international organizations and the legal powers deriving from it. The Commission also had before it a supplementary study prepared at the Commission's request by the Secretariat on the basis of replies received to the questionnaire sent by the Legal Counsel of the United Nations to the legal counsels of the specialized agencies and IAEA on the practice of such organizations concerning their status, privileges and immunities.²⁰¹ The short time available for the discussion of the topic at the session did not enable the Commission to take a decision on the draft article submitted by the Special Rapporteur and made it advisable to resume the discussion at the Commission's next session to enable more members to express their views on the matter.

Regarding the question of the law of the non-navigational uses of international watercourses, the Commission appointed a new Special Rapporteur for the topic. The Commission also requested the new Special Rapporteur to prepare a preliminary report indicating the status of the topic to date and lines of further action. The Special Rapporteur accordingly submitted a preliminary report²⁰² which reviewed the Commission's work on the topic to date, emphasizing the discussion thereof in the Commission and the Sixth Committee of the General Assembly in 1984, and indicated his preliminary views as to the general lines along which the Commission's work on the topic could proceed. Having

considered the preliminary report, the Commission agreed in general with the Special Rapporteur's proposals concerning the manner in which the Commission might proceed with the work on the topic. Members of the Commission also generally expressed support for and confidence in the Special Rapporteur's intention, indicated in his preliminary report, to build as much as possible on the progress already achieved, aiming at further concrete progress in the form of the provisional adoption of draft articles.

Consideration by the General Assembly

At its fortieth session, the General Assembly had before it the report of the International Law Commission on the work of its thirty-seventh session.²⁰³ By its resolution 40/75 of 11 December 1985,²⁰⁴ adopted on the recommendation of the Sixth Committee,²⁰⁵ the General Assembly took note of the report of the International Law Commission on the work of its thirty-seventh session; recommended that the International Law Commission should continue its work on the topics in its current programme, bearing in mind the clear desirability of achieving as much progress as possible in the preparation of draft articles on specific topics before the conclusion of the term of office of the present membership; and expressed its satisfaction with the conclusions and intentions of the Commission concerning its procedures and methods of work, as reflected in paragraphs 297 to 306 of its report. Moreover, by its resolution 40/69 of the same date,²⁰⁶ adopted also on the recommendation of the Sixth Committee,²⁰⁷ the Assembly invited the International Law Commission to continue its work on the elaboration of the draft Code of Offences against the Peace and Security of Mankind by elaborating an introduction as well as a list of the offences, taking into account the progress made at its thirty-seventh session, as well as the views expressed during the fortieth session of the General Assembly.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW²⁰⁸

EIGHTEENTH SESSION OF THE COMMISSION²⁰⁹

The United Nations Commission on International Trade Law held its eighteenth session at Vienna, from 3 to 21 June 1985.

In connection with the question of international commercial arbitration, the Commission had before it a report of the Secretary-General containing an analytical compilation of comments by Governments and international organizations on the draft text of a model law on international commercial arbitration²¹⁰ and a report of the Secretary-General containing an analytical commentary on the draft text.²¹¹

After consideration of the individual articles of the draft model law by the Commission, they were submitted to the Drafting Group for implementation of the decisions taken by the Commission and revision to ensure consistency within the text and between language versions. The Commission then, after consideration of the text of the draft model law as revised by the Drafting Group, adopted the UNCITRAL Model Law on International Commercial Arbitration.²¹²

With respect to international payments, the Commission had before it the report of the Working Group on the work of its thirteenth session, dealing with the draft Convention on International Bills of Exchange and International Promissory Notes.²¹³ The Commission agreed that, in the light of the progress made in solving the major controversial issues, namely the concepts of holder and protected holder, the effect of forged endorsements and the liability of the transferor by mere delivery or by endorsement, it was reasonable to request the Working Group to complete the consideration of the other major controversial issues and, to the extent possible, the remaining issues, with a view to submitting a draft Convention to the Commission in a form suitable for consideration at its nineteenth session. Moreover, the Commission considered a report of the Secretary-General containing the remaining draft chapters of the legal guide on electronic funds transfers.²¹⁴ The Commission was of the view that the draft legal guide was of particular importance because of the existing legal vacuum in that rapidly evolving area of activity. It was noted that there was a close link between the draft legal guide and the report on the legal value of computer records²¹⁵ and it was suggested that the final version of the legal guide should include a chapter on the question of evidence. After discussion, the Commission

decided to request the Secretary-General to send the draft legal guide on electronic funds transfers to Governments and interested international organizations for comment.

With regard to the question of the new international economic order, the Commission took note of the reports of the Working Group on the New Economic International Order on the work of the sixth and seventh sessions,²¹⁶ dealing with the preparation of the draft legal guide on drawing up international contracts for construction of industrial works. The Commission requested the Working Group to continue its work expeditiously and to submit a report on its eighth session to the next session of the Commission. The Commission also considered a note by the Secretariat entitled "Further work of the Commission in the area of international contracts for construction of industrial works"²¹⁷ The Commission took note of the intention of the Secretariat to submit to a future session of the Commission a report setting forth proposals on how the value of the legal guide might be enhanced by the preparation of some annexes thereto.

The Commission also discussed the report of the Working Group on International Contract Practices on the work of its eighth session,²¹⁸ which set forth the deliberations and decisions of the Working Group with respect to its method of work for carrying out the task of preparing uniform rules on the liability of operators of transport terminals, and with respect to issues arising in connection with the subject. The Commission expressed its satisfaction with the work thus far accomplished, expressed its appreciation to the Working Group for the progress made and requested the Working Group to proceed with its work expeditiously.

The Commission also had before it a report on the legal value of computer records.²¹⁹ The Commission welcomed that first report prepared by the Secretariat in implementation of the decision at its seventeenth session to place the subject of legal problems arising out of the use of automatic data processing in international trade on the programme of work as a priority item. After deliberation, the Commission decided to adopt the following recommendation:

"The United Nations Commission on International Trade Law,

"Noting that the use of automatic data processing (ADP) is about to become firmly established throughout the world in many phases of domestic and international trade as well as in administrative services,

"Noting also that legal rules based upon pre-ADP paper-based means of documenting international trade may create an obstacle to such use of ADP in that they lead to legal insecurity or impede the efficient use of ADP where its use is otherwise justified,

"Noting further with appreciation the efforts of the Council of Europe, the Customs Cooperation Council and the United Nations Economic Commission for Europe to overcome obstacles to the use of ADP in international trade arising out of these legal rules,

"Considering at the same time that there is no need for a unification of the rules of evidence regarding the use of computer records in international trade, in view of the experience showing that substantial differences in the rules of evidence as they apply to the paper-based system of documentation have caused so far no noticeable harm to the development of international trade,

"Considering also that the developments in the use of ADP are creating a desirability in a number of legal systems for an adaptation of existing legal rules to these developments is, having due regard, however, to the need to encourage the employment of such ADP means that would provide the same or greater reliability as paper-based documentation,

1. *Recommends to Governments:*

"(a) to review the legal rules affecting the use of computer records as evidence in litigation in order to eliminate unnecessary obstacles to their admission, to be assured that the rules are consistent with developments in technology, and to provide appropriate means for a court to evaluate the credibility of the data contained in those records;

"(b) to review legal requirements that certain trade transactions or trade-related documents be in writing, whether the written form is a condition to the enforceability or to the

validity of the transaction or document, with a view to permitting, where appropriate, the transaction or document to be recorded and transmitted in computer-readable form;

“(c) to review legal requirements of a handwritten signature or other paper-based method of authentication on trade-related documents with a view to permitting, where appropriate, the use of electronic means of authentication;

“(d) to review legal requirements that documents for submission to Governments be in writing and manually signed with a view to permitting, where appropriate, such documents to be submitted in computer-readable form to those administrative services which have acquired the necessary equipment and established the necessary procedures;

2. *Recommends* to international organizations elaborating legal texts related to trade to take account of the present Recommendation in adopting such texts and, where appropriate, to consider modifying existing legal texts in line with the present Recommendation.”²²⁰

With respect to training and assistance, the Commission considered a report of the Secretary-General²²¹ which described the measures taken by the Secretariat to implement the decisions of the Commission and of the General Assembly in that field. There was general agreement that the sponsorship of symposia and seminars on international trade law in general, and the activities of the Commission in particular, should be continued and strengthened.

Consideration by the General Assembly

At its fortieth session, the General Assembly, by its resolution 40/71 of 11 December 1985,²²² adopted on the recommendation of the Sixth Committee,²²³ commended the Commission for the progress made in its work and for having reached its decisions by consensus; called upon the Commission to continue to take account of the relevant provisions of the resolutions concerning the new international economic order, as adopted by the General Assembly at its sixth and seventh special sessions, and reaffirmed the importance, in particular for developing countries, of the work carried out by the Working Group on the New International Economic Order on a legal guide on the drawing up of international contracts for construction of industrial works; welcomed the work of the Commission on the legal implications of automated data processing on the flow of international trade as an activity of vital importance to States at all levels of economic development, and in that connection commended the Commission for its recommendation on the legal value of computer records and called upon Governments and international organizations to take action, where appropriate, in conformity with the Commission's recommendations, so as to ensure legal security in the context of the widest possible use of automated data processing in international trade; 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 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. Moreover, by its resolution 40/72 of the same date,²²⁴ adopted also on the recommendation of the Sixth Committee,²²⁵ the General Assembly, noting that the Model Law on International Commercial Arbitration had been adopted by the United Nations Commission on International Trade Law at its eighteenth session, and convinced that the Model Law, together with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards²²⁶ and the Arbitration Rules of the United Nations Commission on International Trade Law²²⁷ recommended by the General Assembly in its resolution 31/98 of 15 December 1976, significantly contributed to the establishment of a unified legal framework for the fair and efficient settlement of disputes arising in international commercial relations, requested the Secretary-General to transmit the text of the Model Law, together with the *travaux préparatoires* from the eighteenth session of the Commission, to Governments and to arbitral institutions and other interested bodies and recommended that all States give due consideration to the Model Law, in view of the desirability of uniformity of the law of arbitral procedures and the specific needs of international commercial arbitration practice.

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

- (a) Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes

By its resolution 40/61 of 9 December 1985,²²⁸ adopted on the recommendation of the Sixth Committee,²²⁹ the General Assembly unequivocally condemned, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardized friendly relations among States and their security; appealed to all States that had not yet done so to consider becoming party to the existing international conventions relating to various aspects of international terrorism; invited all States to take all appropriate measures at the national level with a view to the speedy and final elimination of the problem of international terrorism, such as the harmonization of domestic legislation with existing international conventions, the fulfilment of assumed international obligations, and the prevention of the preparation and organization in their respective territories of acts directed against other States; called upon all States to fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in terrorist acts in other States, or acquiescing in activities within their territory directed towards the commission of such acts; urged all States to cooperate with one another more closely, especially through the exchange of relevant information concerning the prevention and combating of terrorism, the apprehension and prosecution or extradition of the perpetrators of such acts, the conclusion of special treaties and/or the incorporation into appropriate bilateral treaties of special clauses, in particular regarding the extradition or prosecution of terrorists; and called upon all States to observe and implement the recommendations of the Ad Hoc Committee on International Terrorism contained in its report to the General Assembly at its thirty-fourth session.²³⁰

(b) Consideration of the draft articles on most-favoured-nation clause

By its resolution 40/65 of 11 December 1985,²³¹ adopted on the recommendation of the Sixth Committee,²³² the General Assembly, bearing in mind the importance of facilitating international trade and the development of economic cooperation among all States on the basis of equality, mutual advantage and non-discrimination in the establishment of the new international economic order and bearing in mind also complexity of codification or progressive development of the international law on most-favoured-nation clauses at a time of rapid development of new forms of economic cooperation, notably those in favour of developing countries, called upon Member States, interested organs of the United Nations and interested intergovernmental organizations to review the questions related to the most-favoured-nation clauses and the draft articles thereon so that the General Assembly, at its forty-third session, might decide on the action to be taken on the draft articles.

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

By its resolution 40/66 of 11 December 1985,²³³ adopted on the recommendation of the Sixth Committee,²³⁴ the General Assembly authorized the Secretary-General to carry out in 1986 and 1987 the activities specified in his report on the implementation of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;²³⁵ urged all Governments to encourage the inclusion of courses on international law in the programmes of legal studies offered at institutions of higher learning; and requested the Secretary-General to continue to publicize the Programme and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme or otherwise to assist in its implementation and possible expansion.

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

By its resolution 40/67 of 11 December 1985,²³⁶ adopted on the recommendation of the Sixth Committee,²³⁷ the General Assembly, considering the close link between the establishment of a just and equitable international economic order and the existence of an appropriate legal framework, and recognizing the need for a systematic and progressive development of the principles and norms of international law relating to the new international economic order, recommended that the consideration of the most appropriate procedure for completing the elaboration of the process of progressive development of the relevant principles and norms of international law, and of the forum which would be entrusted with the task, be undertaken by the General Assembly at its forty-first session, with a view to making a final decision.

(e) Peaceful settlement of disputes between States

By its resolution 40/68 of 11 December 1985,²³⁸ adopted on the recommendation of the Sixth Committee,²³⁹ the General Assembly again urged all States to observe and promote in good faith the provisions of the Manila Declaration on the Peaceful Settlement of International Disputes²⁴⁰ in the settlement of their international disputes; requested the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, during its session in 1986, to continue its work on the question of the peaceful settlement of disputes between States; and stressed the need to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law and through enhancing the effectiveness of the United Nations in that field.

(f) Enhancing the effectiveness of the principles of non-use of force in international relations

In accordance with General Assembly resolution 39/81 of 13 December 1989, the Special Committee on Enhancing the Effectiveness of the Principle of the Non-Use of Force in International Relations met at United Nations Headquarters from 28 January to 22 February 1985.²⁴¹ The Committee had before it the draft World Treaty on the Non-Use of Force in International Relations submitted by the Union of Soviet Socialist Republics,²⁴² as well as comments and suggestions of Governments.²⁴³ In addition, the Committee's Working Group had before it the working paper submitted at the 1979 session of the Committee by Belgium, France, the Federal Republic of Germany, Italy and the United Kingdom of Great Britain and Northern Ireland,²⁴⁴ a revised working paper submitted at the 1981 session of the Committee by 10 non-aligned countries (Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda)²⁴⁵ and proposals submitted by the Chairman at the 1982 session of the Committee.²⁴⁶ After a general exchange of views by the Special Committee, the Committee's Working Group examined the headings in the above-mentioned proposals of the Chairman. Since the Committee had not completed its work, it generally recognized the desirability of further consideration of the question before it and that such efforts should be undertaken on the basis of the broadest possible agreement.

At its fortieth session, the General Assembly, by its resolution 40/70 of 11 December 1985,²⁴⁷ adopted on the recommendation of the Sixth Committee,²⁴⁸ decided that the Special Committee should continue its work with the goal of drafting a world treaty on the non-use of force in international relations and, at the earliest possible date, as an intermediate stage, a declaration on the non-use of force in international relations, as well as the peaceful settlement of disputes or such other recommendations as the Committee deemed appropriate; and invited the Committee, in drafting the declaration, to take into consideration the results of work done in the preparation of the working paper containing the main elements of the principle of non-use of force in international relations, as well as the suggestions submitted to it and the efforts undertaken at its previous session.

(g) Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

By its resolution 40/73 of 11 December 1985,²⁴⁹ on the recommendation of the Sixth Committee,²⁵⁰ the General Assembly urged States to observe and to implement the principles and rules of international law governing diplomatic and consular relations and, in particular, to take all necessary measures in conformity with their international obligations to ensure effectively the protection, security and safety of all diplomatic and consular missions and representatives officially present in territory under their jurisdiction, including practicable measures to prohibit in their territories illegal activities of persons, groups and organizations that encouraged, instigated, organized or engaged in the perpetration of acts against the security and safety of such missions and representatives; called upon States to take all necessary measures at the national and international levels to prevent any acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives to international intergovernmental organizations and officials of such organizations, and, in accordance with national law and international treaties, to prosecute or extradite those who perpetrated such acts; called upon States that had not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives; and requested: (a) all States to report to the Secretary-General as promptly as possible serious violations of the protection, security and safety of diplomatic and consular missions and representatives; (b) the State in which the violation had taken place—and, to the extent applicable, the State where the alleged offender was present—to report as promptly as possible on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and on measures adopted with a view to preventing a repetition of such violations.

(h) Drafting of an international convention against the recruitment, use, financing and training of mercenaries

By its resolution 40/74 of 11 December 1985,²⁵¹ adopted on the recommendation of the Sixth Committee,²⁵² the General Assembly, recognizing that the activities of mercenaries were contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impeded the process of self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination, and considering that the progressive development and codification of the rules of international law on mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter, took note of the report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries²⁵³ and the progress made by the Ad Hoc Committee, especially during its fifth session; and requested the Ad Hoc Committee, in the fulfilment of its mandate, to use the draft articles contained in chapter V of its report, entitled "Consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries", as a basis for future negotiation on the text of the proposed international convention.

(i) Preparation for the United Nations Conference on the Law of Treaties Between States and International Organizations or between International Organizations

By its resolution 40/76 of 11 December 1985,²⁵⁴ adopted on the recommendation of the Sixth Committee,²⁵⁵ the General Assembly, recalling its resolution 37/112 of 16 December 1982, by which it had decided that an international convention should be concluded on the basis of the draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session,²⁵⁶ decided *that*, in addition to the organizations referred to in paragraph 2 (e) of General Assembly resolution 39/86 of 13 December 1984, the United Nations should participate in the Conference; decided to transmit to the Conference and to recommend that it adopt the draft rules of procedure for the Conference, worked out during the informal consultations and annexed to the resolution as annex I, taking into account that those draft rules had been drafted for the specific use of that Conference in view of its particular nature

and the subject-matter to be considered by it; decided further to transmit to the Conference for its consideration and action, as appropriate, a list of draft articles of the basic proposal, for which substantive consideration was deemed necessary and which were annexed to the resolution as annex II; and referred to the Conference for its consideration the draft of final clauses presented by the co-Chairmen on which an exchange of views had been held and which were annexed to the resolution as annex III.

(j) Question concerning the Charter of the United Nations and the strengthening of the role of the Organization

In accordance with General Assembly resolution 39/88 A of 13 December 1984, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization met at United Nations Headquarters from 4 to 29 March 1985.²⁵⁷ With respect to the topic of the peaceful settlement of disputes between States, the Special Committee held a full and in-depth discussion of the proposal contained in the working papers on the establishment of a commission for good offices, mediation and conciliation submitted to the General Assembly by Nigeria, the Philippines and Romania.²⁵⁸ Moreover, the Committee examined the progress report of the Secretary-General on the elaboration of the draft handbook on the peaceful settlement of disputes between States,²⁵⁹ reaching an agreement on the modality by which the Secretariat should periodically consult the representative group of members of the permanent missions in the preparation of the draft handbook. Furthermore, the Special Committee had given additional clarifications regarding certain aspects of the draft handbook on which the Secretariat had needed guidance.

Dealing with the topic of the maintenance of international peace and security, the Special Committee discussed the revised working paper submitted at the previous session by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain entitled "Prevention and removal by the United Nations of situations which may lead to international friction or give rise to a dispute and of matters which may threaten the maintenance of international peace and security",²⁶⁰ thereby completing its second reading.

With regard to the topic of the rationalization of existing procedures of the United Nations, the Special Committee held a brief discussion by way of reviewing the question in general, and with the help of a working paper submitted by France and the United Kingdom of Great Britain and Northern Ireland.²⁶¹

At its fortieth session the General Assembly, by its resolution 40/78 of 11 December 1985,²⁶² adopted on the recommendation of the Sixth Committee,²⁶³ requested the Special Committee at its 1986 session: (a) to accord priority, by devoting more time, to the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, in particular the Security Council, and to enable it to discharge fully its responsibilities under the Charter in that field; that necessitated the examination, *inter alia*, of the prevention and removal of threats to the peace and of situations which might lead to international friction or give rise to a dispute; (b) to continue its work on the question of the peaceful settlement of disputes between States and, in that context: (i) to continue consideration of the proposal contained in the working papers on the establishment of a commission on good offices, mediation and conciliation; (ii) to examine the progress report of the Secretary-General on the elaboration of the draft handbook on the peaceful settlement of disputes between States; also requested the Committee to keep the question of the rationalization of the procedures of the United Nations under active review; and requested the Secretary-General to continue the preparation of a draft handbook on the peaceful settlement of disputes between States, on the basis of the outline elaborated by the Special Committee and in the light of the views expressed in the course of the discussions in the Sixth Committee and in the Special Committee, and to report to the Special Committee at its session in 1986 on the progress of work, before submitting to it the draft handbook in its final form, with a view to its approval at a later stage.

(k) Report of the Committee on Relations with the Host Country²⁶⁴

In accordance with its resolution 39/87 of 13 December 1984, the General Assembly decided that the Committee on Relations with the Host Country should continue its work, in conformity with Assembly resolution 2819 (XXVI) of 15 December 1971.

In its report to the General Assembly at its fortieth session, the Committee included a set of recommendations whereby it urged the host country to take all necessary measures to apprehend, bring to justice and punish all those responsible for committing or conspiring to commit criminal acts against missions accredited to the United Nations as provided for in the 1972 Federal Act for the Protection of Foreign Officials and Official Guests of the United States; reiterated that adherence of all Member States to the Headquarters Agreement and other relevant agreements was an indispensable condition for the normal functioning of the United Nations and permanent missions in New York and underlined the necessity to avoid any action not consistent with obligations in accordance with the Headquarters Agreement and international law; took note of the positions of the Secretary-General of the United Nations and of the host country regarding the application by the host country of measures pertaining to the travel of certain members of the Secretariat and urged the host country and the Secretary-General to seek a solution that was in accord with the Headquarters Agreement and took into consideration the concerns expressed; took note of the information provided by the host country to the contact group on immunities of members of missions to the United Nations and expressed its appreciation for its efforts, which would help to clarify procedures in the prosecution of lawbreakers committing illegal acts against diplomatic missions and their personnel; and appealed to the host country to review the measures relating to diplomatic vehicles with a view to facilitating the needs of the diplomatic community and to consult with the Committee on matters relating to transportation.

The General Assembly, by its resolution 40/77 of 11 December 1985,²⁶⁵ adopted on the recommendation of the Sixth Committee,²⁶⁶ endorsed the recommendations of the Committee on Relations with the Host Country contained in paragraph 56 of its report; strongly condemned any terrorist and criminal acts violating the security of missions accredited to the United Nations and the safety of their personnel; and urged the host country and the Secretary-General to seek a solution that was in accord with the Headquarters Agreement with regard to the recent legislation adopted by the host country.

9. RESPECT FOR THE PRIVILEGES AND IMMUNITIES OF OFFICIALS OF THE UNITED NATIONS AND THE SPECIALIZED AGENCIES AND RELATED ORGANIZATIONS

By its resolution 40/258 C of 18 December 1985,²⁶⁷ adopted on the recommendation of the Fifth Committee,²⁶⁸ the General Assembly, recalling Articles 100 and 105 of the Charter of the United Nations, took note with concern of the report submitted to it by the Secretary-General on behalf of the Administrative Committee on Coordination;²⁶⁹ called upon all Member States that currently had United Nations officials under arrest or detention to review those cases and to coordinate efforts with the Secretary-General to resolve each case with all due speed; called upon the staff of the United Nations and the specialized agencies and related organizations to comply with the obligations resulting from the Staff Regulations and Rules of the United Nations, in particular regulation 1.8, and from the equivalent provisions governing the staff of the other agencies; and called upon the Secretary-General to continue personally to act as the focal point in promoting and ensuring the observance of the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations, and to take all necessary measures to implement the mandates of the General Assembly as reflected in paragraphs 7 and 8 of resolution 39/244 of 18 December 1984.

10. COOPERATION BETWEEN THE UNITED NATIONS AND THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

By its resolution 40/60 of 9 December 1985,²⁷⁰ the General Assembly noted with satisfaction the further progress achieved towards strengthening the existing cooperation between the United Nations and the Asian-African Legal Consultative Committee and took note with appreciation of the study on the strengthening of the role of the United Nations prepared by the Committee on the occasion of the

fortieth anniversary of the United Nations,²⁷¹ as well as the study on the role of the International Court of Justice²⁷² and other efforts of the Committee in the continuation of its programme of support to the work of the United Nations in several areas.

11. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH²⁷³

As a consequence of the financial difficulties of UNITAR, the Institute continued to concentrate its activities on training, and there was a steady reduction of research activities financed through the General Fund.

UNITAR's training programme included courses in multilateral diplomacy, international law and international cooperation for diplomats, government and United Nations officials, as well as workshops on the structure, retrieval and use of United Nations documentation, international legal instruments and international negotiation.

Under UNITAR's research programme, a study entitled "The Prevention of Nuclear War: A United States Approach"²⁷⁴ was published. Moreover, in conjunction with the fortieth anniversary of the Organization, UNITAR organized a meeting of Presidents of the General Assembly, which took place at United Nations Headquarters from 6 to 10 June 1985. The conclusions of that meeting, together with addresses made at the opening and closing sessions of the meeting and background documents, were published in a UNITAR report on the meeting, entitled "Presidents of the United Nations General Assembly Speak Out".²⁷⁵

At its fortieth session, the General Assembly, by its resolution 40/214 of 17 December 1985,²⁷⁶ adopted on the recommendation of the Second Committee,²⁷⁷ reaffirmed the continuing relevance of the mandate entrusted to the United Nations Institute for Training and Research, namely, to enhance the effectiveness of the United Nations, and took note of the view of the Secretary-General that the mandate continued to be essential to the functioning of the Organization at the time; and stressed the need to take a final decision on the long-term financing and future of the Institute at the latest at the forty-first session of the Assembly and, to that end, requested the Secretary-General to prepare comprehensive specific plans for the future of the Institute based on two options contained in his report.²⁷⁸

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

1. INTERNATIONAL LABOUR ORGANISATION²⁷⁹

The International Labour Conference (ILC), which held its 71st session at Geneva in June 1985, adopted the following instruments: a Convention and a Recommendation concerning Labour Statistics,²⁸⁰ and a Convention and a Recommendation concerning Occupational Health Services.²⁸¹

The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 14 to 27 March 1985 and presented its report.²⁸²

The Governing Body Committee on Freedom of Association met at Geneva and adopted reports No. 238²⁸³ (229th session of the Governing Body, February-March 1985); reports Nos. 239 and 240²⁸⁴ (230th session of the Governing Body, May-June 1985) and reports Nos. 241 and 242²⁸⁵ (231st session of the Governing Body, November 1985).

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(a) Constitutional and general legal matters

(i) *Meetings of the Committee on Constitutional and Legal Matters*

The Committee on Constitutional and Legal Matters (CCLM)²⁸⁶ held its forty-sixth session from 29 April to 3 May 1985. At the session CCLM considered the question of FAO's immunity from legal process and measures of execution in Italy; the preparations relating to a possible request for an advisory opinion from the International Court of Justice; and the desirability of accepting the host Government's services to defend FAO's immunity.²⁸⁷ At its forty-seventh session (14 and 15 October 1985), CCLM considered the question of the reimbursement of travel expenses of Council members (rule XXV.6 of the General Rules of the organization).²⁸⁸

a. *FAO's immunity from legal process and measures of execution in Italy*

The question of the organization's immunity from legal process in Italy has been under consideration by the governing bodies of the organization since 1982.

At its forty-sixth session, in April/May 1985, CCLM noted that, through the good offices of the Italian Permanent Representative, the long-standing rental dispute between the organization and the landlords of building F, Istituto Nazionale di Previdenza per i Dirigenti di Aziende Industriali (INPDAI), had been the subject of further negotiations and was close to settlement. The Committee was also informed that no attempts had been made to apply measures of execution against the organization and that, on 27 February 1985, the Permanent Representative of Italy had forwarded to the Director-General the draft of a law concerning measures of execution against the property of foreign States or international organizations.

CCLM observed that, however desirable it might be to ensure that FAO should enjoy every kind of legal guarantee against attempts to subject it to measures of execution, the fundamental problem remained that of safeguarding FAO's immunity from every form of legal process. The question of measures of execution would normally arise only where the organization's immunity from legal process had already been disregarded.

As no other measures appeared to have been taken by the host Government to safeguard the organization's immunity in general, CCLM reiterated the concern regarding FAO's position in Italy that it had expressed at previous sessions and which had also been expressed by the Council in various resolutions since 1982. CCLM recommended that the Council once more invite the host Government to promulgate legislation that would ensure that FAO would in fact be immune from "every form of legal process", as provided in section 16 of the headquarters Agreement.

b. *Preparations relating to a possible request for an advisory opinion from the International Court of Justice on the interpretation of sections 16 and 17 of the headquarters Agreement*

The possibility of requesting an advisory opinion from the International Court of Justice in connection with the problems concerning the organization's immunity from legal process and measures of execution in Italy had first been raised at the twenty-second session of the Conference (November 1983).²⁸⁹

CCLM examined the question at its forty-fourth session, in May 1984, and recommended that the Council consider "the desirability of the Conference requesting an advisory opinion" from the International Court of Justice.²⁹⁰

At its eighty-sixth session (November 1984), the Council recognized that "its interpretation of section 16 of the headquarters Agreement was clearly at variance with the Corte di Cassazione's interpretation"²⁹¹ and

"requested the Director-General to make such preparations as might be necessary to enable the Conference, if it so decided, to seek an advisory opinion from the International Court of Justice

on the interpretation of sections 16 and 17 of the headquarters Agreement unless legislative action had been taken to safeguard FAO's immunity from legal process that would render an advisory opinion unnecessary".²⁹²

In carrying out the preparations requested by the Council, the Director-General referred the matter to CCLM for consideration. The Committee concluded that the basic legal question hinged on the interpretation of section 16 and proposed the questions²⁹³ that could be submitted to the International Court of Justice for an advisory opinion.

c. *Desirability of accepting the host Government's services to defend the organization's immunity in the Italian courts*

This matter was first raised at the eighty-sixth session of the Council, in November 1984. At that time the Council, in resolution 4/86, invited the Director-General to submit to CCLM for further examination the question whether to accept the services offered by the host Government to defend the organization's immunity in the Italian courts without cost to the organization. CCLM noted that when the Council had first considered the question of FAO's immunity from legal process at its eighty-second session, in November/December 1982, shortly after the Corte di Cassazione's judgement in the action brought by INPDAl against FAO had become available,²⁹⁴ it "gave the Director-General its full support for his position that FAO was immune from the jurisdiction of the Italian courts, and considered that he should avoid any participation in the proceedings before the Italian courts that was inconsistent with this status".²⁹⁵ Since that time, other actions had been brought against FAO in the Italian courts. The Council's instructions had consistently been followed and the organization had refrained from putting in an appearance in court.

CCLM was informed that, in principle, appearance in court by FAO could be for the purpose of (i) pleading on the merits of a case; (ii) contesting the court's jurisdiction on grounds other than the organization's immunity under sections 16 and 17 of the headquarters Agreement; or (iii) contesting the court's jurisdiction on the basis of the organization's immunity under sections 16 and 17 of the headquarters Agreement.

CCLM was of the opinion that it was only the third hypothesis which was relevant to the task entrusted to it by the Council. Thus, the question before it was whether it was desirable for the organization to have recourse to the services of the Avvocatura Generale dello Stato to plead its immunity in court.

In conclusion, CCLM felt that the organization's availing itself of the services of the Avvocatura Generale dello Stato and putting in an appearance in court should not be totally excluded. Accordingly, CCLM felt that the Council might wish to consider giving the Director-General discretionary authority to decide, on a case-by-case basis, whether the organization should appear in court.

d. *Action taken by the Council and the Conference in 1985 regarding (a) to (c) above*

The report of the forty-sixth session of CCLM was submitted to the Council at its eighty-seventh session (June 1985). The Council noted that considerable progress had been made in settling outstanding disputes and that legislation was before the Italian Parliament regarding the immunity from measures of execution of foreign States and international organizations. However, the Council considered that these developments did not resolve the fundamental problem of ensuring that the organization enjoyed full immunity from legal process as provided in section 16 of the headquarters Agreement. The Council therefore invited the host Government to take the necessary measures to that end.²⁹⁶

As regards preparations for the Conference to request an advisory opinion from the International Court of Justice, the Council "agreed that every effort should be pursued to develop the dialogue with the host Government in depth before having recourse to an advisory opinion from the International Court of Justice but felt that the organization must be prepared to go to the Court if necessary."²⁹⁷ The Council endorsed CCLM's view that it was not necessary to raise the question of the interpretation of section 17 of the headquarters Agreement and agreed that the questions that might be submitted to the Court should be formulated as follows:

"(a) Does section 16 of the headquarters Agreement concluded between FAO and the

Italian Republic mean that in Italy FAO is immune from every form of legal process in all cases in which it has not expressly waived its immunity?

“(b) If the answer to (a) is negative, what are the specific exceptions to FAO’s immunity from every form of legal process under section 16?”

The Council transmitted the above questions to the Conference for consideration.²⁹⁸

With respect to the use of the services of the *Avvocatura Generale dello Stato* to defend the organization before the Italian courts, the Council decided not to modify the position that it had taken at its eighty-second session to the effect that the Director-General should avoid any participation in the proceedings before the Italian courts that was inconsistent with the organization’s status whereby it enjoyed immunity from jurisdiction.²⁹⁹

The Conference, at its twenty-third session (November 1985), considered the question of the organization’s immunity from legal process in Italy on the basis of a note by the Director-General³⁰⁰ and an extract from the report of the eighty-seventh session of the Council.³⁰¹ It noted that an out-of-court settlement had been reached in the course of 1985 with the landlords of building F and with plaintiffs in other lawsuits brought against FAO in the Italian courts since 1982; no further lawsuits were pending. The Conference also noted the legal and practical considerations advanced by the Italian delegation and the efforts made by the Italian authorities to overcome FAO’s practical problems. It nevertheless recognized the importance of finding a solution that was mutually agreeable to FAO and the Italian Government, with a view to guaranteeing the organization’s immunity from legal process as soon as possible. The Conference considered the determination of the appropriate interpretation of section 16 of the headquarters Agreement would be the best approach.

The representative of the host Government underlined the readiness of the Italian authorities to pursue actively their efforts to reach a viable legal solution to the matter. The suggestion was made that it should be left to the Council to decide whether FAO should seek an advisory opinion of the International Court of Justice. Nevertheless, the Conference agreed that it would not be desirable at that stage to submit the questions forwarded to it by the Council to ICJ and that it would be preferable to reconsider the matter, as necessary, in the light of a report by the Director-General on developments, at its next session.³⁰²

e. *Reimbursement of travel expenses of Council members (rule XXV.6 of the General Rules of the organization)*

At the eighty-seventh session of the Council, questions had been raised as to the practice of the organization concerning the reimbursement of travel expenses³⁰³ in application of rule XXV.6 of the General Rules of the Organization (GRO), reading as follows:

“The travelling expenses of the representative of each member of the Council properly incurred in travelling, by the most direct route, from the representative’s capital city or duty station, whichever is less, to the site of the Council session and return to his capital city or duty station, shall be borne by the organization.”

In the above connection, the Council had been informed that under rule XXV.6 GRO the travel of the representative of each member of the Council from his or her capital city or duty station, whichever was the less, to the site of the Council’s session, was reimbursed by the organization. The Council “noted with concern that rule XXV.6 GRO apparently precluded the reimbursement of the travel expenses of any member of a delegation attending the Council when a permanent representative to the organization residing in Rome was designated as the representative to the Council”.³⁰⁴ Accordingly, it requested the Director-General to examine the situation and to refer the matter to CCLM “to determine whether rule XXV.6 GRO may be interpreted to allow reimbursement to any one member of a delegation for travel to the Council”.³⁰⁵

CCLM noted that:

(i) Since the establishment of the Council in 1948, member nations that were on the Council had been entitled to only one “representative”;

(ii) The provisions specifically dealing with the reimbursement of travel expenses permitted such payment only as regards the “representative” of a member nation, and no provision had ever

been made for the reimbursement of the travel expenses of the other members of a member nation's delegation—i.e., alternates, associates or advisers.

Moreover, CCLM noted that the organization's practice, as reported to the Council at its eighty-seventh session, had been consistent with the above. Thus, travel expenses were reimbursed only when the designated representative of a member nation was obliged to travel from outside Italy to the Council.

In the light of the above, CCLM concluded that it was not legally possible to interpret rule XXV.6 as permitting the reimbursement of the travel expenses of any one member of a delegation to the Council. Consequently, in accordance with the Council's instructions, CCLM went on to consider the amendments to the Basic Texts of the organization that would be necessary to allow such reimbursement, if member nations desired to effect such a change.

CCLM proposed to the Council a draft resolution containing an amendment to rule XXV.6. At its eighty-eighth session (November 1985), the Council recommended the draft resolution, which was adopted by the Conference at its twenty-third session (November 1985) as resolution 14/85.³⁰⁶

(ii) *Amendments to the Basic Texts of the organization*

a. *Amendment to the Spanish text of rules XII.9(a) and XII.17 of the General Rules of the organization*³⁰⁷

When reviewing certain rules governing voting procedures of the Council and the Conference, CCLM, at its forty-fifth session (October 1984), had found that the Spanish text of rule XII.9(a) GRO made use of the term "por aclamación", which did not entirely correspond with the terms used in the English text ("by clear general consent") and in the French text ("par consentement général manifeste"). CCLM had therefore recommended that the Spanish text of rule XII.9(a) GRO be amended by deleting the words "por aclamación" and replacing them by the words "por evidente consenso general". On the same occasion CCLM had recommended that a similar amendment be made to paragraph 17 of rule XII GRO, in which the words "por aclamación" would be replaced by the words "por consenso general", so as to be consistent with the terms "by general consent" and "par consentement général" used in the English and French texts respectively.

The Council, at its eighty-sixth session (November 1984),³⁰⁸ endorsed CCLM's recommendations that the Spanish text of the General Rules of the organization be amended in the manner indicated above.

The Conference, at its twenty-third session, agreed with the views expressed by CCLM and the Council concerning the need to amend the Spanish text of rules XII.9(a) and XII.17 GRO, and adopted resolution 13/85 to that effect.³⁰⁹

b. *Amendment to rule XXV.6 of the General Rules of the organization*

Following review by the Committee on Constitutional and Legal Matters and recommendation by the Council, the Conference at its twenty-third session adopted resolution 14/85, by which it amended rule XXV.6 of the General Rules of the organization.³¹⁰

c. *Amendment to rule VII.2 of the rules of procedure of the Council (Travel Council representatives)*³¹¹

The Council noted the decision of the Conference at its twenty-third session to amend rule XXV.6 GRO to permit the travel expenses of any one member of a delegation representing a member of the Council at Council sessions, to be borne by the organization. It also noted that the Conference had invited the Council to amend rule VII.2 of its rules of procedure, in the way recommended by CCLM, in order to bring that provision in line with the amendment to rule XXV.6 GRO. The Council therefore decided to amend rule VII.2 of its rules of procedure.

(iii) *Review of the rules governing voting procedures of the Conference and the Council*³¹²

At the twenty-second session of the Conference (November 1983),³¹³ some delegations expressed concern at the fact that rule XII.9(a) GRO provided for a vote by secret ballot when there

was the same number of candidates as places to be filled. They suggested that the election procedures be reviewed in order to study the possibility of not proceeding to a secret ballot in such cases, for example, in the election of the Independent Chairman of the Council. The Conference agreed that the Council should review the rules governing the voting procedures where there was the same number of candidates as places to be filled in the Conference or, the Council, with a view to accelerating procedures and thus saving valuable time.

The Council, at its eighty-fifth session,³¹⁴ decided that the question should be submitted for examination to CCLM.

The Conference, at its twenty-third session, noted that CCLM had pointed out that under rule XII.9(a) GRO it was mandatory to have a secret ballot with respect to (a) the appointment of the Independent Chairman of the Council, (b) the appointment of the Director-General, (c) the admission of additional member nations or associate members and (d) the election of Council members. CCLM had expressed the view that the said four cases related to some highly sensitive matters, for which the secrecy of voting was intended to afford member nations the possibility of expressing their choice without any constraint or embarrassment, and had concluded that no amendment to rule XII.9(a) GRO was called for.

The Conference noted that the Council, at its eighty-sixth session (November 1984),³¹⁵ had concurred with CCLM's conclusion that the provision in question was appropriate since it protected the interests of member nations, and that therefore no amendment to rule XII.9(a) GRO was necessary. The Conference agreed with the Council's conclusions and decided not to amend rule XII.9(a) GRO.³¹⁶

(iv) *Increase in the number of Vice-Chairmen of the Conference*

Upon the recommendation of the eighty-eighth session of the Council (November 1985), the Conference decided to suspend, during its twenty-third session, the application of the provision of rule VIII GRO, which established at three the number of Vice-Chairmen of the Conference. The Conference then approved the appointment of four Vice-Chairmen.³¹⁷

(v) *Invitations to non-member nations to attend FAO sessions*

At its eighty-seventh session (June 1985), the Council was informed that the Director-General had invited the Union of Soviet Socialist Republics, a non-member State, to attend the eighth session of the Committee on Agriculture (Rome, March 1985), the sixteenth session of the Committee on Fisheries (Rome, April 1985) and the twenty-sixth session of the European Commission for the Control of Foot-and-Mouth Disease (Rome, April 1985). The invitations had been sent in accordance with paragraphs B.1 and B.2 of the Statement of Principles relating to the Granting of Observer Status to Nations.³¹⁸

During the same session, the Council approved the Director-General's proposal to invite Brunei Darussalam, Kiribati, Nauru, Singapore and Tuvalu to the Conference of Plenipotentiaries on the Adoption of an Agreement on the Establishment of the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region (INFOFISH).

The Conference, at its twenty-third session (November 1985), approved the invitation by the Director-General of the applicants for membership (Cook Islands and Solomon Islands) to be represented by observers until their admission to the organization. The Conference confirmed the invitation sent by the Director-General to the Government of the USSR to attend the session in an observer capacity. It also approved the invitations issued by the Director-General to the Palestine Liberation Organization (PLO) and those African liberation movements recognized by the Organization of African Unity (OAU) to attend the session as observers.³¹⁹

At its eighty-ninth session (November 1985), the Council agreed³²⁰ to the request made by the USSR to send an observer to specific technical meetings of the organization relating to fisheries.

(vi) *Applications for membership in the organization*

At its eighty-seventh session, the Council took cognizance of the application for membership

submitted by Cook Islands. Pending a decision by the Conference on the application and pursuant to rule XXV.11 of the General Rules of the organization and paragraphs B.1, B.2 and B.5 of the Statement of Principles relating to the Granting of Observer Status to Nations, the Council authorized the Director-General to invite Cook Islands to participate, in an observer capacity, at appropriate Council meetings, as well as regional and technical meetings of the organization of interest to it.

Moreover, at the same session, the Council decided that Cook Islands as well as Solomon Islands, which had applied for membership in 1984, would have a minimum assessment rate of 0.01 per cent.

The Conference, at its twenty-third session (November 1985), admitted Cook Islands and Solomon Islands to membership of the organization.

(vii) *Treaties concluded at plenipotentiary conferences convened
by the organization*

- a. *Protocol to amend the Agreement for the Establishment of a Regional Centre on Agrarian Reform and Rural Development of Latin America and the Caribbean*³²¹

A conference of plenipotentiaries convened by the Director-General of FAO met at Panama City on 16 and 17 July 1985. The Conference agreed upon a Protocol in respect of which the Director-General of FAO is the depositary.

- b. *Agreement for the Establishment of the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region*

A conference of plenipotentiaries on the adoption of an agreement on the establishment of INFOFISH, convened by the Director-General of FAO, met at Kuala Lumpur from 9 to 13 December 1985. The Conference adopted the above-mentioned Agreement, in respect of which the Director-General of FAO is the depositary.

(viii) *Status of conventions and agreements and amendments thereto for which
the Director-General of FAO acts as depositary*

(a) In 1985 the Constitution of the International Rice Commission (IRC), approved by the Conference of FAO at its fourth session, in 1948, was accepted by Mauritania, Senegal and Suriname.

(b) In 1985 Algeria, Grenada and Niger became parties to the International Plant Protection Convention (IPPC) approved by the Conference at its sixth session, in 1951. Algeria, Brazil, the Federal Republic of Germany and Grenada accepted the amendments to the Convention approved by the FAO Conference at its twentieth session, in November 1979.

(c) In 1985 Sri Lanka accepted the amendments to the Plant Protection Agreement for the Asia and Pacific Region, approved by the Council at its eighty-fourth session, in November 1983.

(d) In 1985 Mauritius notified its withdrawal from the Agreement for the Establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (APHCA), approved by the FAO Council at its sixtieth session, in June 1973.

(e) In 1985 Japan, Senegal, South Africa and Uruguay accepted the Protocol to amend the International Convention for the Conservation of Atlantic Tunas (ICCAT), adopted at a plenipotentiaries conference held in Paris in 1984.

(f) In 1985 Botswana and Cape Verde notified their withdrawal from the Agreement for the Establishment of a Centre on Integrated Rural Development for Africa (CIRDAfrica), adopted at a government consultation held at Arusha, United Republic of Tanzania, in 1979.

(g) In 1985 the Protocol to amend the Agreement for the Establishment of a Regional Centre on Agrarian Reform and Rural Development of Latin America and the Caribbean (CARRDLA), adopted at a conference of plenipotentiaries held on 17 July 1985, was signed on that date by Colombia, Cuba, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Nicaragua, Panama and Saint Kitts and Nevis. Also in 1985, the Protocol was ratified by Panama.

(h) In 1985 Egypt and Tunisia became parties to the Agreement for the Establishment of a

Regional Centre on Agrarian Reform and Rural Development for the Near East (CARRDNE), adopted at a conference of plenipotentiaries which met in Rome in September 1983. The Agreement was signed by Cyprus.

(ix) *Follow-up of Conference resolutions 8/83 and 9/83 on plant genetic resources*³²²

The Conference, at its twenty-third session (November 1985) reaffirmed the significance of plant genetic resources in continued agricultural development and in ensuring food security. It noted that, following the adoption of Conference resolution 8/83 on the International Undertaking on Plant Genetic Resources, 85 member nations had officially responded, and of these 77 had agreed in principle to adhere to, or had expressed support for, the Undertaking. In addition, two non-member nations of FAO had responded positively.

Appeals were made to all countries which had not yet subscribed to the Undertaking to do so. In this connection, countries were urged to spell out clearly their reservations to the Undertaking, in order to establish a constructive dialogue to ensure widest possible adherence. Various members, in reiterating their reservations to the Undertaking, indicated that their national legislation, including plant breeders' rights and other domestic considerations, determined the degree to which they could adhere to the Undertaking. A number of members were of the view that were the Undertaking to be modified, a greater number of countries could adhere to it. A few members reiterated that they could not adhere to the Undertaking in its current form on grounds of principle.

(x) *International Code of Conduct on the Distribution and Use of Pesticides*³²³

In view of the urgency of reducing pesticide hazards, the Conference, at its twenty-third session (November 1985), adopted resolution 10/85 by which it adopted a voluntary International Code of Conduct on the Distribution and Use of Pesticides, the text of which had been prepared following a formal request by the Second FAO Government Consultation on International Harmonization of Pesticide Registration Requirements, held in Rome from 11 to 15 October 1982. The Conference, which emphasized the voluntary nature of the Code, recommended that it be used as a basis for national legislation where so required.

(xi) *World Food Security Compact*³²⁴

At its twenty-third session (November 1985), the Conference adopted the World Food Security Compact, which had been approved by the Council at its eighty-seventh session.

The proposal for a World Food Security Compact had been put forward by the Director-General to the Committee on World Food Security at its eighth session. The Director-General had further elaborated the proposal at the Committee's ninth and tenth sessions, before it was approved by the Council.

The Compact is based on the broader concept of world food security adopted by the Conference at its twenty-second session, which dealt with three interrelated aspects, namely, expanding production, increasing stability in the flow of supplies and ensuring access to food by the poor.

(xii) *Agreements and arrangements with intergovernmental organizations and bodies*

In 1985 the organization established relations on the basis of a cooperation agreement or an exchange of letters with the following intergovernmental organizations: Permanent Commission for the South Pacific; International Pepper Community; Preferential Trade Area for Eastern and Southern African States; North American Plant Protection Organization; Organización Latinoamericana de Desarrollo Pesquero (OLDEPESCA); Sistema Económico Latinoamericano (SELA).

(b) *Activities of legal interest relating to commodities*

(i) *Hard fibres*

At its twentieth session, in September 1985, the FAO Intergovernmental Group on Hard Fibres

agreed to maintain the indicative prices for the major grades of African and Brazilian fibre. The Group recommended that the quota system should be maintained in principle, although the global and national quotas should remain suspended. The Group also agreed, with the exception of one consuming country, to reduce the indicative price for sisal and henequen baler twine. For abaca, the Group decided to reinstate the indicative price range at the level of December 1984, when it had been temporarily suspended. It was further suggested that the mechanism triggering automatic consultation between producers and consumers, when the indicator price was approaching either end of the range, should remain suspended.

(ii) *Jute, kenaf and allied fibres*

a. *Informal price arrangements for jute and kenaf*

At its twenty-first session, in December 1985, the FAO Intergovernmental Group on Jute, Kenaf and Allied Fibres reactivated the informal indicative price arrangement for jute and kenaf which had been temporarily suspended in the previous season due to abnormal market developments.

b. *Support to activities of the International Jute Organization*

FAO continued to extend its support to the activities of the International Jute Organization (IJO). A document on factors causing year-to-year instability in the jute market and possible options to combat them was provided.

(c) *Activities of legal interest relating to fisheries*

(i) *Committee on Fisheries*

The Committee on Fisheries (COFI) held its sixteenth session from 22 to 26 April 1985.

a. *Establishment of a new COFI Subcommittee on Fish Trade*

The Committee decided to establish a Subcommittee on Fish Trade and approved its terms of reference and membership. The Subcommittee will provide a forum for consultations on technical and economic aspects of international trade in fish and fishery products, including pertinent aspects of production and consumption. Membership in the Subcommittee is open to all member nations of FAO. States not members of the organization, which are Members of the United Nations, of any of its specialized agencies or of the International Atomic Energy Agency (IAEA), may be admitted by the Council to membership in the Subcommittee.

b. *Possible adoption of a standardized marking system of fishing vessels*

The Committee noted that an expert consultation on fishing vessel markings had been organized by Canada with the cooperation of FAO. The Consultation had recommended the use of the International Telecommunication Union Radio Call Signs, without prejudice to international conventions, national practices or requirements, as the basis for marking fishing vessels.

The Committee was of the view that further studies would be required to prepare technical specifications and examine ways in which such a marking system could be used by countries. It therefore invited the Director-General to carry out such further consultations as might be necessary and to report to the Committee at its seventeenth session, with a view to the possible adoption of a standardized marking system.

(ii) *Advisory Committee of Experts on Marine Resources Research*

The Committee held its eleventh session from 21 to 24 May 1985.

a. *Statutes*

The Committee noted that under its present Statutes its competence was in principle restricted to marine resources research. In practice, it was rather difficult to deal with those problems in isolation from the questions raised by aquaculture and inland fisheries. Furthermore, since the Committee's

establishment, the priorities and areas of knowledge of fisheries research had undergone some changes. Its advice had already been sought on these related matters. The Committee therefore proposed that the Director-General consider broadening the Committee's terms of reference (specifically, paragraph 1 of article II of the Revised Statutes) to enable it to offer advice on FAO's research not only on marine fisheries, but also on other living aquatic resources, including inland fisheries, aquaculture and other subjects which accounted for a significant part of FAO's research programme.

b. Rules of procedure

The Committee adopted the amendments to its rules of procedures prepared by the secretariat and requested the Secretary to submit them to the Director-General for approval.

(iii) Indian Ocean Fishery Commission

The Indian Ocean Fishery Commission (IOFC) held its eighth session from 2 to 6 July 1985.

a. Proposed amendments to the IOFC statutes

At its seventh session, IOFC had discussed the question whether the Commission's statutes should be amended in order to cover inland fisheries and aquaculture. The secretariat had then been requested to draft the text of the amendments that would be necessary if the terms of reference were thus to be expanded.

At its eighth session, the Commission noted that most of the IOFC member countries bordering the western part of the Indian Ocean were also members of the FAO Committee for Inland Fisheries of Africa. Moreover, most of the IOFC member countries bordering the north-east and the eastern part of the Indian Ocean were members of the Indo-Pacific Fishery Commission (IPFC) and were cooperating in aquaculture and inland fisheries within the framework of two working parties established by IPFC. It was stressed that, in the spirit of TCDC, the current composition of the two working parties allowed for a very fruitful exchange of information among experts from Indian Ocean coastal countries and other Asian countries with considerable experience in these matters.

Delegations from some member countries bordering the northern part of the Indian Ocean indicated that they would have preferred to develop cooperation among themselves in aquaculture and inland fisheries under the aegis of IOFC. Other member countries pointed out that it was essential to avoid duplication. After an exchange of views, the Commission resolved not to propose any amendment to its statutes.

*(d) Activities of the Joint FAO/WHO Codex Alimentarius Commission
in relation to food law*

By 1985 membership of the Joint FAO/WHO Codex Alimentarius Commission had reached 129 countries. During that year the Commission held its sixteenth session, at which further food commodity standards, codes of practice and maximum pesticide residue limits were adopted. The Commission endorsed regulatory guidelines aimed at assisting Governments in overcoming legal, administrative and other obstacles which prevented countries from fully implementing the Codex maximum residue limits (ref. CAC/PR 9-1986). The Commission reviewed progress on the implementation of the Code of Ethics for International Trade in Food (ref. CAC/RCP 20-1979). A new development was the establishment of a Codex Committee on Residues of Veterinary Drugs in Food, to be hosted by the Government of the United States of America. The first session of the new Committee was to be held in Washington in 1986. Discussion focused on the question of the regulation of food packaging materials, the role and status of Codex standard methods of analysis and sampling and the amount of technical detail included in Codex standards. The future direction of the work of the Codex Alimentarius Commission was considered and the Codex Committee on General Principles was requested to discuss the topic in greater depth at its eighth session, to be held in 1986. That Committee was also requested to consider how best to promote the implementation of Codex recommendations.

(e) Legislative matters

(i) *Activities connected with international meetings*

FAO participated in and provided contributions to the following international meetings:

Ad Hoc Working Group of Experts for the Exchange of Information on Potentially Harmful Chemicals, Rome, January–February 1985;

Workshop on Product Liability in Food Law, organized by the European Food Law Association, Italian Section, Parma, Italy, May 1985;

Meeting of Experts on the Legal and Institutional Aspects of Water Resources Management, organized by the Organisation for Economic Co-operation and Development (OECD) and the Government of Spain, Madrid, 29-31 May 1985;

OLDEPESCA/FAO/UNCTC Training Workshop on the Negotiation of Joint Ventures and other Commercial Arrangements in Fisheries, Lima, 1-6 September 1985;

Colloquium on Agrarian Law (water resources for agricultural use; associations of farmers in the marketing of their produce; limitation of agricultural production), organized by the Comité Européen de Droit Rural (CEDR), Tenerife, Spain, 23-27 September 1985;

Forum on the Environmental Impact Assessment Process, CESIA, Rome, 18 and 19 November 1985;

Meeting on plant variety protection systems and transfer of technology, Buenos Aires, 16-20 December 1985.

(ii) *Legislative assistance and advice in the field*

During 1985, legislative assistance and advice were given to various countries on the following topics:

(a) Agrarian legislation and agrarian law:

(i) Paraguay: assistance in management and conservation of soil and related natural resources;

(ii) Cape Verde: assistance in land reform and water legislation;

(iii) Sudan: assistance in land use planning legislation;

(b) National water legislation:

(i) Morocco: assistance in water legislation;

(ii) Guyana: assistance in water resources legislation;

(iii) Western Samoa: drafting of national water resources legislation;

(iv) Tonga: drafting of national water resources legislation;

(v) Ethiopia: drafting of water resources regulations;

(c) International water law:

Organisation pour la mise en valeur du fleuve Gambie (OMVG) (advice on international legal questions concerning the development of the Gambia river basin);

(d) Fisheries legislation:

Angola, Bahamas, Barbados, Cape Verde, Colombia, Comoros, Congo, Equatorial Guinea, Fiji, Gabon, Guinea, Guinea-Bissau, Guyana, Honduras, Madagascar, Mauritania, Mauritius, Morocco, Seychelles, Sierra Leone, Solomon Islands, Togo, Democratic Yemen, Zaire;

(e) Forestry legislation:

Costa Rica, Morocco, Papua New Guinea, Sao Tome and Principe;

(f) Environment legislation:

Honduras.

(iii) *Legal assistance and advice not involving field missions*

Advice or documentation was furnished to Governments, agencies or educational centres, at

their request, on the following topics: food standards for fish (Chile); food legislation (Argentina, Netherlands, Spain, Zimbabwe); pesticide residues (Brazil, Spain); plant protection legislation (Federal Republic of Germany, Italy); seed legislation (Mauritania, United States of America); sanitary regulations for imported marine products (India); food standards for bakery products (Spain); legislation on edible oils (Switzerland); livestock joint ventures (Kenya); food standards (Venezuela).

(iv) *Legislative research and publications*

Research was conducted, *inter alia*, on:

- (a) Legal aspects of the management of estuarine zones;
- (b) Flag State control of fishing vessels; coastal State requirements for foreign fishing; compendia of fisheries legislation;
- (c) Impact of non-forestry laws on forestry;
- (d) Pesticide labelling and advertising legislation;
- (e) Land ownership, tenancy and redistribution in Central American and Mexican legislation.

(v) *Training*

Within the framework of the Programme for Professional Training for Agricultural Development (PTAD), training (including a month-long mission in Brussels) was provided for six months to a fellow in the area of food law and EEC import/export regulations of the European Economic Community (EEC).

(vi) *Collection, translation and dissemination of legislative information*

In 1985 FAO published the semi-annual *Food and Agricultural Legislation*. Annotated lists of relevant laws and regulations relating to food legislation were also published in the semi-annual *Food and Nutrition Review*.

3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(a) *Constitutional and procedural questions*

MEMBERSHIP OF THE ORGANIZATION

On 31 December 1985, the notices of withdrawal from the organization which the United Kingdom of Great Britain and Northern Ireland and Singapore had given, respectively, on 5 and 12 December 1984 took effect under the terms of article II (6) of the Constitution of UNESCO.³²⁵

(b) *International regulations*

(i) *Entry into force of instruments previously adopted*

In accordance with the terms of its article 18, the Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific, adopted on 16 December 1983 at Bangkok, entered into force on 23 October 1985, that is, one month after the deposit with the Director-General of the second instrument of ratification, approval or acceptance.

(ii) *Instruments adopted by the General Conference of UNESCO*

Revised Recommendation concerning International Standardization of Statistics on the Production and Distribution of Books, Newspapers and Periodicals (adopted at Sofia on 1 November 1985)

(c) Human rights

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

The Committee on Conventions and Recommendations met in private session at UNESCO headquarters, in Paris, from 23 April to 3 May and 2 to 6 September 1985, in order to examine communications which had been transmitted to it in accordance with decision 104 EX/3.3 of the Executive Board.

At its spring session, the Committee examined 48 communications, of which 41 were examined with a view towards their admissibility and 7 were examined on their substance. Of the 41 communications examined as to admissibility, none was declared admissible, 12 were declared irreceivable and 5 were struck from the list since they were considered as having been settled or did not appear to warrant further action. The examination of 31 communications was suspended. The Committee presented its report to the Executive Board at its one hundred twenty-first session.

At its fall session, the Committee had before it 35 communications, of which 28 were examined as to their admissibility and 7 were examined on their substance. Of the 28 communications examined as to their admissibility, 1 was declared admissible, none was declared irreceivable and 4 were struck from the list since they were ill founded or were considered as having been settled. The examination of 30 communications was suspended. The Committee presented its report on its examination of these communications to the Executive Board at its one hundred twenty-second session.

(d) Copyright and neighbouring rights

(i) Universal Copyright Convention

The Intergovernmental Committee (IGC) of the Universal Copyright Convention (UCC) held its sixth ordinary session (sitting together with the Executive Committee of the Berne Union) at UNESCO headquarters from 17 to 25 June 1985. The Subcommittee of the Committee established at the second extraordinary session of the committee (1983) met at headquarters from 15 to 19 April 1985 to study prospective amendments to the Committee's rules of procedure.³²⁶

The items on the agenda of the Committee alone included: (i) application of the Universal Copyright Convention; (ii) legal and technical assistance to States to develop national legislation and infrastructures in the field of copyright; (iii) study of the changes to be made to the rules of procedure of the Committee regarding distribution of seats in accordance with article XI of UCC; (iv) General Regulation for the Safeguarding of Folklore; (v) General Regulation concerning the Safeguarding of Works in the Public Domain; and (vi) partial renewal of the Committee. The common agenda of the two Committees included the following topics: (i) membership of (a) the Rome Convention, (b) the Phonogram Convention and (c) the Satellite Convention, and acceptance of the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties; (ii) development of law and practice connected with the transmission by cable of television programmes; (iii) copyright problems raised by the access by handicapped persons to protected works; (iv) protection of expressions of folklore; (v) consideration of a study on guiding principles on the operation of "droit de suite"; (vi) progress report on the question of salaried authors; and (vii) consideration of the reports of: (a) the Group of Experts on the Copyright Aspects of the Protection of Computer Software; (b) the Group of Experts on Copyright Problems Arising from the Rental of Phonograms and Videograms; (c) the Group of Experts on the Copyright Aspects of Direct Broadcasting by Satellite; (d) the Group of Experts on Unauthorized Private Copying of Recordings, Broadcasts and Printed Matter; and (e) the Working Group on Model Provisions for National Laws on Publishing Contracts for Literary Works.³²⁷

(ii) International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention)

The Intergovernmental Committee of the Rome Convention held its tenth ordinary session (Paris, 26-28 June 1985) devoted to agenda items, *inter alia*: (i) Membership of the Rome Convention, the Phonogram Convention and the Satellite Convention; (ii) assistance and training to promote the protection of the beneficiaries of the Rome Convention; and (iii) problems arising with regard to

the Rome Convention through developments in law and practice concerning transmission by cable and by satellite.³²⁸

(iii) *Safeguarding of folklore*

The Second Committee of Governmental Experts on the Safeguarding of Folklore (Paris, 14-18 January 1985) proposed a general definition accompanied by a list of the various types of folklore, and measures aimed at facilitating the identification, conservation, preservation, diffusion and utilization of folklore. The Committee unanimously agreed that any future international regulations on the topic should take the form of a recommendation to member States rather than an international convention.³²⁹

(iv) *Safeguarding of works in the public domain*

The Second Committee of Governmental Experts on the Safeguarding of Works in the Public Domain (UNESCO headquarters, 11-15 February 1985) discussed the range and scope of possible international regulations concerning the safeguarding of works in the public domain and suggested certain general approaches in this regard.³³⁰

(v) *Protection of computer software*

A Group of Experts on the Copyright Aspects of the Protection of Computer Software, convened jointly by UNESCO and WIPO, met at Geneva (25 February-1 March 1985). The discussions, based on a survey and analysis of national legislation and case law, reflected a general recognition of the need for adequate protection of computer programs both nationally and internationally. The experts suggested further study of the question.³³¹

(vi) *Direct broadcasting by satellite*

A Group of Experts on the Copyright Aspects of Direct Broadcasting by Satellite, meeting under the joint auspices of UNESCO and WIPO (headquarters, 18-22 March 1985) agreed that direct broadcasting by satellite of works protected by copyright constituted broadcasting in the sense of both the Berne and the Universal Copyright conventions and suggested that various aspects of the application of those conventions in relation to broadcasting effected by direct broadcasting satellite should be further studied by the secretariats, including: the applicability of non-voluntary licensing and of remedies under criminal and civil law other than the law of copyright; differences between, and common characteristics of, fixed-satellite and broadcasting satellite services; and links between satellite broadcasting and cable distribution.³³²

(vii) *Model provisions for national laws on publishing contracts
for literary works*

Convened jointly by UNESCO and WIPO, a Committee of Governmental Experts on Model Provisions for National Laws on Publishing Contracts for Literary Works, met in Paris from 2 to 6 December 1985. The Committee examined in detail the draft annotated model provisions for national laws in publishing contracts for literary works in book form, prepared by the two secretariats (taking into account the deliberations of the 1984 UNESCO-WIPO Joint Working Group on the subject), covering the relevant questions regarding basic elements and form of the contract, grant of rights, warranty, publication of the work, determination of selling price, moral rights, remuneration, statement and accounts of sales, termination of contract, etc. A second Committee of Governmental Experts is expected to continue the work (perhaps in 1988).³³³

4. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(a) Work in the legal field

There was no legal meeting during 1985; however, the implementation of the general work programme of the Legal Committee and of the decisions of the Council of ICAO called for legal studies to be prepared by the secretariat in 1985. On 16 November 1984, the Council had considered the report of the Subcommittee on the Preparation of a Draft Instrument on the Interception of Civil Aircraft and requested a preliminary study of appropriate action to implement the Subcommittee's recommendations. During its one hundred fourteenth session, in March 1985, the Council considered the preliminary study prepared by the secretariat and agreed that no new rules should be drafted relating to the aftermath of the landing of an intercepted aircraft pending the entry into force of article 3 *bis* of the Chicago Convention.³³⁴ At its one hundred sixteenth session, in December 1985, the Council decided that the item should remain on the General Work Programme of the Legal Committee with the understanding that no work should be undertaken pending the entry into force of article 3 *bis*.

During its one hundred thirteenth session, in November 1984, the Council considered reports on the comments received from States and international organizations on the secretariat studies on the following subjects: "United Nations Convention on the Law of the Sea—implications, if any, for the application of the Chicago Convention, its annexes and other international air law instruments", and "Liability of air traffic control agencies". The Council noted the reports and the determination of the Chairman of the Legal Committee to appoint a Rapporteur for each subject, with the task of making suggestions concerning the future course of action. At its one hundred sixteenth session, in December 1985, the Council noted the reports of the Rapporteurs. These items will be considered by the Legal Committee at its twenty-sixth session.

During the same session, in December 1985, the Council considered a Model Clause on Aviation Security for bilateral air agreements, prepared by the secretariat, and decided to send it to States and international organizations for comments.

The following items remain on the General Work Programme of the Legal Committee:

- (1) United Nations Convention on the Law of the Sea³³⁵—implications, if any, for the application of the Chicago Convention, its annexes and other international air law instruments;
- (2) Liability of air traffic control agencies;
- (3) Study of the instruments of the Warsaw system;
- (4) Preparation of a draft instrument on the interception of civil aircraft.

(b) Unlawful interference with international civil aviation and its facilities

The Committee on Unlawful Interference with International Civil Aviation and its Facilities held 12 meetings during the year.

In response to recent alarming and grave incidents of unlawful seizure of aircraft and acts of sabotage, the Committee was instructed by the Council to undertake a complete review of annex 17 (Security—safeguarding international civil aviation against acts of unlawful interference) and related documents, with the assistance of an Ad Hoc Group of Experts, and to report to the Council at its one hundred sixteenth session on those provisions which might be immediately introduced, upgraded to Standards, strengthened or improved. In view of the urgency of the matter, the Committee was requested to convene meetings as necessary between the one hundred fifteenth and one hundred sixteenth sessions of the Council.

After an in-depth study of a number of proposals presented by the Ad Hoc Group of Experts and modified by a Working Group of the Whole, the Committee recommended the adoption of specific amendments to annex 17 in the light of comments received from Contracting States and international organizations which had been consulted on the matters. As a result of the Committee's recommendations, the Council adopted amendment 6 to annex 17 on 19 December.

In October and November, the Committee also considered proposals for a new comprehensive

Work Programme as well as recommendations for a formal review of the Committee's terms of reference; the aim of the review was to enable the Committee to play a more effective role in assisting and advising the Council on all ICAO activities in the field of aviation security. The recommendations of the Committee were approved by the Council on 3 December.

In response to specific directives of the Council, the Committee considered proposals for a consolidation of all ICAO Assembly resolutions in force relating to various aspects of aviation security. The Committee noted that the objective of such a "consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference" was to facilitate the implementation and practical application of those resolutions by making their texts more readily available, understandable and logically organized and also to ensure that such a consolidated statement would remain up to date and thus reflect the policies of the organization as they existed at the end of each triennial Assembly session. On 16 December, the Council approved the text of the "consolidated statement" proposed by the Committee and agreed to present it to the Assembly at its twenty-sixth session for approval.

Finally, the Committee considered proposals presented by the Secretary-General to develop a model clause on aviation security that could be used in the bilateral air agreements governing the exchange of traffic rights. The Committee discussed the general concept as well as the specific drafting of the proposed model clause and presented a summary of its views and comments to the Council (see sect. (a) above).

5. WORLD HEALTH ORGANIZATION

(a) Constitutional and legal developments

During 1985, Brunei Darussalam became a member of WHO, as of 25 March 1985, by the deposit of an instrument of acceptance of the Constitution, as provided for in articles 4 and 79 (b) of the Constitution. As of 31 December 1985 there were 166 States members and one associate member of WHO.

The amendment to article 74 of the Constitution³³⁶ adopted in 1978 by the thirty-first World Health Assembly to include an Arabic version among the authentic texts, was accepted by two further members, bringing the total number of acceptances to 30.

In 1985, the thirty-eighth World Health Assembly considered a proposal to increase the membership of the Executive Board from 31 to 32, and requested the Director-General to propose the appropriate draft amendments to the Constitution for consideration by the thirty-ninth World Health Assembly, in 1986.³³⁷

(b) Health legislation

Four issues of the *International Digest of Health Legislation* were published in 1985 in separate English and French editions. The journal covers significant national and international legal instruments in the health and environmental protection fields. The "News and views" section includes signed contributions on the background to important legislative developments as well as reports on noteworthy conferences and meetings and other events. Reviews and notes on new books and publications appear in the "Book reviews" and "In the literature" sections.

From time to time, in-depth analyses on specific areas of health legislation are published under the rubric "Current problems in health legislation". Two were published in 1985, viz., "Traditional and alternative systems of medicine: a comparative review of legislation" (by J. Stepan) (vol. 36, No. 2) and "The International Code of Marketing of Breast-milk Substitutes" (by S. Shubber) vol. 36, No. 4). WHO also published *The regulation of pharmaceuticals in developing countries: legal issues and approaches* (by D.C. Jayasuriya).

The information transfer activities of WHO in the health legislation field include a computerized system for the notification of significant new legislation in the European region, designed to meet the

special requirements of member States in that region. The Copenhagen-based WHO Regional Office for Europe operates the system; it also commissioned the preparation, by J.-M. Auby, of an inventory of teaching and training programmes in health legislation in Europe (published by Masson, Paris, under the title *Legislation sanitaire : programmes et moyens de formation en Europe*).

As in previous years, WHO continued to cooperate with member States in the strengthening of national capacities in the field of health legislation. A number of developing countries were provided, at their request, with the services of consultants, whose task generally consists of reviewing, in conjunction with national counterparts, existing legislation and proposing the reforms needed to align it with reoriented health policies.

6. WORLD BANK

(a) Proposed multilateral investment guarantee agency

During 1985, the Bank continued its work on the establishment of the Multilateral Investment Guarantee Agency (MIGA).³³⁸ On the basis of a draft Convention Establishing MIGA (MIGA Convention), consultations were held with member Governments of the Bank during late 1984 and early 1985. The consultations resulted in a revised draft of the MIGA Convention, which was circulated to member Governments in March 1985.³³⁹

Between June and September 1985, the Executive Directors of the Bank held 20 sessions as a "Committee of the Whole" under the chairmanship of the Bank's Vice-President and General Counsel, in order to discuss the March 1985 draft of the MIGA Convention. Assisted by experts from member Governments and by a drafting team from the Bank's Legal Department, the Committee agreed on a text of the MIGA Convention and of the Official Commentary thereon on 5 September 1985. On 12 September 1985, the Executive Directors formally approved the documents and decided to submit them to the Bank's Board of Governors with the recommendation that the Governors adopt a resolution approving the MIGA Convention and commentary for transmittal to member Governments of the Bank and the Government of Switzerland and inviting those Governments to sign the MIGA Convention.

At its annual meeting held at Seoul, the Board of Governors adopted such a resolution on 11 October 1985.³⁴⁰ Three Government members of the Bank signed the MIGA Convention on the same day.

Article 61 of the MIGA Convention provides that the Convention will enter into force upon ratification by at least five Category One (capital-exporting) countries and at least 15 Category Two (capital-importing) countries, provided that the total subscriptions of these countries amount to not less than one third of the Agency's authorized capital, or approximately \$360 million.

The Governors' resolution also directs the President of the Bank to convene a preparatory committee of the signatory countries once the MIGA Convention has been signed by the minimum number of countries whose ratification is required for entry into force. That committee is to prepare, for eventual consideration by MIGA's governing bodies, the draft by-laws, rules and regulations required for the initiation of the Agency's operations.

By 31 December 1985, five countries had signed the MIGA Convention, and it was expected that during 1986 the Convention would be signed by the number of countries required to convene the preparatory committee.

(b) International Centre for Settlement of Investment Disputes

(i) *Signatory States and Contracting States*

During 1985, Haiti and Thailand signed the Convention on the Settlement of Investment Dis-

putes between States and Nationals of Other States (the ICSID Convention)³⁴¹ bringing the total number of signatory States to 92. There were no new ratifications of the ICSID Convention in 1985. Thus, as of 31 December 1985, the number of Contracting States remained at 87 — five signatory States having not yet deposited their instruments of ratification.³⁴²

(ii) *Disputes before the Centre*³⁴³

The proceeding in *Swiss Aluminium Ltd. (ALUSUISSE) and Icelandic Aluminium Co. Ltd. (ISAL) v. Government of Iceland* (case ARB/83/1) was formally discontinued on 6 March 1985.

In 1984, an Ad Hoc Committee was constituted in accordance with article 52 of the ICSID Convention to consider an application to annul the award rendered by the arbitral tribunal in the case of *Klöckner Industrie-Anlagen GmbH, Klöckner Belge, S.A. and Klöckner Handelsmaatschappij B.V. v. United Republic of Cameroon and Société Camerounaise des Engrais* (case No. ARB/81/2). On 3 May 1985, the Ad Hoc Committee issued a decision annulling the award.³⁴⁴ Also in 1985, the dispute was resubmitted to a new arbitral tribunal pursuant to article 52 (6) of the Convention.

On 18 March 1985, the Secretary-General registered an application to annul another arbitral award, the award rendered in the case of *Amco Asia Corp., Pan American Development, Ltd. and P. T. Amco Indonesia v. Government of Indonesia* (case No. ARB/81/4).

The sole Conciliator in *Tesoro Petroleum Corp. v. Government of Trinidad and Tobago* (case No. CONC/83/1) issued his report on 27 November 1985 and closed the proceeding.³⁴⁵

As of 31 December 1985, eight proceedings were pending before the Centre. These were the resubmission of the *Klöckner* case and the annulment proceeding in the *Amco Asia* case, mentioned above, and the following six further arbitrations:

(a) *Société Ouest Africaine des Bétons Industriels (SOABI) v. State of Senegal* (case No. ARB/82/1);

(b) *The Liberian Eastern Timber Corp. (LETCO), Letco Lumber Industry Corp. (LLIC) v. Government of the Republic of Liberia* (case No. ARB/83/2);

(c) *Atlantic Triton Co. Ltd. v. People's Revolutionary Republic of Guinea* (case No. ARB/84/1);

(d) *Colt Industries Operating Corp., Firearms Division, v. Government of the Republic of Korea* (case No. ARB/84/2);

(e) *SPP (Middle East) Ltd. v. Arab Republic of Egypt* (case No. ARB/84/3);

(f) *Maritime International Nominees Establishment (MINE) v. Republic of Guinea* (case No. ARB/84/4).

(iii) *ICSID and the Courts*

In the case of *Republic of Guinea and its Public Institutions v. Maritime International Nominees Establishment*, a Belgian court decided on 27 September 1985 to vacate attachments of assets of a party to an ICSID proceeding on the ground that under article 26 of the ICSID Convention consent to ICSID arbitration is deemed to exclude any other remedy, and accordingly domestic courts in Contracting States should decline to entertain claims brought before them by one of the parties.³⁴⁶

7. INTERNATIONAL MONETARY FUND

MEMBERSHIP

During the year ended 31 December 1985, the membership of the Fund increased from 148 to 149; Tonga became a member on 13 September 1985 with a quota of SDR 3.25 million, raising the total of Fund quotas to SDR 89,305.1 million. All of the 149 members are participants in the SDR Department.

OVERDUE PAYMENTS TO THE FUND

The increase in overdue financial obligations to the Fund led the Executive Board to take a number of related decisions during 1985 as part of the overall policy and procedures with respect to members in protracted arrears to the Fund. In February 1985, the Executive Board adopted a decision under which a member's right to purchase under stand-by and extended arrangements is suspended when it has overdue financial obligations to the Fund or is failing to meet a repurchase expectation pursuant to the Guidelines on Corrective Action with respect to a noncomplying purchase. The Executive Board also amended rule G-4 of the Rules and Regulations of the Fund so that instructions for the transfer of currency for any purchase, other than a reserve tranche purchase, may be rescinded during the period between the issuance of the instructions and the value date for the purchase if, during that period, the member requesting the purchase has any overdue financial obligation to the Fund or is failing to meet a repurchase expectation pursuant to the Guidelines on Corrective Action with respect to a noncomplying purchase.

In March 1985 the Executive Board decided that charges on the use of Fund resources from members that were overdue in meeting financial obligations for six months or more would not be included in accrued income, and that those charges would instead be reported as deferred income.

The Executive Board enunciated, by its decisions of March and June 1985, the policies governing publicity upon the declaration of a member's ineligibility to use the Fund's general resources and reporting by the Fund of overdue obligations. Under those decisions the Fund shall issue a press release upon the declaration of a member's ineligibility to use the general resources and thereafter upon the restoration of the member's eligibility, and shall include the information contained in such press releases in the annual reports for the year concerned. The Executive Board also decided that overdue financial obligations to the Fund of members having obligations overdue for six months or more will be reported in aggregate by category of obligations but without identifying the members involved in the Fund's publications.

SPECIAL CHARGES ON OVERDUE FINANCIAL OBLIGATIONS TO THE FUND

The Executive Board decided in December 1985 that with effect from 1 February 1986 a special charge would be levied on overdue obligations of members. When the SDR interest rate is greater than the rate of charge, the rate of special charge to be imposed on overdue repurchases would be equal to the difference between the SDR interest rate and the rate of charge on ordinary resources. The rate of special charge levied on overdue charges owed to the General Resources Account is equal to the SDR interest rate.

CHARGES

For the financial year that began 1 May 1985, the Executive Board decided to maintain the rate of charge at 7 per cent per annum, as in the previous year. Owing primarily to the uncertainty of the amount of deferred income from members overdue in their financial obligations to the Fund, it was expected at the mid-year review of the Fund's income position that the net income target would not be met for the year as a whole. In accordance with rule I-6 (4) (b) of the Fund's Rules and Regulations, the rate of charge on the use of the Fund's ordinary resources was raised as of 1 November 1985 from 7 per cent per annum to 7.87 per cent per annum. In the light of the improvement in the income position and the payment by some members of significant amounts of overdue repurchases and deferred charges, however, the Executive Board in April 1986 decided to reduce the rate of charge, retroactively to 1 November 1985, to the previous level of 7 per cent per annum. Consequently, for the year 1985 as a whole, the rate of charge was 7 per cent per annum.

COMPENSATORY FINANCING OF FLUCTUATIONS IN THE COST OF CEREAL IMPORTS

In May 1985 the Executive Board reviewed the 1981 decision relating to the compensation of the cost of cereal imports and decided to extend it for a further period of four years, until May 1989, with

provision for a review of the decision by the Executive Board not later than 13 May 1987. The Executive Board decided to retain, however, at 83 per cent of quota, the limit on amounts members may draw either in respect of shortfalls in receipts from exports or in respect of excess in the cost of cereal imports. For members making use of compensatory financing for both export shortfalls and excesses in cereal import costs, the overall limit of 105 per cent of quota has been maintained.

POLICY ON ENLARGED ACCESS

The Executive Board in December 1985 completed its review of the policy on enlarged access and took a decision with regard to its extension and implementation in 1986 to give effect to conclusions reached by the Interim Committee at its meeting held at Seoul on 6 October 1985. Under the decision, access by members to the Fund's general resources under arrangements approved under the policy on enlarged access during 1986 will be subject to annual limits of 90 or 110 per cent of quota, three-year limits of 270 or 330 per cent of quota, and cumulative limits, net of scheduled repurchases, of 400 or 440 per cent of quota, depending on the seriousness of the member's balance-of-payments needs and the strength of its adjustment efforts.

These annual and triennial limits are not to be regarded as targets. Within these limits, the amounts of access in individual cases will vary according to the circumstances of the member, and the Fund will continue to be able to approve stand-by and extended arrangements that provide for amounts in excess of these access limits in exceptional circumstances.

SUPPLEMENTARY FINANCING FACILITY SUBSIDY ACCOUNT

In May 1985 the Executive Board decided to suspend further transfers to the Supplementary Financing Facility Subsidy Account of the interest on the repayment of Trust Fund loans paid into the Special Disbursement Account. This decision was taken because the assets in hand or pledged to the subsidy account were estimated to be sufficient for the amount to make all expected remaining subsidy payments at the maximum permissible rates of subsidy and to discharge the known liabilities of the subsidy account. Following the suspension of transfers to the subsidy account, further repayments of and interest on Trust Fund loans were retained in the Special Disbursement Account under an investment policy adopted in May 1985.

SPECIAL DISBURSEMENT ACCOUNT

An investment policy for the Special Disbursement Account similar to that of the Supplementary Financing Facility Subsidy Account was adopted by the Executive Board in May 1985. Under this policy, the assets of the account are to be invested in SDR-denominated deposits with the Bank for International Settlements (BIS) pending their use. In July 1985 the Executive Board authorized the Managing Director to invest with the Federal Reserve Bank of New York the United States dollars held by the Special Disbursement Account pending placement in SDR-denominated investments with BIS.

SDRs

In December 1985 the Executive Board adopted the guidelines for the calculation of currency amounts in the SDR valuation basket. Under these guidelines, the currency units will be determined, under all circumstances, in a manner that would ensure that the value of SDR calculated on 31 December on the basis of the new basket will be the same as that actually prevailing on that day. Furthermore, the currency amounts calculated for the new basket will be expressed in two significant digits provided that the deviation of the percentage share of each currency in the value of SDR, resulting from the

application of the average exchange rates for October–December, from the percentage weight as determined under the decision of 1980 is the minimum on average and will not exceed one half of one percentage point for any currency.

8. UNIVERSAL POSTAL UNION³⁴⁷

UPU continued to study the juridico-administrative questions entrusted to the Executive Council (EC) by the 1984 Hamburg Congress. Among the most important problems likely to be of interest to other organizations, the following studies may be noted:³⁴⁸

- (a) Contacts with international organization representing customers of the postal service;
- (b) Study on international postal regulations;
- (c) Agreements concerning the postal financial services;
- (d) Credentials of delegates to the Congress;
- (e) Geographical distribution of Executive Council seals;
- (f) Duration of the Congress;
- (g) Non-attendance of members of the Executive Council and Consultative Council for Postal Studies in meetings of those bodies.

In order to ensure the best possible participation by members of the Executive Council and the Consultative Council for Postal Studies (CCPS) in meetings of those bodies, it had been proposed at the Hamburg Congress that penalties should be imposed on those members who did not ensure their representation at meetings of those bodies. As the Congress had entrusted the examination of those proposals to EC, the latter decided in favour of maintaining the status quo. It considered that the penalties proposed would be applied too infrequently (a single case in 20 years) to warrant regulations on the subject, and that the solutions suggested would raise many problems without improving the work of EC and CCPS. However, in order to obviate absenteeism by some members of EC and CCPS, the Council recommended that the Restricted Unions draw the attention of those of their member countries which were candidates for membership of EC and CCPS to the obligations their election to those bodies would entail.

9. WORLD METEOROLOGICAL ORGANIZATION

(a) Constitutional and regulatory matters

(i) *Procedures for amending the WMO Convention*

The Executive Council examined the study prepared at its request by the Secretary-General concerning procedures for amending the Convention³⁴⁹ and requested him to prepare for its next session a compilation of all the decisions which had been taken by Congress regarding the implementation of article 28 of the Convention and which were currently reflected in the general summary of several reports and in various resolutions.

The Executive Council decided to postpone to its next session the study of possible additional procedures regarding the voting by correspondence of amendments to the Convention.

(ii) *Procedures for secret voting by correspondence*

The Executive Council examined the report prepared by the Secretary-General at its request on

possible procedures for secret voting by correspondence. The Council noted that, as currently drafted, the General Regulations did not contain specific provisions for a secret ballot in a vote by correspondence other than for an election. It recognized the difficulties of the procedures, if provisions for secret ballot were introduced into voting by correspondence. It considered that the second paragraph of regulation 76 of the General Regulations was aimed at protecting the confidentiality of the vote, upon the request of two or more members invited to participate in the vote.

The Executive Council, therefore, decided to submit to Congress an amendment to regulation 73 of the General Regulations which would exclude explicitly the possibility of secret ballot in a vote by correspondence other than for election. This amendment would consist in the addition of regulations 59 to 61 to the list of regulations which are not applicable in the case of votes conducted by correspondence.

(iii) *Proposed amendment to regulation 141 of the General Regulations*

The Executive Council considered an amendment to regulation 141 of the General Regulations, prepared at its request by the Secretary-General, to cover the statement on the application of that regulation adopted by EC-XXXVI. The statement was adopted as a possible solution to the problem of the interpretation of the term "designated" in regulation 141 of the General Regulations.

Some members were of the view that such an amendment was not necessary and that the provisions of rule 15 of the Rules of Procedure of the Executive Council concerning the designation of acting members was sufficient to cover the point raised at the Ninth Congress. Other members pointed out that the aforementioned statement would have to be reviewed by the Tenth Congress in accordance with the provisions of regulation 2 (f) of the General Regulations.

The Executive Council decided to defer consideration of the matter to its next session.

(iv) *Granting of consultative status*

The Executive Council examined the study prepared by the Secretary-General at the request of its thirty-sixth session, on the question of the compatibility of working arrangements concluded between WMO and an international organization to which the former had previously granted consultative status. The Executive Council agreed that the substance of working arrangements amplified and reinforced the consultation mechanism provided for in the WMO definition of consultative status and provided for closer cooperation between WMO and the international organizations concerned.

The Executive Council, therefore, decided that working arrangements should supersede the consultative status granted by WMO to a non-governmental international organization once the organization entered into such working arrangements with WMO. Consequently, the Executive Council agreed that the name of such an organization should be deleted from the list of those organizations which had been granted consultative status as given in WMO publication No. 60 entitled *Agreements and Working Arrangements with other International Organizations*.

The Executive Council further decided that in such circumstances the organization concerned should be advised of these arrangements.

The Executive Council examined a request for consultative status submitted to the Secretary-General by the Management Professionals Association. The Council considered that the application by that association for consultative status with WMO did not appear to meet the qualifications and procedural requirements of the organization. It therefore decided not to grant consultative status to the Management Professionals Association.

(v) *Consideration of WMO hosting the Ozone Convention secretariat*

The Executive Council noted the report submitted by the Secretary-General in response to the request by EC-XXXVI on the practical and financial implications of WMO's hosting the permanent secretariat of the Convention for the Protection of the Ozone Layer. The Executive Council was cognizant of the fact that the Ozone Convention secretariat would not be formed until after the entry into

force of the Vienna Convention for the Protection of the Ozone Layer and the first ordinary meeting of the Contracting Parties. It noted with appreciation that, in the interim, UNEP would continue its very effective work in support of the Convention and possible protocols. There was wide support for WMO to offer to host the permanent secretariat, and the Executive Council decided that it was not too early for discussions of arrangements. It requested the Secretary-General to proceed with such discussions wherever appropriate.

The Executive Council endorsed the Secretary-General's proposal that the cost of forming and operating the Ozone Convention secretariat, other than the provision of the partial time of a WMO officer already working on ozone layer activities, as Convention Secretary, should be borne by the Contracting Parties. The administrative overheads incurred by WMO in this connection should be recovered.

(b) Staff matters

Amendments to the Staff Rules

The Executive Council noted the amendments to the Staff Rules, applicable to secretariat staff and to technical assistance project personnel, which had been made by the Secretary-General since the thirty-sixth session of the Council.

(c) Membership of the organization

Following the deposit of its instrument of accession, the Solomon Islands became a member of the organization on 5 June 1985. The membership of the organization was thereby increased to 154 member States and five member territories.

10. INTERNATIONAL MARITIME ORGANIZATION

(a) Consideration of the question of salvage, in particular the revision of the 1910 Convention on Salvage and Assistance at Sea³⁵⁰ and related issues

The Legal Committee continued its examination of the draft articles for a new convention on salvage and assistance at sea to replace the 1910 Convention on the subject. The Committee also gave consideration to certain public law matters, with special reference to the notification requirements in respect of salvage operations in incidents which pose a threat of pollution damage.

The Legal Committee noted the work in progress in the Marine Environment Protection Committee (MEPC), in connection with the new reporting requirements under the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 thereto (MARPOL 1973/78). The Legal Committee made suggestions which it considered would ensure that the new requirements adopted by MEPC would also meet the requirements of coastal States in the context of salvage operations.

(b) Consideration of work in respect of maritime liens and mortgages and related subjects

The Legal Committee considered a proposal by the UNCTAD Working Group on International Shipping Legislation concerning the possible convening of a joint IMO/UNCTAD group of experts to study aspects of the subject of maritime liens and mortgages and related issues. The Legal Committee agreed to make an appropriate recommendation with regard to the proposal in the light of the views and decisions of the relevant UNCTAD bodies. The observations and recommendations of the Legal Committee were to be submitted to the Council at its fifty-sixth session, in June 1986.

- (c) Consideration of a report on the draft convention on liability and compensation in connection with the carriage of noxious and hazardous substances by sea

The Committee considered a report by the Secretariat on the draft convention on liability in connection with the carriage of noxious and hazardous substances by sea (draft HNS Convention). The report, which had been prepared at the request of the Council, identified and analysed the fundamental issues on which wide differences of opinion remained at the diplomatic conference convened by IMO in April/May 1984 to consider the draft HNS Convention.

The Committee held an exchange of views on the need for an HNS Convention, the feasibility of reaching agreement in the near future on a convention which would be widely acceptable and the most effective procedure to be followed in preparing such a convention. The majority of the Legal Committee was of the view that it was necessary to develop an HNS Convention at the earliest possible time. The Committee, therefore, agreed to recommend to the Council that the subject be retained on the work programme of the Committee as a priority item.

With regard to the procedure to be followed for further work on the draft HNS Convention, the Legal Committee agreed that, subject to the approval by the Council of the recommendation to maintain the draft Convention on the work programme, it would give consideration to the subject, preferably at its second session during 1986. In the meantime, it was hoped that Governments and interested organizations might, through informal consultations where appropriate, consider possible new approaches and solutions to the fundamental issues identified in the secretariat's report and submit concrete proposals for consideration by the Legal Committee.

The decisions of the Committee were endorsed by the Council.

(d) Changes in status of IMO Conventions

(i) *International Convention on Maritime Search and Rescue (SAR) 1979*³⁵¹

The conditions for the entry into force of the Convention were met on 21 June 1984. Accordingly, the Convention entered into force on 22 June 1985, viz. 12 months after the conditions for entry into force were met.

(ii) *Convention on Limitation of Liability for Maritime Claims (LLMC), 1976*³⁵²

The conditions for the entry into force of the Convention were met on 1 November 1985 with the deposit of an instrument of accession by the Government of Benin. Pursuant to article 17.1 thereof, the Convention will enter into force on 1 December 1986.

(iii) *Convention on the International Maritime Satellite Organization (INMARSAT)*³⁵³

Amendments to the Convention and the Operating Agreement of the International Maritime Satellite Organization were adopted and confirmed on 16 October 1985 by the Assembly of INMARSAT at its fourth session.

11. WORLD INTELLECTUAL PROPERTY ORGANIZATION

(a) Constitutional and procedural questions

(i) *Membership*

During 1985, the following States became parties to the Convention establishing the World Intel-

lectual Property Organization or³⁵⁴ of the other treaties administered by WIPO or took certain action in respect of those treaties:

(a) *Convention establishing the World Intellectual Property Organization*. Angola (15 April 1985); Bangladesh (11 May 1985); Nicaragua (5 May 1985). At the end of 1985, the number of States members of WIPO was 112;

(b) *Paris Convention for the Protection of Industrial Property*.³⁵⁵ Barbados (12 March 1985); China (19 March 1985); Mongolia (21 April 1985). At the end of 1985, the number of States party to the Paris Convention was 97;

(c) *Berne Convention for the Protection of Literary and Artistic Works*.³⁵⁶ On 30 October 1985, the Netherlands deposited a declaration extending the effects of its ratification of the Paris Act (1971) of the Berne Convention (which had entered into force in respect of the Netherlands on 10 January 1975 but had been limited to articles 22 to 38) to articles 1 to 21 and the Appendix of the said Act. That extension took effect on 30 January 1986. At the end of 1985, the number of States party to the Berne Convention was 76;

(d) *Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations*.³⁵⁷ Monaco (6 December 1985); Peru (7 August 1985). At the end of 1985, the number of States party to the Rome Convention was 29;

(e) *Geneva Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms*.³⁵⁸ Czechoslovakia (15 January 1985); Peru (24 August 1985). At the end of 1985, the number of States party to the Phonograms Convention was 39;

(f) *Brussels Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite*.³⁵⁹ Panama (25 September 1985); Peru (7 August 1985); United States of America (7 March 1985). At the end of 1985, the number of States party to the Brussels Convention was 11;

(g) *Nairobi Treaty on the Protection of the Olympic Symbol*.³⁶⁰ Bolivia (11 August, 1985); Cyprus (11 August 1985); Italy (25 October 1985). Argentina deposited its instrument of ratification on 10 December 1985 and became a party to the Nairobi Treaty on 10 January 1986. On that date, the number of States party to the Nairobi Treaty was 28;

(h) *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure*.³⁶¹ Denmark (1 July 1985); Finland (1 September 1985). Norway deposited its instrument of ratification on 1 October 1985 and became party to the Budapest Treaty on 1 January 1986. Italy deposited its instrument of ratification on 23 December 1985 and became a party to the Budapest Treaty on 23 March 1986. On that date, the number of States party to the Budapest Treaty was, with these countries, 19;

(i) *Madrid Agreement concerning the International Registration of Marks*.³⁶² Bulgaria (1 August 1985); Mongolia (21 April 1985). At the end of 1985, the number of States party to the Madrid Union was 28;

(j) *Vienna Agreement establishing an International Classification of the Figurative Elements of Marks*.³⁶³ As a result of the deposit by Tunisia of its instrument of accession, the Vienna Agreement entered into force on 9 August 1985, in respect of France, Luxembourg, the Netherlands, Sweden and Tunisia.

(ii) Amendments

In October 1985, the Vienna Union Assembly unanimously adopted, at its first ordinary session, amendments to the Vienna Agreement establishing an International Classification of the Figurative Elements of Marks, pursuant to which amendments, the ordinary sessions of the Assembly and the budgets of the Union would have the same periodicity, i.e., biennial, as the sessions of the assemblies and budgets of the other Unions administered by WIPO.

(b) Development of the legislative infrastructure and institution building in developing countries in the field of industrial property and copyright and neighboring rights

WIPO continued to cooperate, on request, with Governments or groups of Governments of developing countries on the adoption of new laws and regulations, or the modernization of existing

ones, in the fields of industrial property and copyright and neighboring rights, and on the creation or modernization of industrial property institutions.³⁶⁴

(c) 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 neighboring 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" and in the monthly periodical *Industrial Property*, whereas the texts concerning copyright and neighboring rights were published in the monthly periodical *Copyright*. Summaries of the latter texts were also published in "Copyright Law Survey".

(d) Revision of the Paris Convention for the Protection of Industrial Property

In June 1985, the First Consultative Meeting on the Revision of the Paris Convention took place in Geneva pursuant to the decision taken at the ninth session, in September 1984, of the Assembly of the Paris Union that the machinery for consultations, designed to prepare, on substance, the next session of the Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property, would consist of consultative meetings of up to 10 representatives of States, including the spokesman, for each group of countries (Group of 77, Group B, Group D) and China.³⁶⁵ The meeting dealt with one article only, namely, article 5A, which concerns compulsory licences, and with forfeiture of patents.³⁶⁶

(e) *Intellectual property questions of topical interest*

(i) *Industrial property questions*

International registration of marks. The Committee of Experts on the International Registration of Marks held two sessions at Geneva in 1985, in February and in December, to discuss a proposed new treaty.³⁶⁷

Integrated circuits (often referred to as "microchips"). In June 1985, the WIPO International Bureau published the text of the first version of a draft treaty on the protection of intellectual property in respect of integrated circuits.³⁶⁸ The draft treaty was discussed at the first session of the Committee of Experts on Intellectual Property in respect of Integrated Circuits, which was held at Geneva in November 1985.³⁶⁹

Harmonization of certain provisions in laws for the protection of inventions. In July 1985, the Committee of Experts on this topic held its first session at Geneva.³⁷⁰

Industrial property protection of biotechnological inventions. In July 1985, the International Bureau of WIPO published a study, prepared by a WIPO consultant, entitled "Industrial property protection of biotechnological inventions".³⁷¹ In November 1985, the International Bureau issued a report also entitled "Industrial property protection of biotechnological inventions",³⁷² which was based in part on the above-mentioned study. The report was the subject of discussions at the second session of the Committee of Experts on Biotechnological Inventions and Industrial Property, which took place in February 1986.³⁷³

(ii) *Copyright questions of topical interest*

Expressions of folklore. Model Provisions for National Laws on the Protection of Folklore against Illicit Exploitation and Other Prejudicial Actions was published jointly by WIPO and UNESCO in April 1985 and sent to all member States and interested organizations.³⁷⁴

Copyright aspects of the protection of computer software. A Group of Experts met at Geneva in February and March 1985.³⁷⁵

Copyright aspects of direct broadcasting by satellite. A group of Experts met in Paris in March 1985.³⁷⁶

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention). In June 1985, the Intergovernmental Committee held its tenth ordinary session in Paris.³⁷⁷

Model provisions for national laws and publishing contracts for literary works. In December 1985, a Committee of Governmental Experts met in Paris.³⁷⁸

Decisions of WIPO governing bodies

Matters of general interest in the field of intellectual property. The WIPO Convention contains a provision that the WIPO Conference shall discuss matters of general interest in the field of intellectual property and may adopt recommendations relating to such matters, having regard for the competence and autonomy of the Unions. At its 1985 session, the Conference took action under the said provision for the first time; it discussed, and unanimously adopted, two recommendations, one concerning piracy³⁷⁹ and the other cable television.³⁸⁰ Both recommend that member States provide information through the International Bureau to the 1987 session of the Conference concerning developments related to the said matters.

Counterfeit goods. The Governing Bodies concerned discussed the role of WIPO concerning counterfeit goods, on the basis of a report by the Director General dealing, *inter alia*, with the relevant activities carried out within GATT. The WIPO General Assembly adopted a decision inviting the Director General to convene an intergovernmental group of experts to examine the relevant provisions of the Paris Convention in order to determine to what extent such provisions can adequately provide for the efficient protection of industrial property and to recommend provisions for national legislation. The results of the group of experts are to be reported to the WIPO General Assembly in 1987.³⁸¹

Agreements with intergovernmental organizations; admission of observers. The WIPO Coordination Committee approved an agreement among WIPO and the African Regional Centre for Technology (ARCT), the Arab Industrial Information Bank (ARIFO) and the African Intellectual Property Organization (OAPI), and agreements with the Arab League Educational, Cultural and Scientific Organization (ALECSO), the permanent secretariat of the General Treaty on Central American Economic Integration (SIECA) and the Latin American Integration Association (ALADI).³⁸² The Governing Bodies concerned accorded observer status to ARCT, the European Association of Advertising Agencies (EAAA), the European Tape Industry Council (ETIC), the Ibero-American Television Organization (OTI), the Max Planck Institute for Foreign and International Patent, Copyright and Competition Law and the World Blind Union (WBU).³⁸³

International Year of Peace. The WIPO General Assembly noted with approval activities performed or planned in respect of various resolutions and decisions of the General Assembly of the United Nations. In particular, the WIPO General Assembly adopted a resolution on the International Year of Peace (1986, as proclaimed by the General Assembly of the United Nations³⁸⁴) and unanimously approved measures to mark the Year: dissemination of the text of the resolution; speech by the Director General; issuance of a WIPO medal inscribed "Authors and Inventors for World Peace"; publication of a collection of articles.³⁸⁵

12. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

(a) Membership

The International Fund for Agricultural Development had a total membership of 139 countries. Two new applications for membership were considered during 1985. The applications for membership of Antigua and Barbuda and Saint Kitts and Nevis were considered by the IFAD Executive Board, which recommended to the IFAD Governing Council that, with respect to the categories specified in article 3.3 (a) of the Agreement establishing the Fund,³⁸⁶ Antigua and Barbuda and Saint Kitts and Nevis be classified in category III (developing recipient countries). In accordance with article 3.2

(b) of the Agreement, the Governing Council, at its ninth session, approved the membership of Antigua and Barbuda and Saint Kitts and Nevis and decided that those States be classified in category III.³⁸⁷

(b) Second replenishment of IFAD's resources

The Governing Council considered the report on the second replenishment of IFAD's resources and adopted a draft resolution on the second replenishment, presented in connection therewith at its ninth session.³⁸⁸ The resolution was adopted pursuant to article 4.3 of the Agreement, which provides that, in order to assure continuity of the Fund's operations, the Governing Council shall periodically review the adequacy of the resources available to the Fund and, if necessary, invite members to make additional contributions to the resources of the Fund.

The resolution, *inter alia*, invites members to make additional contributions to the resources of the Fund under the second replenishment and any complementary contributions not forming part of the second replenishment. The Fund is authorized thereunder to accept from members:

(i) Additional contributions to the resources of the Fund in amounts not less than those indicated for the respective member in attachment A to the resolution;

(ii) An increase in contribution to the resources of the Fund for the second replenishment. According to the resolution, the desired level of the second replenishment is US\$ 500,000,000, with category I members' (countries members of the Organization for Economic Cooperation and Development (OECD)) contributions totalling US\$ 300,000,000 and category II members' (countries members of the Organization of Petroleum Exporting Countries) contributions totalling US\$ 200,000,000. Attachment A of the resolution indicates the pledges at the time the resolution was adopted. The pledges for members of category I and category II total US\$ 276,000,000 and US\$ 184,000,000 respectively. To reach the desired level of category I pledges of US\$ 300,000,000, category I members have agreed to increase on a pro rata basis their individual contributions, as shown in attachment A, to the extent that the current contributions of category II Members, as shown in attachment A, are increased up to a level of US\$ 200,000,000 not later than 19 February 1986 and in the same proportion, as between the current pledges of US\$ 276,000,000 for category I members and US\$ 184,000,000 for category II members. Upon receipt of formal notifications of increases in pledges of category II members, the President is required to communicate a revised attachment A to all members of the Fund not later than 20 February 1986 (para. 3 (b) of the resolution);

(iii) Complementary contributions, not forming part of attachment A to the resolution, for use in its operations in accordance with its applicable policies.

The second replenishment period is 1985-1987. It shall come into effect on the date when the instruments of contribution (written commitments whereby a member confirms its intention to make additional contribution to the resources of the Fund under the second replenishment) relating to contributions from categories I and II have been deposited with the Fund in the aggregate total amount equivalent to at least 50 per cent of the respective total contribution of each such category as set forth in attachment A to the resolution, as it may be amended pursuant to subparagraph 3 (b) thereof. During the course of 1985, a total of US\$ 66 million in pledges and US\$ 46 million in payments was received as advance contributions by the Fund.

Under the second replenishment, the Fund may, during the replenishment period, accept special contributions from non-member States and from other sources with the approval of the Executive Board. The Executive Board had previously adopted a resolution concerning private contributions to IFAD's resources whereby it authorized the President of IFAD to accept any special contributions provided that there were no conditions attached to them that could conflict with any provisions of the Agreement or any of the relevant policies of IFAD. Special contributions are acceptable under article 4, section 1 (iii), of the Agreement in accordance with the provisions of article 4, section 6 thereof.

(c) Lending operations

Resource constraints forced IFAD to reduce its level of operations for the third year in succession. IFAD provided SDR 136.9 million in 1985 (as compared to the originally approved programme

of work of SDR 300 million), a reduction of 34 per cent in the level of operations of 1984.

During 1985, the Executive Board approved 17 projects and 23 technical assistance grants.

Six projects were approved for Africa (Nigeria, Guinea, United Republic of Tanzania, Equatorial Guinea, Ethiopia and Mauritania) for SDR 49.8 million, bringing the total to 63 projects in 38 countries for SDR 514.2 million. Four projects were approved for Asia (Bhutan, Sri Lanka, Indonesia and Nepal) for SDR 38.7 million, bringing the total to 48 projects in 16 countries for SDR 726.0 million. Two projects were approved for Latin America and the Caribbean (Belize and Panama) for SDR 7.7 million, bringing the total to 33 projects in 21 countries for SDR 252.8 million. Five projects were approved for the Near East and North Africa (Sudan, Somalia, Djibouti, Syrian Arab Republic and Tunisia) for SDR 30.9 million, bringing the total to 33 projects in 12 countries for SDR 315.7 million.

In 1985, IFAD provided technical assistance support for agricultural research programmes of international and regional centres totalling US\$ 6.9 million. In providing financial support to ongoing agricultural research programmes, the Fund also provided support for two newly initiated agricultural research programmes.³⁸⁹ A grant was made to the Organization of African Unity for the Agricultural Management Training Programme for Africa (AMTA). A total of US\$ 1.5 million in grants for project preparation was also granted to eight member countries: Bangladesh, Bolivia, Ethiopia, Haiti, Lesotho, Pakistan, Yemen and Zambia. Furthermore, two grants were provided for a total of SDR 910,000 - SDR 110,000 to Nepal and SDR 800,000 to Equatorial Guinea.

(d) Special programme for Sub-Saharan African countries

Following the decision by the Governing Council at its eighth session, the Executive Board at its twenty-third session considered the draft resolution submitted by the Government of the Niger calling for the creation of a special fund for Sub-Saharan Africa. The Board, in its decision, *inter alia*, requested the President to submit a report and recommendation on the matter to the Executive Board for its further consideration. The President accordingly presented a report entitled "IFAD Special Programme for Sub-Saharan African Countries affected by Drought and Desertification". The second special session of the Executive Board held in 1985 considered and endorsed the Special Programme and resolved, *inter alia*, that:

(i) The Fund shall proceed with the technical elaboration of the Special Programme with a view to identifying and formulating country programmes and projects for submission to the Executive Board for its approval;

(ii) The President shall approach potential donors to mobilize additional funds, outside the framework of the second replenishment, to help finance the preparation and implementation of the proposed Special Programme;

(iii) The contributions so received shall be used exclusively or jointly with other resources for implementing the Special Programme, consistent with the Agreement establishing IFAD;

(iv) The principle to be applied in the accounting of the expenditures related to the Special Programme would be that its records of operations shall be kept and accounted for separately;

(v) A progress report on the implementation of this resolution shall be submitted by the President to the Board at its twenty-fifth session.

A "Proposed Basic Framework on Special Resources for Sub-Saharan Africa" was also prepared and along with recommendations of the Executive Board put before the Governing Council together with the Special Programme.

The Governing Council, at its ninth session, adopted two resolutions on: A Special Programme and the Basic Framework on Special Resources for Sub-Saharan African Countries affected by Drought and Desertification.³⁹⁰ These resolutions, *inter alia*, approved the objectives and activities of the Special Programme and Basic Framework and resolved (i) to appeal to all members in a position to do so to contribute generously to the resources needed to carry out the Special Programme in order to achieve the target of US\$ 300 million for the Special Programme over a period of three years, and (ii) to authorize the Executive Board and the President to implement the Special Programme in accordance with the Basic Framework. The President has been requested to report back to the Governing

Council through the Executive Board on the implementation of the Special Programme.

The Basic Framework establishes the Special Resources for Sub-Saharan Africa (SRS) which are open to contributions from all members. IFAD, with the approval of, and on such terms and conditions as may be specified by, the Executive Board, may accept contributions to SRS from non-member countries and other sources. The accepted contributions are required (i) to be free of limitations on the use thereof, or (ii) to indicate that the use of the contribution will be for given countries provided that either not less than US\$ 10,000,000 or not less than 20 per cent of the contribution will be free of limitations on the use thereof. The SRS are required to be used for the objectives of the Special Programme outlined in the resolution adopted by the Executive Board, at its second special session, on 18 May 1985. The Executive Board may, taking into account future developments, make such changes therein as it may deem necessary to achieve the objectives of the Special Programme. The SRS are required to be used by IFAD (i) to make loans and grants to the countries of the Sub-Saharan region of Africa on terms and conditions prescribed by IFAD's "Lending policies and criteria" and in accordance with such provisions as may be decided upon by the Executive Board in the context of the Special Programme, and (ii) to meet the cost of salaries, employee benefits and related services and other associated costs of SRS. Contributions to SRS are required to be used for the procurement of goods and services necessary for the Special Programme in accordance with the procedures laid down in IFAD's "Procurement guidelines". The said procurement is, however, limited to those members of IFAD that have deposited instruments of contribution (a letter from the authorized representative of a contributor, or any other arrangements satisfactory to IFAD, by which such contributor confirms its contribution or its firm intention to contribute to the SRS) to the SRS and developing States members of IFAD. A separate account is required to be maintained for SRS. That account is subject to an audit by IFAD's External Auditor, and the audit report is required to be submitted to the Executive Board.

In operating the Special Programme, the President is required to act in conformity with the Agreement and the policies and procedures applicable to the use of resources defined in article 4 thereof, except as provided in the Basic Framework or as provided for by decisions of the Executive Board. Periodic consultations are required to be held between the contributors and IFAD with respect to the mobilization of SRS and to exchange information on the implementation of the Special Programme, including procurement. The President is required to report to the Executive Board on these consultations as appropriate.

With certain exceptions, operations under the Special Programme cannot commence until such time as IFAD has received instruments of contribution to SRS from at least three members. Commitment of the funds of SRS for the purposes of making loans and grants will cease on a date determined by the Executive Board on the recommendation of the President. The disbursement of the funds of SRS will cease on such date as all funds of SRS committed to projects, programmes and technical assistance under the Special Programme have been disbursed. The Special Programme will, unless otherwise decided by the Executive Board on the recommendation of the President, terminate on the date on which disbursements have ceased. Any funds remaining in SRS upon the winding up of the operations of the Special Programme will be transferred to the resources of IFAD as described in article 4 of the Agreement, and loans under the SRS will be treated as part of IFAD's regular lending portfolio. Consequently, if any commitments of SRS remain undisbursed, IFAD will provide for the disbursement of these funds as required from its article 4 resources. IFAD will take into account the funds of SRS transferred to article 4 resources in the allocation of future resources of IFAD to countries of the Sub-Saharan region of Africa.

(e) IFAD's future financial basis and structure

With the second replenishment negotiations having been completed, the President has been entrusted the task of taking the necessary steps to start deliberations on the future financial basis of IFAD.

The Governing Council, at its ninth session, took note of a preliminary report on IFAD's future financial basis and structure. The President has been requested to report on IFAD's future financial basis, through the Executive Board, to the Governing Council for necessary action.³⁹¹

(f) Headquarters Agreement

The President presented a report on the status of the headquarters Agreement between the Fund and the Government of Italy at the ninth session of the Governing Council. The Governing Council, while taking note of the President's report, adopted a draft resolution which, *inter alia*, resolved "that the Government of Italy should be urged to take quick and decisive action to provide the Fund with its permanent headquarters building, as a matter of urgency."³⁹²

13. INTERNATIONAL ATOMIC ENERGY AGENCY

COMMITTEE ON ASSURANCES OF SUPPLY

The Committee on Assurances of Supply, established by the Board of Governors in 1980, held its fourteenth to seventeenth sessions in January, March, May and November respectively. It continued consideration of principles of international cooperation in the field of nuclear energy, with the focus of discussion on the linkage between non-proliferation assurances and assurances of supply.

THIRD REVIEW CONFERENCE OF THE PARTIES TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) met from 27 August to 21 September 1985 at Geneva to review the operation of the Treaty during the 15 years since its entry into force. At the request of the Preparatory Committee for the Conference, the IAEA secretariat had submitted comprehensive documentation on the Agency's activities in connection with articles III, IV and V of the Treaty. The Conference adopted by consensus a Final Declaration containing several proposals relevant to the Agency's activities.

SAFEGUARDS

The IAEA and the USSR concluded an agreement relating to the latter's voluntary offer to place some of its peaceful nuclear installations under Agency safeguards. The Agreement entered into force on 10 June 1985.

AMENDMENT TO ARTICLE VI.A.1 OF THE STATUTE

An amendment of article VI.A.1 of the Agency's statute³⁹³ providing for the designation by the Board of Governors each year of the 10 instead of 9 member States "most advanced in the technology of atomic energy including the production of source materials" had been accepted by 30 member States by the end of 1985. The amendment will come into force when it has been accepted by two thirds of the member States in accordance with their respective constitutional requirements.

PHYSICAL PROTECTION OF NUCLEAR MATERIAL

During 1985, the Convention on the Physical Protection of Nuclear Material³⁹⁴ was signed by one more State—Niger—and ratified by five more States—Brazil, Guatemala, Norway, Paraguay and Turkey. By the end of the year, 39 States and one regional organization had signed the Convention and 15 States had ratified it. The Convention requires 21 ratifications or acceptances for its entry into force.

At its twenty-ninth regular session, in September 1985, the General Conference adopted a resolution in which it expressed the hope "that the Convention will enter into force at the earliest possible date and that it will obtain the widest possible adherence".

HEADQUARTERS SEAT AGREEMENTS

On 20 December 1985, IAEA, the United Nations and UNIDO exchanged notes with Austria

providing for the continued application of the existing agreements regarding the headquarters area common to the Agency and the other organizations located at the Vienna International Centre, pending the conclusion of new headquarters agreements between Austria and UNIDO. Such new agreements are required on account of the conversion of UNIDO into a specialized agency as of 1 January 1986.

REGIONAL SEMINAR ON NUCLEAR LAW

A regional seminar on nuclear law and safety regulations for developing countries in Africa was held at Cairo, in May with the cooperation of the Egyptian Atomic Energy Authority and its Nuclear Regulatory and Safety Centre. The seminar provided an overview of the scope and components of nuclear legislation and an exchange of information on practices, experiences and current developments in the regulation of peaceful nuclear activities. More than 40 participants from 11 member States participated in the seminar, for which lecturers were provided cost-free by France, the Federal Republic of Germany, Spain and the United States of America.

ADVISORY SERVICES IN NUCLEAR LEGISLATION

Advice and assistance in the framing of legislation and regulations required for the implementation of a nuclear power programme was provided to Egypt and Morocco. Jamaica was assisted in the elaboration of an act regulating the development of nuclear energy for peaceful purposes.

NOTES

¹Adopted by a recorded vote of 109 to 19, with 17 abstentions.

²*Official Records of the General Assembly, Tenth Special Session, Supplement No. 4 (A/S-10/4)*, sect. III.

³*Official Records of the General Assembly, Twelfth Special Session, Annexes*, agenda items 9 to 13, document A/S-12/32.

⁴Adopted without a vote.

⁵Adopted by a recorded vote of 133 to 2, with 18 abstentions.

⁶Adopted without a vote.

⁷Adopted by a recorded vote of 71 to 19, with 59 abstentions.

⁸*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.

⁹Adopted without a vote.

¹⁰General Assembly resolution 2660 (XXV), annex.

¹¹Adopted by a recorded vote of 99 to none, with 53 abstentions.

¹²Adopted without a vote.

¹³Adopted by a recorded vote of 76 to none, with 12 abstentions.

¹⁴Adopted by a recorded vote of 117 to 19, with 11 abstentions.

¹⁵Adopted by a recorded vote of 131 to 16, with 6 abstentions.

¹⁶Adopted by a recorded vote of 70 to 11, with 65 abstentions.

¹⁷Adopted by a recorded vote of 123 to 19, with 7 abstentions.

¹⁸Adopted by a recorded vote of 136 to 3, with 14 abstentions.

¹⁹Adopted by a recorded vote of 126 to 17, with 6 abstentions.

²⁰General Assembly resolution 2373 (XXII), annex.

²¹*Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document (NPT/CONF.III/64/I, NPT/CONF.III/64/II and NPT/CONF.III/64/III)*, Geneva, 1985.

²²Adopted by a recorded vote of 138 to none, with 11 abstentions.

²³Adopted by a recorded vote of 124 to 3, with 21 abstentions.

²⁴Adopted by a recorded vote of 121 to 3, with 24 abstentions.

²⁵Adopted by a recorded vote of 120 to 3, with 29 abstentions.

²⁶Adopted by a recorded vote of 131 to 10, with 8 abstentions.

²⁷Adopted by a recorded vote of 126 to 12, with 10 abstentions.

²⁸Adopted by a recorded vote of 142 to none, with 6 abstentions.

²⁹Adopted by a recorded vote of 101 to 19, with 25 abstentions.

- ³⁰United Nations, *Treaty Series*, vol. 634, p. 281.
- ³¹Adopted by a recorded vote of 139 to none, with 7 abstentions.
- ³²Adopted by a recorded vote of 135 to 4, with 14 abstentions.
- ³³Adopted without a vote.
- ³⁴Adopted by a recorded vote of 104 to 3, with 41 abstentions.
- ³⁵Adopted without a vote.
- ³⁶Adopted without a vote.
- ³⁷Adopted without a vote.
- ³⁸Adopted by a recorded vote of 93 to 15, with 41 abstentions.
- ³⁹Adopted by a recorded vote of 112 to 16, with 22 abstentions.
- ⁴⁰Adopted by a recorded vote of 151 to none, with 2 abstentions.
- ⁴¹Adopted by a recorded vote of 128 to 1, with 21 abstentions.
- ⁴²Adopted without a vote.
- ⁴³Adopted by a recorded vote of 128 to none, with 8 abstentions.
- ⁴⁴Adopted without a vote.
- ⁴⁵Adopted without a vote.
- ⁴⁶Adopted by a recorded vote of 113 to 13, with 15 abstentions.
- ⁴⁷Adopted without a vote.
- ⁴⁸General Assembly resolution 2734 (XXV); also reproduced in *Juridical Yearbook*, 1970, p. 62.
- ⁴⁹Adopted by a recorded vote of 127 to none, with 26 abstentions.
- ⁵⁰See A/40/1028.
- ⁵¹For the report of the Subcommittee, see A/AC.105/352.
- ⁵²A/AC.105/C.2/L.150.
- ⁵³WG/RS(1985)/WP.1.
- ⁵⁴A/AC.105/C.2/L.144.
- ⁵⁵See *Official Records of the General Assembly, Fortieth Session, Supplement No. 20 (A/40/20)*, chap. II, sect. C.
- ⁵⁶A/AC.105/L.158.
- ⁵⁷Adopted without a vote.
- ⁵⁸See A/40/1023.
- ⁵⁹Treaty 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).
- ⁶⁰Adopted by a recorded vote of 96 to none, with 11 abstentions.
- ⁶¹See A/40/996.
- ⁶²A/39/583 (Part I) and Corr. 1-3 and A/39/583 (Part II) and Corr. 1, vols. I-III.
- ⁶³Adopted by a recorded vote of 92 to none, with 14 abstentions.
- ⁶⁴See A/40/996.
- ⁶⁵For detailed information, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 25 (A/40/25)*.
- ⁶⁶*Ibid.*, annex.
- ⁶⁷*International Legal Materials*, vol. 26, p. 1529.
- ⁶⁸UNEP/WG.120/3.
- ⁶⁹UNEP/G.C.10/5/Add.2, annex, chapter II.
- ⁷⁰UNEP/GC.13/9/Add.1.
- ⁷¹See UNEP/GC.6/17, annex, pp. 9-14.
- ⁷²UNEP/GC.9/5/Add.5, annex III.
- ⁷³*International Legal Materials*, vol. 19, p. 15.
- ⁷⁴UNEP/GC.13/10.
- ⁷⁵Adopted by a recorded vote of 149 to none, with 6 abstentions.
- ⁷⁶See A/40/989/Add.6.
- ⁷⁷Adopted without a vote.
- ⁷⁸See A/40/989/Add.3.
- ⁷⁹TD/CODE TOT/49, sect. IV.
- ⁸⁰For detailed information, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 12 (A/40/12)* and *ibid.*, *Supplement No. 12A (A/40/12/Add.1)*.
- ⁸¹United Nations, *Treaty Series*, vol. 189, p. 137.

- ⁸²*Ibid.*, vol. 606, p. 267.
- ⁸³See *Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 12A (A/35/12/Add.1)*, para. 48.
- ⁸⁴See *ibid.*, *Fortieth Session, Supplement No. 12A (A/40/12/Add.1)*, para. 115 (5).
- ⁸⁵Adopted without a vote.
- ⁸⁶See A/40/934.
- ⁸⁷United Nations, *Treaty Series*, vol. 1019, p. 175.
- ⁸⁸*Ibid.*, vol. 976, p. 3.
- ⁸⁹*Ibid.*, vol. 976, p. 105.
- ⁹⁰Adopted without a vote.
- ⁹¹See A/40/984.
- ⁹²Adopted without a vote.
- ⁹³See A/40/984.
- ⁹⁴Adopted without a vote.
- ⁹⁵See A/40/984.
- ⁹⁶See General Assembly resolution 2200 A (XXI), annex; also reproduced in *Juridical Yearbook, 1966*, p. 170.
- ⁹⁷United Nations, *Treaty Series*, vol. 993, p. 3.
- ⁹⁸*Ibid.*, vol. 999, p. 171.
- ⁹⁹*Ibid.*
- ¹⁰⁰Adopted without a vote.
- ¹⁰¹See A/40/983.
- ¹⁰²*Official Records of the General Assembly, Fortieth Session, Supplement No. 40 (A/40/40)*.
- ¹⁰³Adopted by a recorded vote of 134 to one, with 19 abstentions.
- ¹⁰⁴See A/40/983.
- ¹⁰⁵Adopted without a vote.
- ¹⁰⁶See A/40/983.
- ¹⁰⁷A/40/600, sect. II, and A/40/600/Add.1, annex.
- ¹⁰⁸See General Assembly resolution 2106 A (XX), annex; also reproduced in *Juridical Yearbook, 1965*, p. 63; see also United Nations, *Treaty Series*, vol. 660, p. 195.
- ¹⁰⁹Adopted without a vote.
- ¹¹⁰See A/40/914.
- ¹¹¹See General Assembly resolution 38/14.
- ¹¹²Adopted by a recorded vote of 136 to one, with 9 abstentions.
- ¹¹³See A/40/914.
- ¹¹⁴Adopted by a recorded vote of 120 to one, with 24 abstentions.
- ¹¹⁵See General Assembly resolution 3068 (XXVIII); also reproduced in *Juridical Yearbook, 1973*, p. 70; see also United Nations, *Treaty Series*, vol. 1015, p. 243.
- ¹¹⁶See A/40/914.
- ¹¹⁷See E/CN.4/1985/27, sect. V.
- ¹¹⁸See General Assembly resolution 34/180; also reproduced in *Juridical Yearbook, 1979*, p. 114.
- ¹¹⁹Adopted without a vote.
- ¹²⁰See A/40/927.
- ¹²¹See General Assembly resolution 39/46, annex; also reproduced in *Juridical Yearbook, 1984*, p. 135.
- ¹²²Adopted without a vote.
- ¹²³See A/40/982.
- ¹²⁴Adopted without a vote.
- ¹²⁵See A/40/863.
- ¹²⁶Adopted by a recorded vote of 118 to 17, with 9 abstentions.
- ¹²⁷See A/40/863.
- ¹²⁸Adopted by a recorded vote of 130 to one, with 22 abstentions.
- ¹²⁹See A/40/970.
- ¹³⁰Adopted without a vote.
- ¹³¹See A/40/970.
- ¹³²Adopted without a vote.
- ¹³³See A/40/1007.
- ¹³⁴Adopted without a vote.
- ¹³⁵See A/40/1007.
- ¹³⁶Adopted without a vote.
- ¹³⁷See A/40/1007.

- ¹³⁸ Adopted without a vote.
- ¹³⁹ See A/40/971.
- ¹⁴⁰ Adopted without a vote.
- ¹⁴¹ See A/40/968.
- ¹⁴² The text of the Declaration was reproduced in *Juridical Yearbook*, 1981, p. 63.
- ¹⁴³ See *Official Records of the Economic and Social Council*, 1985, *Supplement No. 2* (E/1985/22), chap. II, sect. A.
- ¹⁴⁴ Adopted by a recorded vote of 121 to two, with 27 abstentions.
- ¹⁴⁵ See A/40/1007.
- ¹⁴⁶ Adopted by a recorded vote of 131 to none, with 22 abstentions.
- ¹⁴⁷ See A/40/969.
- ¹⁴⁸ General Assembly resolution 3384 (XXX) of 10 November 1975.
- ¹⁴⁹ Adopted without a vote.
- ¹⁵⁰ See A/40/969.
- ¹⁵¹ Adopted without a vote.
- ¹⁵² See A/40/881.
- ¹⁵³ *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders*, Milan, 26 August-6 September 1985; report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1).
- ¹⁵⁴ *Ibid.*, chap. I, sect. A.
- ¹⁵⁵ *Ibid.*, sect. B.
- ¹⁵⁶ Adopted without a vote.
- ¹⁵⁷ See A/40/881.
- ¹⁵⁸ Adopted without a vote.
- ¹⁵⁹ See A/40/1007.
- ¹⁶⁰ *Seventh United Nations Congress*, op. cit., chap. I, sect. D.2.
- ¹⁶¹ *Ibid.*, sect. D.I.
- ¹⁶² General Assembly resolution 34/169, annex.
- ¹⁶³ United Nations, *Treaty Series*, vol. 78, p. 277.
- ¹⁶⁴ Adopted without a vote.
- ¹⁶⁵ See A/40/1007.
- ¹⁶⁶ Adopted without a vote.
- ¹⁶⁷ See A/40/881.
- ¹⁶⁸ *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 United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.83.V.5).
- ¹⁶⁹ For detailed information on the work of the Preparatory Commission, see the report of the Secretary-General (A/40/923).
- ¹⁷⁰ Document LOS/PCN/72; the Declaration was adopted without a vote following an understanding between its sponsors, the Group of 77, and a number of other delegations on the text of the following statement which the Chairman read out at the time of the adoption:
- “After consultation with delegations, it is my understanding that the draft declaration contained in document LOS/PCN/L.21 of 12 August 1985 commands a large majority in the Preparatory Commission. I, therefore, take it that consequently the draft declaration has been approved and has been adopted.
- “I note that a number of delegations, while appreciating the preoccupation of that majority, could not give support to the declaration because of their concerns about some aspects of the substance and the effect of the declaration.”
- ¹⁷¹ Adopted by a recorded vote of 140 to 2, with 5 abstentions.
- ¹⁷² For the composition of the Court, see General Assembly decision 39/307.
- ¹⁷³ As of 31 December 1985, the number of States recognizing the jurisdiction of the Court as compulsory in accordance with declarations filed under Article 36, paragraph 2, of the Statute of the International Court of Justice stood at 46.
- ¹⁷⁴ For detailed information, see *I.C.J. Yearbook 1984-1985*, No. 39; and *I.C.J. Yearbook 1985-1986*, No. 40.
- ¹⁷⁵ *I.C.J. Reports 1985*, p. 3.
- ¹⁷⁶ For detailed information, see *I.C.J. Yearbook 1984-1985*, No. 39, p. 149.
- ¹⁷⁷ *I.C.J. Reports 1985*, p. 13.
- ¹⁷⁸ *I.C.J. Reports 1985*, p. 59.
- ¹⁷⁹ *Ibid.*, pp. 76-92.
- ¹⁸⁰ *Ibid.*, pp. 93-113.

¹⁸¹*Ibid.*, pp. 114-187.

¹⁸²For detailed information, see *I.C.J. Yearbook 1985-1986*, No. 40, p. 127.

¹⁸³*I.C.J. Reports 1985*, p. 192.

¹⁸⁴*I.C.J. Reports 1982*, p. 4; a summary outline of the Judgment and the complete text of the operative paragraph were given in *Juridical Yearbook, 1982*, p. 96.

¹⁸⁵Article 3 of the Special Agreement is worded as follows: "In case the agreement mentioned in Article 2 is not reached within a period of three months, renewable by mutual agreement from the date of delivery of the Court's judgement, the two Parties shall together go back to the Court and request any explanations or clarifications which would facilitate the task of the two delegations to arrive at the line separating the two areas of the continental shelf, and the two Parties shall comply with the judgement of the Court and with its explanations and clarifications."

¹⁸⁶See paragraphs 32-39 of the Judgment.

¹⁸⁷*I.C.J. Reports 1985*, pp. 232, 236, 246 and 247.

¹⁸⁸For detailed information, see *I.C.J. Yearbook 1985-1986*, No. 40, p. 161.

¹⁸⁹*Ibid.*, pp. 37 and 38.

¹⁹⁰*I.C.J. Reports 1985*, p. 6.

¹⁹¹*Ibid.*, p. 10.

¹⁹²*Ibid.*, p. 189.

¹⁹³For the membership of the Commission, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 10 (A/40/10)*, chap. I.

¹⁹⁴For detailed information, see *Yearbook of the International Law Commission, 1985*, vol. I (United Nations publication, Sales No. E.86.V.4); *ibid.*, vol. II, Part One (United Nations publication, Sales No. E.86.V.5 (Part I)); and *ibid.*, Part Two (United Nations publication, Sales No. E.85.V.5 (Part II)).

¹⁹⁵*Yearbook of the International Law Commission, 1985*, vol. II (Part One) (United Nations publication, Sales No. E.86.V.5 (Part I)), document A/CN.4/387.

¹⁹⁶*Ibid.*, document A/CN.4/389.

¹⁹⁷*Ibid.*, document A/CN.4/390.

¹⁹⁸*Yearbook of the International Law Commission, 1984*, vol. II (Part One) (United Nations publication, Sales No. E.85.V.7 (Part I)), document A/CN.4/376 and Add.1 and 2.

¹⁹⁹*Yearbook of the International Law Commission, 1985*, vol. II (Part One) (United Nations publication, Sales No. E.86.V.5 (Part I)), document A/CN.4/388.

²⁰⁰*Ibid.*, document A/CN.4/391 and Add.1.

²⁰¹A/CN.4/L.383 and Add.1-3.

²⁰²*Yearbook of the International Law Commission, 1985*, vol. II (Part One) (United Nations publication, Sales No. E.86.V.5 (Part I)), document A/CN.4/393.

²⁰³*Official Records of the General Assembly, Fortieth Session, Supplement No. 10 (A/40/10)*.

²⁰⁴Adopted without a vote.

²⁰⁵See A/40/961.

²⁰⁶Adopted by a recorded vote of 127 to 6, with 9 abstentions.

²⁰⁷See A/40/1000.

²⁰⁸For the membership of the Commission, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17)*, chap. I.B, para. 4.

²⁰⁹For detailed information, see *Yearbook of the United Nations Commission on International Trade Law*, vol. XVI: 1985 (United Nations publication, Sales No. E.87.V.4).

²¹⁰*Yearbook of the United Nations Commission on International Trade Law*, vol. XVI: 1985 (United Nations publication, Sales No. E.87.V.4), part two, chap. I, sect. A, document A/CN.9/263 and Add.1-3.

²¹¹*Ibid.*, sect. B, document A/CN.9/264.

²¹²*Ibid.*, part one, document A/40/17, annex I.

²¹³*Ibid.*, part two, chap. II, sect. A, document A/CN.9/261.

²¹⁴*Ibid.*, sect. B, document A/CN.9/266 and Add.1 and 2.

²¹⁵*Ibid.*, chap. V, document A/CN.9/265.

²¹⁶*Ibid.*, chap. III, sect. A.1, document A/CN.9/259, and sect. B.1, document A/CN.9/262, respectively.

²¹⁷*Ibid.*, sect. C, document A/CN.9/268.

²¹⁸*Ibid.*, chap. IV, sect. A, document A/CN.9/260.

²¹⁹*Ibid.*, chap. V, document A/CN.9/265.

²²⁰*Ibid.*, part one, document A/40/17, para. 360.

²²¹*Ibid.*, part two, chap. VIII, document A/CN.9/270.

²²²Adopted without a vote.

²²³See A/40/935.

²²⁴Adopted without a vote.

- ²²⁵See A/40/935.
- ²²⁶United Nations, *Treaty Series*, vol. 330, p. 38.
- ²²⁷United Nations publication, Sales No. E.77.V.6.
- ²²⁸Adopted without a vote.
- ²²⁹See A/40/1003.
- ²³⁰*Official Records of the General Assembly, Thirty-fourth session, Supplement No. 37 (A/34/37).*
- ²³¹Adopted without a vote.
- ²³²See A/40/977.
- ²³³Adopted without a vote.
- ²³⁴See A/40/1010.
- ²³⁵A/40/893.
- ²³⁶Adopted by a recorded vote of 125 to none with 19 abstentions.
- ²³⁷See A/40/978.
- ²³⁸Adopted without a vote.
- ²³⁹See A/40/999.
- ²⁴⁰General Assembly resolution 37/10, annex; the text of the Declaration was also reproduced in *Juridical Yearbook*, 1982, p. 103.
- ²⁴¹For the report of the Special Committee, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 41 (A/40/41)*.
- ²⁴²*Ibid.*, *Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1)*, annex.
- ²⁴³A/AC.193/6 and Add.1, A/39/440 and A/AC.193/7.
- ²⁴⁴*Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1)*, para. 129.
- ²⁴⁵*Ibid.*, *Thirty-sixth Session, Supplement No. 41, (A/36/41)*, para. 259.
- ²⁴⁶*Ibid.*, *Thirty-seventh Session, Supplement No. 41 (A/37/41)*, para. 372.
- ²⁴⁷Adopted by a recorded vote of 119 to 14, with 12 abstentions.
- ²⁴⁸See A/40/1001.
- ²⁴⁹Adopted without a vote.
- ²⁵⁰See A/40/936.
- ²⁵¹Adopted without a vote.
- ²⁵²See A/40/979.
- ²⁵³*Official Records of the General Assembly, Fortieth Session, Supplement No. 43 (A/40/43).*
- ²⁵⁴Adopted without a vote.
- ²⁵⁵See A/40/952.
- ²⁵⁶*Official Records of the General Assembly, Thirty-seventh session, Supplement No. 10 (A/37/10)*, chap. II, sect. D.
- ²⁵⁷For the report of the Special Committee, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 33 (A/40/33 and Corr.1)*.
- ²⁵⁸A/38/343, annex, and A/39/C.6/L.2.
- ²⁵⁹A/AC.182/L.42.
- ²⁶⁰A/AC.182/L.38/Rev.1.
- ²⁶¹A/CN.182/L.43.
- ²⁶²Adopted without a vote.
- ²⁶³See A/40/1013.
- ²⁶⁴For detailed information, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 26 (A/40/26)*.
- ²⁶⁵Adopted without a vote.
- ²⁶⁶See A/40/1012.
- ²⁶⁷Adopted without a vote.
- ²⁶⁸See A/40/1067.
- ²⁶⁹A/C.5/40/25.
- ²⁷⁰Adopted without a vote.
- ²⁷¹A/40/726 and Corr.1, annex.
- ²⁷²A/40/682, annex.
- ²⁷³For detailed information, see *Official Records of the General Assembly, Forty-first Session, Supplement No. 14 (A/41/14)*; the report covers the period from 1 July 1984 to 30 June 1986 (it is the first biennial report submitted to the General Assembly).
- ²⁷⁴William H. Lewis, *The Prevention of Nuclear War: A United States Approach* (UNITAR: Sales No. E.85.XV.RR/32).
- ²⁷⁵For the conclusions, see also A/40/377, annex.

²⁷⁶Adopted without a vote.

²⁷⁷See A/40/1042.

²⁷⁸A/40/788, para. 5.

²⁷⁹With regard to the adoption of instruments, information on the preparatory work which, by virtue of the double discussion procedure, normally covers a period of two years, is given, in order to facilitate reference work, in the year during which the instrument was adopted.

²⁸⁰*Official Bulletin*, vol. LXVIII, 1985, Series A, No. 2, pp. 49-54, 60-63; English, French, Spanish. Regarding preparatory work see *First Discussion*—Revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), ILC, 70th session (1984), report VI (1) (this report contains, *inter alia*, details of the action which led to the placing of the question on the agenda of the Conference), and report VI (2), 85 and 106 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 70th session (1984) *Record of Proceedings*, No. 29; No. 42, pp. 2-6; English, French, Spanish. *Second Discussion*—Revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), ILC, 71st session (1985), report V (1) and report V (2), 58 and 107 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC 71st session (1985), *Record of Proceedings*, No. 25; No. 35, pp. 1-5; No. 38, pp. 8-14; English, French, Spanish.

²⁸¹*Official Bulletin*, vol. LXVIII, 1985, Series A, No. 2, pp. 55-60, pp. 63-71; English, French, Spanish. Regarding preparatory work see *First Discussion*—Occupational Health Services, ILC, 70th session (1984), report V (1) (this report contains, *inter alia*, details of the action which led to the placing of the question on the agenda of the Conference), and report V (2), 87 and 142 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 70th session (1984) *Record of Proceedings*, No. 36; No. 42, pp. 5-7; No. 43, pp. 1-3; English, French, Spanish. *Second Discussion*—Occupational Health Services, ILC, 71st session (1985), report IV (1) and report IV (2), 69 and 111 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 71st session (1985) *Record of Proceedings*, No. 28; No. 35, pp. 6-12; No. 39, pp. 4, 11-16; English, French, Spanish.

²⁸²This report has been published as report III (part 4) to the 71st session of the Conference and comprises two volumes: vol. A: "General Report and Observations concerning Particular Countries" (report III (part 4A)), 401 pages; English, French, Spanish; vol. B: "General Survey of the Reports on the Labour Inspection Convention (No. 81) and Recommendation (No. 81), the Labour Inspection (Mining and Transport) Recommendation (No. 82) and the Labour Inspection (Agriculture) Convention (No. 129) and Recommendation (No. 133)" (report III (part 4B)), 186 pages; English, French, Spanish.

²⁸³*Official Bulletin*, vol. LXVIII, 1985, Series B, No. 1.

²⁸⁴*Ibid.*, No. 2.

²⁸⁵*Ibid.*, No. 3.

²⁸⁶At its eighty-ninth session (November 1985), the Council elected as members the following countries: El Salvador, Italy, Philippines, Poland, Senegal, Sudan, United States of America.

²⁸⁷Report of the forty-sixth session of CCLM, documents CL 87/5 and CL 87/5-Sup. 1.

²⁸⁸Report of the forty-seventh session, document CL 88/5.

²⁸⁹C 83/REP, para. 344.

²⁹⁰CL 86/5, para. 21.

²⁹¹CL 86/REP, para. 194.

²⁹²CL 86/REP, para. 196.

²⁹³See d. below "Action taken by the Council and the Conference in 1985".

²⁹⁴A summary of the judgement in the case is reproduced in *Juridical Yearbook*, 1982, p. 234.

²⁹⁵CL 82/REP, para. 212.

²⁹⁶CL 87/REP, paras. 270-274.

²⁹⁷CL 87/REP, para. 274.

²⁹⁸*Ibid.*, paras. 275-277.

²⁹⁹*Ibid.*, paras. 279 and 280.

³⁰⁰C 85/LIM/10.

³⁰¹C 85/LIM/15. See also C 85/LIM/28; C 85/III/PV/1 and PV/5; C 85/PV/22.

³⁰²C 85/REP, paras. 356-360.

³⁰³CL 87/REP, para. 254.

³⁰⁴*Ibid.*, para. 255.

³⁰⁵*Ibid.*

³⁰⁶C 85/REP, paras. 347-350.

³⁰⁷C 85/26; C 85/LIM/13; C 85/III/PV/3; C 85/III/PV/5; C 85/PV/22.

³⁰⁸CL 86/REP, para. 180.

³⁰⁹C 85/REP, para. 346.

³¹⁰See (i) above.

- ³¹¹CL 89/REP, paras. 14 and 15; CL 89/LIM/6; CL 89/PV/1.
- ³¹²C 85/LIM/8; C 85/II/PV/3; C 85/II/PV/5; C 85/PV/22.
- ³¹³C 83/REP, para. 371.
- ³¹⁴CL 85/REP, paras. 16 and 17.
- ³¹⁵CL 86/REP, para. 179.
- ³¹⁶C 85/REP, paras. 351-355.
- ³¹⁷C 85/REP, paras. 13-14.
- ³¹⁸See Basic Texts, vol. II, sect. L.
- ³¹⁹C 85/13; C 85/13-Sup. 1; C 85/14.
- ³²⁰CL 89/REP, para. 16; CL 89/5; CL 89/PV/1.
- ³²¹For reference to the Agreement, see *Juridical Yearbook 1981*, p. 81.
- ³²²C 85/24; C 85/LIM/18; C 85/II/PV/11; C 85/II/PV/12; C 85/II/PV/16; C 85/PV/24.
- ³²³C 85/25-Rev. 1.
- ³²⁴C 85/23; C 85/23-Corr. 1; C 85/REP, paras. 164-169.
- ³²⁵For the text of the UNESCO Constitution, see United Nations, *Treaty Series*, vol. 4, p. 275.
- ³²⁶IGC(1971)/SC.II/3.
- ³²⁷IGC(1971)/VI/22.
- ³²⁸ILO/UNESCO/WIPO/ICR.10/10.
- ³²⁹UNESCO/PRS/CLT/TPC/II/5.
- ³³⁰PRS/CPY/DP/CEG/II/4.
- ³³¹UNESCO/WIPO/GE/CCS/3.
- ³³²UNESCO/WIPO/GE/DBS/II/4.
- ³³³UNESCO/WIPO/CGE/PC/4.
- ³³⁴For the text of the Convention, see United Nations, *Treaty Series*, vol. 15, p. 295.
- ³³⁵United Nations publication, Sales No. E.83.V.5.
- ³³⁶For the text of the Constitution, see United Nations, *Treaty Series*, vol. 14, p. 185.
- ³³⁷Resolution WHA38.14.
- ³³⁸The background to the initiative of the Bank to establish MIGA, a globally operating investment guarantee agency which will also carry out a wide range of advisory and promotional activities, as well as the previous steps taken by the Bank in this regard and the main features of the proposed new Agency, are described in *Juridical Yearbook, 1984*, p. 112.
- ³³⁹This draft of the MIGA Convention is published in *International Legal Materials*, vol. XXIV, p. 688 (1985).
- ³⁴⁰The resolution is published in IBRD, IFC, IDA 1985 Annual Meetings of the Boards of Governors, *Summary Proceedings*, p. 244 (1986). The text of the MIGA Convention and of the commentaries thereto are published in *ICSID Review—Foreign Investment Law Journal*, vol. 1, p. 145 (1986), and in *International Legal Materials*, vol. XXIV, p. 1598 (1985).
- ³⁴¹United Nations, *Treaty Series*, vol. 575, p. 159; also reproduced in *Juridical Yearbook, 1966*, p. 196.
- ³⁴²The Centre's "List of Contracting States and Signatories of the Convention" appears in document ICSID/3.
- ³⁴³Document ICSID/16, entitled "ICSID cases, 1972-1984", and *News from ICSID*, a semi-annual publication, contain further information on disputes before the Centre.
- ³⁴⁴The full text of this decision is published in English translation in *ICSID Review—Foreign Investment Law Journal*, vol. 1, p. 89 (1986).
- ³⁴⁵A detailed summary of this conciliation proceeding appears in *ICSID Review—Foreign Investment Law Journal*, Vol. 1, No. 2 (1986), in an article by Lester Nurick and Stephen J. Schably entitled "The first ICSID Conciliation: *Tesoro Petroleum Corporation v. Government of Trinidad and Tobago*."
- ³⁴⁶The decision is published in English translation in *International Legal Materials*, vol. XXIV, p. 1639 (1986) and in *ICSID Review—Foreign Investment Law Journal*, vol. 1, No. 2 (1986).
- ³⁴⁷English translation prepared by the Secretariat of the United Nations on the basis of a French version provided by UPU.
- ³⁴⁸For a brief commentary on these studies, see *Juridical Yearbook 1984*, p. 117.
- ³⁴⁹Convention on the World Meteorological Organization, signed at Washington on 11 October 1947; United Nations, *Treaty Series*, vol. 77, p. 143.
- ³⁵⁰United Kingdom Command Paper No. 6677.
- ³⁵¹United Kingdom Command Paper No. 7994.
- ³⁵²*International Legal Materials*, vol. XVI, p. 606.
- ³⁵³United States Treaties and Other International Agreements, vol. 31; Treaties and Other International Acts Series, No. 9605.
- ³⁵⁴United Nations, *Treaty Series*, vol. 828, p. 3.

- ³⁵⁵*Ibid.*, vol. 825, p. 305.
- ³⁵⁶*Ibid.*, vol. 828, p. 221.
- ³⁵⁷*Ibid.*, vol. 496, p. 43.
- ³⁵⁸*Ibid.*, vol. 866, p. 67.
- ³⁵⁹*Ibid.*, vol. 1144, p. 3.
- ³⁶⁰WIPO/297.
- ³⁶¹*International Legal Materials*, vol. XVII, p. 285.
- ³⁶²United Nations, *Treaty Series*, vol. 828, p. 389.
- ³⁶³*International Treaties on Intellectual Property*, Marshall A. Leaffer, ed. (BNA Book, 1990), p. 548.
- ³⁶⁴For the details of this cooperation, see "Activities in the Year 1985, Report of the Director General," document AB/XVII/2, paras. 10-533 and 713-773.
- ³⁶⁵See the report adopted by the Paris Union Assembly, document P/A/IX/3, 2 October 1984.
- ³⁶⁶See the report of the First Consultative Meeting, document PR/CM/I/3, June 1985.
- ³⁶⁷Documents IRM/CE/I/3 and IRM/CE/II/3.
- ³⁶⁸IPIC/CE/I/2.
- ³⁶⁹IPIC/CE/I/7.
- ³⁷⁰HL/CE/I/5.
- ³⁷¹BIG/281.
- ³⁷²BIOT/CE/II/2.
- ³⁷³BIOT/CE/II/3.
- ³⁷⁴Uncoded document, UNESCO, OMPI/WIPO 1985.
- ³⁷⁵UNESCO/WIPO/GE/CCS/3.
- ³⁷⁶UNESCO/WIPO/GE/DBS/I.4.
- ³⁷⁷ILO/UNESCO/WIPO/ICR 10/10.
- ³⁷⁸UNESCO/WIPO/CGE/PC/4.
- ³⁷⁹AB/XVI/23, para. 128.
- ³⁸⁰*Ibid.*, para. 132.
- ³⁸¹*Ibid.*, para. 159.
- ³⁸²WO/CC/XIX/4.
- ³⁸³AB/XVI/23, paras. 195, 197.
- ³⁸⁴General Assembly resolution 40/3, annex.
- ³⁸⁵WO/GA/VIII/3, para. 15.
- ³⁸⁶United Nations, *Treaty Series*, vol. 1059, p. 191.
- ³⁸⁷IFAD Governing Council, resolution on the approval of non-original members of the Fund (resolution 35/IX, dated 21 January 1986).
- ³⁸⁸IFAD Governing Council, resolution on the second replenishment (resolution 37/IX, dated 23 January 1986).
- ³⁸⁹Technical assistance grants in support of an Africa-wide Project for Biological Control of Cassava Pests through the International Institute of Tropical Agriculture (IITA), and a grant in support of a research programme on irrigation water management for the International Irrigation Management Institute (IIMI) in Sri Lanka.
- ³⁹⁰IFAD Governing Council, resolution on a Special Programme for Sub-Saharan African Countries affected by Drought and Desertification (resolution 38/IX, dated 23 January 1986), and resolution on the basic framework on special resources for Sub-Saharan African countries affected by drought and desertification (resolution 39/IX, dated 23 January 1986).
- ³⁹¹See paragraph IV of the resolution on the second replenishment, note 388 above.
- ³⁹²IFAD Governing Council resolution on the headquarters Agreement between the Fund and the Government of Italy (resolution 40/IX, dated 24 January 1986).
- ³⁹³United Nations, *Treaty Series*, vol. 276, p. 3.
- ³⁹⁴United Kingdom Command Paper No. 7994.

Chapter IV

TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERN- MENTAL ORGANIZATIONS

[No treaties concerning international law were concluded under the auspices of the United Nations and related intergovernmental organizations in 1985.]

Chapter V¹

DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Decisions of the Administrative Tribunal of the United Nations²

1. JUDGEMENT NO. 343 (3 JUNE 1985): TALWAR V. THE SECRETARY-GENERAL OF THE UNITED NATIONS³

Extension of appointment beyond retirement age—Staff regulation 9.5 and General Assembly resolution 33/143—Precedents cannot be established through the exercise of discretionary and exceptional powers

The Applicant, a former UNICEF staff member, had claimed the right to be retained in the service of UNICEF beyond the age of 60, relying on a memorandum in which his supervisor recommended such extension and on the fact that other such extensions had been granted to UNICEF staff members. He also asserted that he needed the extension for certain humanitarian reasons.

The Tribunal did not contest the merits shown in the Applicant's record or the humanitarian factors that might exist in his case but stated that it was bound to point out that those reasons were irrelevant as far as extensions beyond the 60-year age limit were concerned. It observed that extensions beyond the age of 60 were governed by staff regulation 9.5 which provided that: "Staff members shall not be retained in active service beyond the age of sixty years. The Secretary-General may, in the interest of the Organization, extend this age limit in exceptional cases."

In the opinion of the Tribunal, such "exceptional cases" had been defined by the General Assembly in section II, paragraph 3, of its resolution 33/143 of 20 December 1978 as those in which a suitable replacement for the retiring staff member had not been found, a process which should not normally go beyond six months.

The Tribunal stated that in the Applicant's case suitable replacements had easily been available and, as a consequence, there appeared to be no need for an extension, in spite of the Applicant's excellent record and of the humanitarian reasons that might have been argued in his favour.

The Tribunal could not concur with the Applicant's view that the granting of extensions beyond the 60-year age limit to some other staff members had created an expectancy in connection with his own situation, so that any decision in his respect that would differ from those taken in the cases in which extensions were granted would imply discriminatory treatment against him. The Tribunal was of the opinion that extensions beyond retirement age were subject to decisions of an exceptional nature to be taken by the Secretary-General or his representatives, according to their discretion, and as a general rule no exceptional and discretionary decision could create an expectancy. Furthermore, no proof had been provided by the Applicant to substantiate his claim that the decision to put an end to his service at the regular age of 60 had been due to discriminatory reasons.

The Tribunal held that since under staff regulation 9.5 extensions were only to be granted exceptionally according to the Secretary-General's discretion and within the limits of the decision of the General Assembly, no staff member could normally claim the existence of precedents that could create an expectancy as to his or her continuation in service beyond the normal age limit.

For the above reasons, all the Applicant's pleas were rejected.

2. JUDGEMENT NO. 348 (14 JUNE 1985): LUQMAN V. THE SECRETARY-GENERAL OF THE UNITED NATIONS⁴

Correction of personnel data regarding status—Staff rule 104.4 (a)—Lack of any definite rules

or guidelines concerning correction of such data—The Applicant waited too long before requesting the correction

The Applicant, a former member of UNIDO, had requested recognition of a new date of birth, with concomitant correction of his administrative records.

The Tribunal observed that there did not seem to be any definite rules or guidelines concerning the correction of basic data such as date of birth which staff members provided for recruitment and personnel purposes. The Tribunal noted, however, that under staff rule 104.4 (a) it was the duty of staff members to supply such information on appointment and that duty imposed on staff members the obligation and the responsibility to make every effort to ensure that the information was correct.

The Tribunal observed that the Applicant had provided information about his date of birth in 1967 and it was on 21 October 1980 that he had sent to the Administration the memorandum transmitting a copy of the "excerpt of transcript of judgement in lieu of birth certificate" dated 7 February 1980 and requesting a correction of his date of birth. The Tribunal considered that the Applicant had waited too many years before requesting the correction and failed also to give, in his defence, any reason or justification for such a long delay.

For the above reasons, the Tribunal considered as being without merit the Applicant's request for correction of the date used in his administrative records.

3. JUDGEMENT NO. 360 (8 NOVEMBER 1985): TAYLOR V. UNITED NATIONS JOINT STAFF PENSION BOARD⁵

Restoration of prior contributory service—General Assembly resolutions 37/131 and 38/233—Article 21 (b) of the Regulations of the United Nations Joint Staff Pension Fund

The Applicant, a staff member of FAO whose fixed-term appointment had expired in 1982 and had been renewed after an interval of 16 months in 1983, appealed against the refusal of the Joint Staff Pension Board to allow him to restore his former period of contributory service. During the interval in which he was not a Pension Fund participant, the Regulations of the United Nations Joint Staff Pension Fund had been amended by General Assembly resolution 37/131 of 17 December 1982 in such manner as to prevent restoration of the Applicant's prior contributory service, in view of the length of such service.

The Tribunal, in its majority judgement, considered that the Applicant's period of contributory service, prior to the amendment of the Pension Fund Regulations, had earned him a legal right to restoration of that period, which had not been eliminated by that and a subsequent amendment made by resolution 38/233 of 20 December 1983, since they specifically provided that the amendments were to be without retroactive effect.

The Tribunal concluded that the Applicant's conditional right to restoration of his prior contributions, as it existed on 31 March 1982, had been preserved by the terms of the relevant amending resolutions of the General Assembly.

For the above reasons, the Tribunal ordered the Respondent to rescind the decision denying the Applicant's request for restoration of his prior contributory service and, at the appropriate time, to calculate his benefits accordingly.⁶

B. Decisions of the Administrative Tribunal of the International Labour Organisation⁷

1. JUDGEMENT NO. 666 (19 JUNE 1985): CHOMENTOWSKI V. EUROPEAN PATENT ORGANIZATION⁸

Educational allowances paid under article 10 (3) of the Agreement on the integration of the International Patent Institute and the European Patent Organization—Concept of acquired rights to educational allowances—No one is entitled to payment of an allowance which was wrongly paid to others

The three complainants, former employees of the International Patent Institute at The Hague, were transferred to the European Patent Organization (EPO) on 1 January 1978 in keeping with the agreement on the integration of the two organizations ("the Transfer Agreement"). Under article 10 (3) of the Transfer Agreement they were paid education allowances for their children as prescribed in article 47 of the Institute Staff Regulations and the implementing rules. They moved to Munich and enrolled their children at the European School there. Two of them continued to receive the Institute education allowances. On 19 July the Principal Director of Personnel wrote to them that there had been a mistake since the third paragraph of article 10 (3) meant that the Institute allowances were due only to the extent that the organization did not offset the actual costs borne, and not covered by EPO education allowance, by means of subsidies to the schools attended. Since EPO wholly financed the European School, the allowances would cease in July 1982 but the sums wrongly paid would not be refundable, and supplements to the expatriation allowance would be due under article 72 (6) of the EPO Service Regulations.

The complainants lodged an appeal against the decision of 19 July. They contended that the second paragraph of article 10 (3) of the Transfer Agreement preserved their acquired right to payment of the lump-sum education allowance they had been paid at the Institute. In their view some expenses which were not covered by the EPO allowance could never be "offset" by EPO financing of the European School. So long as such expenses were not repaid by EPO the acquired right subsisted, and the expenses must continue to be repaid by means of the Institute allowance in accordance with article 10 (3). The supplement to the EPO expatriation allowance was smaller than the Institute education allowance, the right to which had in any event a sounder legal basis. In addition, one of the complainants who had not received the education allowance requested retroactive payment, alleging that he had been discriminated against.

The Tribunal held that the complainants would be entitled to payment of the education allowance under the first and second paragraphs of article 10 (3) only if EPO's subsidizing of the School failed to offset the actual costs borne and not covered by the education allowance provided for in the EPO Service Regulations by means of subsidies to the schools attended by the children of transferred officials.

The Tribunal stated that EPO's application of article 10 and the Service Regulations did not constitute breach of any acquired right of the complainants. An allowance might form an essential part of the official's contract in that he considered it to be of decisive importance when he accepted employment and its abolition would therefore constitute breach of his acquired right, but he had no acquired right to the actual amount of the allowance or to continuance of any particular method of reckoning it. Thus the Tribunal concluded that there had been no breach of acquired rights.

Moreover, the Tribunal indicated that no one might plead breach of the principle of equality on the ground that he had not received a benefit unlawfully conferred on others.

For the above reasons, the Tribunal dismissed the complaints.

2. JUDGEMENT NO. 675 (19 JUNE 1985): PEREZ DEL CASTILLO V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS⁹

Non-renewal of a staff member's contract—Question whether the staff member is entitled to know the reason for the non-renewal of his contract—The rule that the non-renewal of a staff member's contract must be the subject of a reasoned decision is an implication of principle of law

The Complainant had joined FAO in 1969 under a fixed-term appointment, which had been successively extended. In July 1980 he was seconded for two years to UNDP. In May 1982, without giving the Complainant any explanation, FAO notified him that it had decided to extend neither his appointment nor his secondment.

The Complainant claimed compensation for his loss of expectation of employment and alleged that the failure to provide a reason for the non-renewal constituted an abuse of authority.

The Tribunal stated that the rule that the non-renewal of a staff member's contract was not automatic but must be the subject of a reasoned decision did not depend upon the Staff Regulations but was rather an implication of principle of law.

The Tribunal also noted that the staff member was entitled to know the reason for the non-renewal of his contract since it was only with that knowledge that, when he was seeking other employment, he could answer the inquiries of prospective employers.

The Tribunal concluded that the impugned decision was wrongly motivated and an abuse of power and held in the circumstances that the Complainant had sustained especially grave moral injury and that he was entitled to damages.

For the above reasons, the Tribunal awarded him the sum of US\$ 15,000 as compensation.

3. JUDGEMENT NO. 701 (14 NOVEMBER 1985): BUSTOS V. PAN AMERICAN HEALTH ORGANIZATION (WORLD HEALTH ORGANIZATION)¹⁰

Termination of a short-term contract—Question whether Complainant's duties corresponded to the nature of his contract—Intention of the parties is to be ascertained in order to determine their true legal relationship

The Complainant had been employed since 1970 under short-term contracts in the Latin American Centre for Perinatology, affiliated to PAHO. His original contract had been regularly succeeded by further contracts. On 23 December 1982 he was informed that his contract would terminate on 31 December, and he left the organization on the latter date.

The Complainant maintained that because his duties were of a continuing nature since he worked under long-term programmes, at the time of dismissal he had been under a contract of indeterminate duration with PAHO for nearly 12 years. Accordingly he contended that the rules on staff reduction, notice and compensation for abolition of post—rules 940, 950 and 1050 respectively—ought to have been applied.

The Tribunal noted that the main issue in the case was whether the relationship between the parties had truly been expressed by a series of separate contracts for fixed periods or whether it could be properly expressed only by a single contract for an indefinite period.

From all the evidence in the dossier the Tribunal concluded that the work done for PAHO by the Complainant over more than 11 years had constituted a continuous whole and that its division into contractual periods on a short-term consultant basis had been fictitious. The mutual intention had been that the Complainant should be employed for as long as his services were required and he had been willing to give them. To an agreement of such a character the law added the term that reasonable notice of termination must be given. PAHO had broken that term and, since in the circumstances of the case reinstatement was inadvisable, the Tribunal assessed the appropriate compensation.

The Tribunal noted that the case was of a very exceptional, if not unique, character since it looked behind the documents to ascertain the intention of the parties. The Tribunal indicated at the same time that its decision did not affect short-term appointments in general.

For the above reasons, the Tribunal ordered the organization to pay to the Complainant the sum of US\$ 17,500 as compensation.

C. Decisions of the World Bank Administrative Tribunal¹¹

1. DECISION NO. 23 (22 MARCH 1985): EINTHOVEN V. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT¹²

Applicant's claim that his assignment was not in accordance with the Bank policy regarding the reassignment of the Operations Evaluation Department staff—Personnel Manual statement 4.04—Competence of the Tribunal under article II (1) of its statute is limited to non-observance of the contract of employment or terms of appointment

The Applicant, a senior evaluation officer in the Operations Evaluation Department (OED), after being assigned to the Western Africa region challenged in his complaint both the Respondent's general policy regarding reassignment of OED staff as articulated in Personnel Manual statement (PMS)

4.04 and the relevant Personnel Manual circulars and the application of that policy to his particular case.

The Tribunal observed that as to both the policy and its application it had in accordance with article II (1) of the statute the authority to examine only whether there had been “non-observance of the contract of employment or terms of appointment” of the Applicant. So long as the Bank’s resolution and policy formulation was not arbitrary, discriminatory, improperly motivated or reached without fair procedure, there was no violation of the contract of employment or of the terms of appointment of the staff member. The Tribunal concluded that the Respondent’s decision to utilize normal reassignment channels for staff members being transferred into and out of OED had been not such a violation.

As to the Applicant’s plea that his assignment to a position and to a geographic region that could provide him with no job satisfaction had been a form of “censure”, imposed upon him as a result of his adverse comments in earlier OED audits, the Tribunal noted there was no evidence at all to support his claim. The failure to reassign a staff member to a fully satisfying post could not by virtue of that fact alone be interpreted as a covert form of censure or reprisal. PMS 4.04 and the relevant Personnel Manual circulars, as well as direct statements to the Applicant by Bank superiors, made it clear that staff members would have their preferences considered but could not always expect to have them honoured. When Bank interests dictated reassignment elsewhere, those interests would prevail. The Tribunal concluded that such a policy, which fell within the discretion of the Respondent, had been fairly applied in the case.

The Tribunal concluded that the Respondent’s actions were not only in conformity with those policies and procedures but also that they were not arbitrary, improperly motivated or carried out in violation of a fair and reasonable procedure.

For the above reasons, the Tribunal rejected the application.

2. DECISION NO. 26 (4 SEPTEMBER 1985): MENDARO V. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT¹³

Inadmissibility of the Applicant’s complaint under articles II and XVII of the statute of the Tribunal—Non-parties’ communications seeking to influence the outcome of a case pending before the Tribunal considered by the Tribunal as an improper and unacceptable attempt to interfere with the mission of the Tribunal

The Applicant claimed that her application was admissible under article II of the statute of the Tribunal because she reasonably believed that the United States courts had been the appropriate forum for her complaint until 27 September 1983, when the United States Court of Appeals for the District of Columbia Circuit had rendered its decision. She pointed out that under article XVII of the statute there were exceptional circumstances which permitted the filing of the application after the time-limit mentioned in that article and that, in fact, the application had been filed within 90 days of receiving notice from the United States Court of Appeals that the Tribunal was the appropriate forum.

The Tribunal stated that it could not pass judgement upon the merit of the Applicant’s claim because her application had not been filed in time and was therefore not admissible under the Tribunal’s statute. The Tribunal indicated that its statute had two provisions governing the time within which an application must be filed, namely articles II and XVII. The Tribunal observed that the application in question did not fall within article II because the events which the Applicant alleged to have given rise to her claim had occurred after the entry into force of the statute, on 1 July 1980. The Applicant, however, attempted to bring her case within that article by invoking the decision of the United States Court of Appeals of 27 September 1983, and the fact that she had filed her application with the Tribunal within 90 days thereafter. The Tribunal noted that the decision of the Court of Appeals could not be regarded as “the occurrence of the event giving rise to the application” mentioned in paragraph 2 (ii) (a) of article II, since that language clearly referred to action adverse to a staff member that was taken by the Respondent. Nor could that court’s decision be regarded as representing an exhaustion of the remedies available within the Bank Group mentioned in paragraph 2 (ii) (b) of the same article. The Tribunal held that because all of the pertinent events giving rise to the application had taken place prior to 1 July 1980 the application, in order to be timely, must fall within the conditions set forth in

article XVII, which required that the cause of complaint must have arisen subsequent to 1 January 1979, and that the application must have been "filed within 90 days after the entry into force of the present statute", that is, by 29 September 1980. As an exception to the general principle laid down in article II, which "reflected a desire to bring cases to the Tribunal without delay", article XVII could not be construed so as "to render the time-limits to the statute almost ineffective (*Novak case*).¹⁴

The Tribunal noted that in the case in question the Respondent had expressly notified the Applicant that the Tribunal had been created and that it was, beginning in July 1980, an available forum—and indeed the exclusive forum—to hear her claims of violation of the legal rights of a staff member. That the Applicant had none the less decided not to file her application by the 29 September 1980 deadline fixed in the statute was the result of a conscious choice on her part and could in no way be attributed to exceptional circumstances. In any event, doubts regarding the outcome of proceedings before a judicial body—whether jurisdictional or relating to the merits—could not reasonably be regarded as warrant to ignore the pertinent statutory time-limits; rather, those doubts were properly to be submitted in a timely manner for decision by that body. Otherwise, all statutory time-limits would be rendered meaningless.

With reference to letters to the Tribunal and/or the President of the World Bank supporting the Applicant's efforts for a fair and open hearing on the merits of her case which the Applicant had incorporated as annexes to her pleadings, the Tribunal observed that for non-parties to address to the Tribunal or to the President of the World Bank communications seeking to influence the outcome of a case pending before the Tribunal was an improper and unacceptable attempt to interfere with the mission of the Tribunal.

For the above reasons, the Tribunal decided that the application was inadmissible.

NOTES

¹In view of the large number of judgements which were rendered in 1985 by Administrative Tribunals of the United Nations and related intergovernmental organizations, only those judgements which are of general interest have been summarized in the present edition of the *Yearbook*. For the integral text of the complete series of judgements rendered by the three Tribunals, namely Judgements Nos. 342 to 360 of the United Nations Administrative Tribunal, Judgements Nos. 647 to 720 of the Administrative Tribunal of the International Labour Organisation and Decisions Nos. 18 to 27 of the World Bank Administrative Tribunal, see, respectively: documents AT/DEC/342 to 360; *Judgements of the Administrative Tribunal of the International Labour Organisation*: 55th, 56th and 57th Ordinary Sessions; and *World Bank Administrative Tribunal Reports*, 1985.

²Under article 2 of its statute, the Administrative Tribunal of the United Nations is competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. Article 14 of the statute states that the competence of the Tribunal may be extended to any specialized agency upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. By the end of 1985, two agreements of general scope, dealing with the non-observance of contracts of employment and of terms of appointment, had been concluded, pursuant to the above provisions, with two specialized agencies: ICAO and IMO. In addition, agreements limited to applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund had been concluded with ILO, FAO, UNESCO, WHO, ITU, ICAO, WMO, and IAEA.

The Tribunal is open not only to any staff member, even after his employment has ceased, but also to any person who succeeded to the staff member's rights on his death or who can show that he is entitled to rights under any contracts or terms of appointment.

³Mr. T. Mutuale, President; Mr. Herbert Reis and Mr. Luis M. de Posadas Montero, Members.

⁴Mr. T. Mutuale, President; Mr. Samar Sen, Vice-President; and Mr. Luis M. de Posadas Montero, Member.

⁵Mr. Arnold Kean, Vice-President, presiding; and Mr. Endre Ustor and Mr. Roger Pinto, Members.

⁶In his separate opinion one Member of the Tribunal held that the Applicant had satisfied the requirements of article 21 (b) of the Pension Fund Regulations as his return to participation in the Fund had occurred within 12 months (taking into consideration intervening periods of employment with FAO under consultancy contracts) and he had not received a benefit within the meaning of that article.

⁷The Administrative Tribunal of the International Labour Organisation is competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment, and of such provisions of the staff

regulations as are applicable to the case of officials of the International Labour Office and of officials of the international organizations that have recognized the competence of the Tribunal, namely, as at December 1985, the World Health Organization (including the Pan American Health Organization (PAHO)), the United Nations Educational, Scientific and Cultural Organization, the International Telecommunication Union, the World Meteorological Organization, the Food and Agriculture Organization of the United Nations, the European Organization for Nuclear Research, the Interim Commission for the International Trade Organization (General Agreement on Tariffs and Trade), the International Atomic Energy Agency, the World Intellectual Property Organization, the European Organisation for the Safety of Air Navigation, the Universal Postal Union, the European Patent Organization, the European Southern Observatory, the Intergovernmental Council of Copper Exporting Countries, the European Free Trade Association, the Inter-Parliamentary Union, the European Molecular Biology Laboratory, the World Tourism Organization, the African Training and Research Centre in Administration for Development, the Central Office for International Railway Transport and the International Center for the Registration of Serials. The Tribunal is also competent to hear disputes with regard to the execution of certain contracts concluded by the International Labour Organisation and disputes relating to the application of the regulations for the former Staff Pension Fund of the International Labour Organisation.

The Tribunal is open to any official of the International Labour Office and of the above-mentioned organizations, even if his employment has ceased, and to any person on whom the official's rights have devolved on his death and to any other person who can show that he is entitled to some right under the terms of appointment of a deceased official or under provisions of the staff regulations on which the official could rely.

⁸Mr. André Grisel, President; Mr. Jacques Ducoux, Vice-President; and Mr. Héctor Gros Espiell, Deputy Judge.

⁹Mr. André Grisel, President; Mr. Jacques Ducoux, Vice-President; and Lord Devlin, Judge.

¹⁰Mr. André Grisel, President; Lord Devlin, Judge; and Sir William Douglas, Deputy Judge.

¹¹The World Bank Administrative Tribunal is competent to hear and pass judgement upon any applications alleging non-observance of the contract of employment or terms of appointment, including all pertinent regulations and rules in force at the time of the alleged non-observance, of members of the staff of the International Bank for Reconstruction and Development, the International Development Association and the International Finance Corporation (referred to collectively in the statute of the Tribunal as the "Bank Group").

The Tribunal is open to any current or former member of the staff of the Bank Group, any person who is entitled to claim upon a right of a member of the staff as a personal representative or by reason of the staff member's death and any person designated or otherwise entitled to receive a payment under any provision of the Staff Retirement Plan.

¹²Mr. E. Jiménez de Aréchaga, President; Mr. A. K. Abul-Magd and Mr. P. Weil, Vice-Presidents; and Mr. R. A. Gorman, Mr. N. Kumarayya and Mr. C. D. Onyeama, Judges.

¹³Mr. E. Jiménez de Aréchaga, President; Mr. A. K. Abul-Magd and Mr. P. Weil, Vice-Presidents; and Mr. R. A. Gorman, Mr. N. Kumarayya, Mr. E. Lauterpacht and Mr. C. D. Onyeama, Judges.

¹⁴*World Bank Administrative Tribunal Reports*, 1982, decision No. 8, para. 17.

Chapter VI

SELECTED LEGAL OPINIONS OF THE SECRETARIATS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Legal opinions of the Secretariat of the United Nations (Issued or prepared by the Office of Legal Affairs)

1. PRACTICE OF THE GENERAL ASSEMBLY WITH REGARD TO THE EXAMINATION OF CREDENTIALS SUBMITTED BY MEMBER STATES

Letter to a scholar

In response to your request, we are transmitting herewith a note containing replies to the various questions listed in the questionnaire enclosed with your letter concerning the practice of the General Assembly of the United Nations with regard to the examination of credentials submitted by Member States. We trust that the information thus provided will be of assistance to you in connection with the preparation of your study on the practice of the General Assembly with regard to the examination of credentials.

12 February 1985

Replies to a questionnaire concerning the practice of the General Assembly with regard to the examination of credentials

1. Pursuant to rule 28 of the rules of procedure of the General Assembly and the practice established under that rule, the Credentials Committee is appointed at the opening of each session by the Assembly on the proposal of the temporary President, who is usually the outgoing President. The President submits a proposal concerning the nine States to be appointed to serve on the Credentials Committee after appropriate consultations with interested delegations. In recent years China, the Union of Soviet Socialist Republics and the United States of America have been, in accordance with a well-established practice, represented on the Credentials Committee at each session of the General Assembly. Apart from these three members, the remaining six members are normally selected as follows: two from the African Group, two from the Latin American Group, one from the Asian Group and one from the Group of Western European and Other States. Accordingly, the Credentials Committee appointed at the thirty-ninth session is composed as follows: Bhutan, China, Cuba, Equatorial Guinea, Italy, Ivory Coast, Paraguay, Union of Soviet Socialist Republics and United States of America.

2. Credentials received by the Secretariat are checked to ensure compliance with the requirements of rule 27 of the rules of procedure and duly registered and filed. When the Credentials Committee meets, the Secretary-General submits a memorandum to it on the status of credentials received for representatives of Member States authorized to represent their countries at the session then in progress.

3. The role of the Credentials Committee is to examine the credentials of representatives within the context of rule 27 of the rules of procedure on the basis of information provided to it by the Secretary-General and to report to the General Assembly on its findings and recommendations. The Credentials Committee reviews generally the status of credentials received in respect of the representatives of all States participating in the session on the basis of information submitted to the Committee by the Secretary-General and also examines any question concerning the credentials of representatives that may be specifically referred to it by the General Assembly.

4. It frequently happens that credentials for a delegation are submitted after the opening of a session of the General Assembly. In such cases the delegations concerned are not precluded from taking their seats in the Assembly hall. Under rule 29 of the rules of procedure, all representatives are entitled to sit provisionally, even if an objection has been made concerning their admission to the session in progress, until the Credentials Committee has examined the credentials in question and reported thereon to the Assembly and the Assembly has taken a final decision on the matter.

5. The Credentials Committee does not normally itself physically examine credentials submitted by States. It only does so exceptionally in individual cases if the need arises. All credentials received are however available for examination by any member of the Committee who may wish to do so.

6. The ruling of the President of the General Assembly in 1974 prevented the delegation of South Africa from participating in the twenty-ninth session of the General Assembly. South Africa has on a number of occasions attempted to participate in subsequent sessions but the Assembly has rejected the credentials submitted by the South African Government and as a consequence, on the basis of the precedent established at the twenty-ninth session, its delegation has not been permitted to participate in the work of the General Assembly. The position adopted by the General Assembly has not however affected the status of South Africa as a Member of the United Nations. It continues to be represented at Headquarters by a permanent representative whose credentials have been accepted by the Secretary-General and its representatives, who continue to enjoy the same privileges and immunities as representatives of other Member States, have been invited on several occasions to participate in the work of the Security Council.

7. At the twenty-eighth session of the General Assembly, the Assembly approved the credentials of the representatives of Portugal, "on the clear understanding that they represent Portugal as it exists within its frontiers in Europe and that they do not represent the Portuguese-dominated Territories of Angola and Mozambique, nor could they represent Guinea-Bissau, which is an independent State". The relevant report of the Credentials Committee¹ indicated the action taken by the General Assembly on that report. As a consequence of the General Assembly's action, the persons named in the credentials submitted by the Portuguese authorities were permitted to participate in the work of the Assembly at its twenty-eighth session as representatives of Portugal, excluding the Territories then under its domination in Africa.

8. Each principal organ has its own rules and procedures for reviewing credentials of representatives authorized to participate in its work. Consequently decisions of the General Assembly concerning credentials are not automatically binding on other principal organs. However, the decisions adopted by the General Assembly with regard to credentials of representatives of Member States to sessions of the General Assembly provide authoritative guidance to other United Nations organs and conferences and in practice the decisions adopted by these organs and conferences always conform to the attitude adopted by the General Assembly in dealing with questions concerning representation and credentials. In this connection, attention is drawn to the provisions of General Assembly resolution 396 (V) of 14 December 1950 entitled "Recognition by the United Nations of the representation of a Member State". That resolution, which has particular relevance in situations where more than one authority claims the right to represent a Member State in the United Nations, reads as follows:

"The General Assembly,

"Considering that difficulties may arise regarding the representation of a Member State in the United Nations and that there is a risk that conflicting decisions may be reached by its various organs,

"Considering that it is in the interest of the proper functioning of the Organization that there should be uniformity in the procedure applicable whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations,

"Considering that, in virtue of its composition, the General Assembly is the organ of the United Nations in which consideration can best be given to the views of all Member States in matters affecting the functioning of the Organization as a whole,

"1. *Recommends* that, whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations and this question becomes the subject of controversy in the United Nations, the question should be considered in the light of the Purposes and Principles of the Charter and the circumstances of each case;

"2. *Recommends* that, when any such question arises, it should be considered by the General Assembly, or by the Interim Committee if the General Assembly is not in session;

"3. *Recommends* that the attitude adopted by the General Assembly or its Interim Committee concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies;

"4. *Declares* that the attitude adopted by the General Assembly or its Interim Committee concerning any such question shall not of itself affect the direct relations of individual Member States with the State concerned;

"5. *Requests* the Secretary-General to transmit the present resolution to the other organs of the United Nations and to the specialized agencies for such action as may be appropriate."

2. DECISION TAKEN BY THE GENERAL ASSEMBLY AT ITS THIRTY-NINTH SESSION TO TREAT THE QUESTION OF APARTHEID AS AN IMPORTANT QUESTION WITHIN THE MEANING OF ARTICLE 18 OF THE CHARTER OF THE UNITED NATIONS—QUESTION OF THE MAJORITY REQUIRED FOR THE ADOPTION BY THE GENERAL ASSEMBLY OF DECISIONS IN THIS REGARD AT FUTURE SESSIONS OF THE ASSEMBLY

Memorandum to the President of the General Assembly

1. Reference is made to the letter, dated 31 October 1985, addressed to you by the Chairman of the Special Committee against Apartheid on the question of the majority required for the adoption of decisions under agenda item 35 concerning apartheid.

2. In his letter, the Chairman of the Special Committee against Apartheid indicated that the Special Committee was of the view that the decision adopted by the General Assembly at its thirty-ninth session to the effect that draft resolutions and proposals under the apartheid item was exceptional to the thirty-ninth session and would not be applicable to the fortieth session. Acting on behalf of the Special Committee and also in his capacity as Chairman of the African Group of States, he requested that you confirm the Special Committee's opinion. Our views on the matter are given in the paragraph below.

3. The General Assembly's decision at its thirty-ninth session to treat the question of apartheid as an important question within the meaning of Article 18 of the Charter of the United Nations and its consequential determination that resolutions and amendments on apartheid required a two-thirds majority for adoption were ad hoc decisions of the thirty-ninth session of the General Assembly which are not automatically applicable to the question of apartheid and resolutions on that question at future session of the General Assembly. While we have not had the opportunity, in the time available, to complete a comprehensive review of General Assembly practice, we have found instances where the Assembly has on previous occasions determined that the question of apartheid was an important question within the meaning of Article 18 of the Charter and rule 83 of the Assembly's rules of procedure. However, those decisions were also ad hoc decisions which had no automatic applicability beyond the sessions at which they were taken. We have also found one instance where an amendment to a draft resolution on the question of apartheid was declared by the President of the Assembly to have been adopted even though it obtained the support of less than a two-thirds majority of the representatives present and voting.

4. A determination by the General Assembly such as the one made at the thirty-ninth session in respect of the question of apartheid could only be held to be automatically applicable to future sessions if the General Assembly so decided in specific terms. Thus, in the case of the examination of reports

and petitions relating to Namibia, the General Assembly at its ninth session adopted special procedural rules which are reproduced in annex III to the General Assembly's rules of procedure. These special procedures were clearly intended by the Assembly to apply to future sessions. No such special procedure of a standing nature was adopted by the General Assembly in respect of the question of apartheid.

5. The foregoing leads to the conclusion that, at the fortieth session of the General Assembly, the simple majority is the one which basically applies to resolutions adopted under the item on apartheid and that a two-thirds majority would be required only if the General Assembly specifically so decided. While this conclusion would, in our view, be a sound and correct one from a procedural standpoint, we believe that in view of the history of the item at past sessions of the Assembly and taking into account in particular the fact that only last year the Assembly reaffirmed the important character of the apartheid item, it would be best if the issue of the majority required for the adoption of resolutions under the item were referred to the Assembly itself without a prior ruling by you. At the appropriate point in time the question could be put to the Assembly on your initiative or in the form of a response to a question raised from the floor by a representative. Attention could then be drawn to the precedent established at the thirty-ninth session and past practice and the Assembly could be asked to indicate whether it wished to apply rule 85 (i.e., adopt the resolutions under item 35 by a simple majority) or to follow the precedent established at the thirty-ninth session, in which case a two-thirds majority would be required pursuant to rule 83 of the rules of procedure for the adoption of resolutions under the item.

4 November 1985

-
3. CONFERENCE CONVENED PURSUANT TO A DECISION OF THE GOVERNING COUNCIL OF THE UNITED NATIONS ENVIRONMENT PROGRAMME—QUESTION OF PARTICIPATION IN SUCH A CONFERENCE IN THE ABSENCE OF EXPRESS PROVISIONS ON THE MATTER IN THE CONVENING DECISION—PRACTICE FOLLOWED IN THIS RESPECT AS REGARDS CONFERENCES CONVENED BY THE GENERAL ASSEMBLY

Cable to the Legal Liaison Officer of the United Nations Environment Programme

We refer to your telegram concerning participation in a diplomatic conference for the finalization, adoption and signature of the global framework convention for the protection of the ozone layer, to meet at Vienna in March 1985 pursuant to decision 12/14 of 28 May 1984 of the Governing Council of the United Nations Environment Programme.

In the absence of express provisions regarding participation in the convening decision of the Governing Council, we suggest that the UNEP secretariat follow the practice established for similar conferences convened by UNEP and that if there is no clearly established practice, the formula applied by the General Assembly for major United Nations conferences convened under its auspices should be followed.

(a) We agree that all States should be invited, and all Members of the United Nations including South Africa fall within this category.

(b) Namibia, represented by the United Nations Council for Namibia, should be invited to participate in the conference in accordance with General Assembly resolution 37/233 C of 20 December 1982, paragraph 6, that is, as a full member.

(c) Invitations should be sent also to:

- (1) Organizations that have received a standing invitation to participate in all conferences convened under the auspices of the General Assembly. These are the Palestine Liberation Organization (PLO), under General Assembly resolution 3237 (XXIX) of 22 November 1974, and the South West Africa People's Organization (SWAPO), under General Assembly resolution 31/152 of 20 December 1976;

- (2) The African national liberation movements recognized by the Organization of African Unity (OAU). Apart from SWAPO which is covered under (c) (1), the liberation movements to be invited are the African National Congress and the Pan Africanist Congress of Azania.
- (d) The Governing Council decision invites, *inter alia*, the intergovernmental organizations concerned to participate in the conference. Accordingly invitations should be sent to the specialized agencies and IAEA and to the intergovernmental organizations granted observer status by the General Assembly. These are: the Organization of American States, the League of Arab States, the Organization of African Unity, the European Economic Community, the Council for Mutual Economic Assistance, the Organization of the Islamic Conference, the Commonwealth Secretariat, the Agency for Cultural and Technical Cooperation, the Asian-African Legal Consultative Committee, the Latin American Economic System and the African, Caribbean and Pacific Group of States. There may be other intergovernmental organizations closely related to UNEP and its work that should be invited.
- (e) Normally, in the case of major United Nations conferences in the economic and social spheres invitations are sent also to interested non-governmental organizations. In this regard the practice established at similar UNEP conferences and meetings should be followed.

10 January 1985

4. QUESTION WHETHER THE COMMITTEE ON THE EXERCISE OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE CAN SEND MISSIONS TO GOVERNMENTS IN THE LIGHT OF GENERAL ASSEMBLY RESOLUTION 39/49 A AND THE COMMITTEE'S GENERAL MANDATE

Memorandum to the Chief of the Division for Palestinian Rights

- Reference is made to your memorandum of 22 January 1985 requesting a legal opinion from the Office of Legal Affairs on the proposal concerning the sending of missions to Governments by the Committee on the Exercise of the Inalienable Rights of the Palestinian People.
- We have reviewed the relevant provisions of General Assembly resolution 39/49 A of 11 December 1984 which, in paragraph 4, authorizes the Committee "to continue to exert all efforts to promote the implementation of its recommendations, to send delegations or representatives to international conferences where such representation would be considered by it to be appropriate, and to report thereon to the General Assembly at its fortieth session and thereafter". We note that similar provisions are contained in resolutions adopted at previous sessions.
- Although the Committee has been expressly authorized to send delegations to international conferences when the Committee considers it appropriate, it has not similarly been authorized to send missions to national Governments. It could be argued that as only the sending of delegations to conferences is specifically authorized, the sending of delegations for other purposes is not permissible. However, in view of the general mandate given to it by the General Assembly "to exert all efforts to promote the implementation of its recommendations" and the wide variety of activities previously undertaken by the Committee in this regard with the acquiescence of the General Assembly, the Committee is not precluded from making a determination that sending missions to Governments is within its competence since it would be one way of promoting the objective in question.
- It is necessary to add, however, that if the Committee makes such a determination it could be effectively implemented only to the extent that existing financial resources approved for Committee travel permit. If the sending of missions to Governments would give rise to expenses for the United Nations which cannot be met from existing resources made available by the General Assembly, then it would not be legally possible for such missions to be undertaken before funds are authorized for the purpose, after consideration is given to the matter by the Advisory Committee on Administrative and Budgetary Questions and by the Fifth Committee.
- Finally, it should be noted that any action taken by the Committee under the provisions of

paragraph 4 of General Assembly resolution 39/49 A must be reported to the General Assembly, which will have an opportunity to take note of the action taken and, if it wishes, to provide guidance on action to be taken in the future.

23 January 1985

-
5. QUESTION WHETHER THE PRESIDING OFFICER OF A CONFERENCE HELD UNDER THE AUSPICES OF THE UNITED NATIONS MAY CONDUCT PROCEEDINGS IN A LANGUAGE OTHER THAN ONE OF THE OFFICIAL LANGUAGES OF THE CONFERENCE

*Memorandum to the Special Assistant to the Under-Secretary-General,
Department of Administration and Management*

1. You have mentioned to me that there is a possibility that the issue may arise whether the presiding officer may conduct proceedings in a language other than one of the official languages of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Under rule 46 of the provisional rules of procedure applicable to the United Nations Crime Congresses, which were approved by the Economic and Social Council, the official languages of the Congresses are Arabic, Chinese, English, French, Russian and Spanish.

2. Under rule 47, paragraph 2, of the same provisional rules, "Statements may be made in a language other than an official language of the Congress if the speaker provides for interpretation into one of the official languages . . ." This provision concerns individual interventions to be made by representatives during meetings but it does not provide a sufficient basis for meetings to be conducted by a presiding officer entirely or even partially in a language other than one of the official languages of the Congress. There is no instance in the practice of the United Nations which could serve as a precedent for a departure from established procedures in regard to the use of languages at United Nations meetings. In our view, although use of a language other than an official language is not expressly prohibited, it is essential that business be conducted in an official language of the Congress, bearing in mind that the rules of procedure and all the documentation for the Congress are only available in its official languages, and that any rulings relating to the conduct of business should properly be made only in one of the official languages of the Congress.

5 June 1985

-
6. ADOPTION OF THE AGENDA OF THE COMMISSION ON HUMAN RIGHTS—QUESTION WHETHER, UNDER THE RULES OF PROCEDURE OF THE FUNCTIONAL COMMISSIONS OF THE ECONOMIC AND SOCIAL COUNCIL, A REPRESENTATIVE OF A STATE NOT A MEMBER OF THE COMMISSION MAY PROPOSE CHANGES TO THE COMMISSION'S AGENDA

Cable to the Assistant Secretary-General, Centre for Human Rights

This is my reply to your telegram concerning the agenda of a session of the Commission on Human Rights.

(a) Under the rules of procedure of the functional commissions of the Economic and Social Council, the provisional agenda must be communicated not less than six weeks before the opening of the session to all concerned as provided in rule 6, together with the related basic documents.

(b) Under rule 7, the Commission at the beginning of each session adopts its agenda on the basis of the provisional agenda referred to in rule 5. In our opinion this means that, before the agenda is adopted, only minor modifications and deletions may be proposed in respect of items already on the provisional agenda. A proposal for the inclusion of an additional item, whether by a member of the Commission or by a State that is not a member, would seek more than a minor modification and cannot therefore be entertained at that stage. Our opinion is based on a literal interpretation of the relevant

rules, on the fact that there is no provision for the inclusion of additional items except in accordance with rule 8 and also on the undesirability of the Commission suddenly being faced with new items which members are not in a position to consider properly in the absence of adequate preparation and documentation.

(c) Under rule 8, a member of the Commission and a State participating in the session under rule 69 of the rules of procedure may propose changes, including additional items of an "important and urgent character", once the agenda has been adopted. In the case of a State that is not a member of the Commission, pursuant to rule 69, paragraph 3, any proposal by such a State for the inclusion of an additional item or for any other change to the agenda under rule 8 would require a specific request of a member of the Commission before it is put to the vote.

17 January 1985

-
7. ASSISTANCE TO BE PROVIDED BY THE SECRETARIAT OF THE UNITED NATIONS TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN UNDER ARTICLE 17, PARAGRAPH 9, OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, WHICH ESTABLISHED THE COMMITTEE

Cable to the Legal Liaison Officer, Office of the United Nations at Vienna

This is in reply to your telegram concerning the assistance to be provided by the Secretariat of the United Nations to the Committee on the Elimination of Discrimination against Women under article 17, paragraph 9, of the Convention on the Elimination of All Forms of Discrimination against Women of 1979,² which established the Committee. We agree that under article 17, paragraph 9, of the Convention the Secretary-General is required to provide conference servicing facilities and support staff to prepare for and to service sessions of the Committee. The Secretariat is thus responsible for processing and circulating documents required before, during and after sessions. However, all the substantive inputs into such documents must come from the Committee itself. In providing services to the United Nations related bodies established outside the framework of the Charter of the United Nations under separate treaty instruments, the Secretariat must be guided by decisions of the competent principal organs of the United Nations and the extent of its assistance to such bodies is determined by the staff and resources made available by the General Assembly for that purpose. Additional assistance such as the preparation of substantive reports for convention organs such as the Committee could not be provided by the Secretariat unless a competent deliberative organ authorized such assistance and the necessary staff and financial resources were made available. In the particular case under review we agree that, in accordance with the decision taken by the Economic and Social Council at its first regular session in 1984 regarding the Committee's report on its third session, the Secretariat is responsible for preparing a compendium of information based on national reports on achievements of, and obstacles experienced by, States parties, but the primary responsibility for the preparation of the Committee's report on those issues for the 1985 World Conference particularly its substantive elements, rests with the Committee.

18 January 1985

-
8. PARTICIPATION OF NON-GOVERNMENTAL ORGANIZATIONS IN COMMODITY CONFERENCES—QUESTION WHETHER THE INTERNATIONAL NATURAL RUBBER COUNCIL'S RECOMMENDATION THAT THE INTERNATIONAL RUBBER RESEARCH AND DEVELOPMENT BOARD PARTICIPATE AS AN OBSERVER IN THE UNITED NATIONS NATURAL RUBBER CONFERENCE CAN BE ACTED ON BY THE CONFERENCE ITSELF IN THE ABSENCE OF GUIDANCE BY THE CONVENING AUTHORITY REGARDING PARTICIPATION OF NON-GOVERNMENTAL ORGANIZATIONS IN COMMODITY CONFERENCES—CURRENT PRACTICE WITH REGARD TO PARTICIPATION BY NON-GOVERNMENTAL ORGANIZATIONS IN UNITED NATIONS CONFERENCES

*Cable to the Senior Legal Officer, United Nations Conference
on Trade and Development*

We refer to your cable concerning the participation of a non-governmental organization in the forthcoming United Nations Natural Rubber Conference. It is our opinion that the Conference could decide on the matter on the basis of the International Natural Rubber Council's recommendation that the International Rubber Research and Development Board participate as an observer in the United Nations Conference in the light of precedents established by the Olive Oil Conference 1978/79. However, since decisions regarding participation in commodity conferences are within the competence of UNCTAD we deem it advisable that the Trade and Development Board be informed even if only through its Bureau before the Conference convenes. Since the rendering of the legal opinion in 1972³ referred to in your cable, participation by non-governmental organizations in United Nations conferences in general has changed considerably and now provision is routinely made for their participation by the convening authority. Whereas in 1972 there were restrictions on such participation which was only exceptionally provided for, the practice now is to broaden participation in United Nations conferences to include non-governmental organizations that meet the criteria established by the competent deliberative organ. We realize that such practice has not yet been formally extended to commodity conferences. It would be helpful if consultations could be held within UNCTAD on whether present practice regarding the participation of non-governmental organizations in other United Nations conferences should be extended to future commodity conferences.

5 March 1985

-
9. QUESTION WHETHER THE COMMISSION ON HUMAN RIGHTS HAS COMPETENCE TO REQUEST THE SECRETARY-GENERAL TO CARRY OUT CERTAIN RESPONSIBILITIES—QUESTION WHETHER SUCH A REQUEST WOULD REQUIRE APPROVAL BY THE ECONOMIC AND SOCIAL COUNCIL

*Memorandum to the Under-Secretary-General for Political
and General Assembly Affairs*

1. Reference is made to your memorandum of 15 March 1985 by which you have requested legal advice on whether the Commission on Human Rights has the competence to request the Secretary-General to perform the tasks set out in paragraph 4 of draft resolution E/CN.4/1985/L.73. You have at the same time drawn our attention to the fact that a resolution of a similar nature was considered and rejected by the Security Council.

2. In general, the question whether a matter comes within the competence of the Commission on Human Rights, which is a subsidiary organ of the Economic and Social Council, depends on the Commission's terms of reference. Where the terms of reference are not clear and a question arises as to the competence of a subsidiary organ to take action on a particular matter it would, in the first instance, be settled by that organ in accordance with its rules of procedure. Should the manner in which it is settled be questioned again in the parent organ it would then be for the parent organ to decide the issue, and its decision would be final.

3. Resolution 5 (I) of the Economic and Social Council, as subsequently amended by its resolution 9 (II), laid down the terms of reference of the Commission as follows:

“1. The Economic and Social Council . . . requiring *advice* and *assistance* to enable it to discharge [its] responsibility, establishes a Commission on Human Rights.

“2. The work of the Commission shall be directed towards submitting *proposals, recommendations* and *reports* to the Council regarding:

“(a) an international bill of rights;

“(b) international declarations or conventions on civil liberties, the status of women, freedom of information and similar matters;

- “(c) the protection of minorities;
- “(d) the prevention of discrimination on grounds of race, sex, language or religion;
- “(e) any other matter concerning human rights not covered by (a), (b), (c) and (d).

“3. The Commission shall make *studies and recommendations* and *provide information and other services at the request* of the Economic and Social Council.

“4. The Commission may propose to the Council any changes in its terms of reference.

“5. The Commission may make *recommendations* to the Council concerning any sub-commission which it considers should be established.” (emphasis added)

4. With regard to the competence of the Commission to deal with violations of human rights, Economic and Social Council resolution 1102 (XL) of 4 March 1966, which is the basis for the Commission's authority to deal with such violations, invited the Commission to consider the question of the violation of human rights in all countries and to submit to the Council at its forty-first session *recommendations* on measures to halt such violations. Resolution 2 (XXII) of the Commission, adopted on 25 March 1966 in response to Council resolution 1102 (XL), also envisaged the Commission's devising *recommendations* to the Council for measures to halt violations of human rights. Council resolution 1164 (XLI) of 5 August 1966 repeated the formula of the Commission devising *recommendations* for measures to put a stop to human rights violations. Stemming from Council resolutions 1102 (XL) and 1164 (XLI) (as well as from General Assembly resolution 2144 (XXI)), the Commission on Human Rights, in its resolution 9 (XXIII), interpreted its competence as including “the power to *recommend and adopt* general and specific measures to deal with violations of human rights . . .” Resolution 9 (XXIII) of the Commission was noted by the Council in the preamble to its resolution 1235 (XLII). It is significant that while earlier resolutions of the Council and the Commission referred to “*recommendations* by the Commission”, resolution 9 (XXIII) of the Commission referred to “the power to *recommend and adopt* general and specific measures”.

5. Thus the general thrust of the terms of reference is in the direction of the Council's having to approve the Commission's resolutions before they can be implemented. As regards the Commission's competence to deal with violations of human rights, the original conception was that the Commission should make “*recommendations*” to the Council. However, the Commission has interpreted its mandate as being not only to “*recommend*” but also to “*adopt*” measures to deal with violations. Each decision of the Commission should be assessed independently. As a general rule, if the decision involves financial implications, the prior approval of the Council should be awaited. The same applies if the establishment of any standing intersessional subsidiary bodies are involved. In practice, the Commission's decisions have only been implemented prior to approval by the Council in limited areas where the Commission is clearly acting within its competence and where such decisions were consistent with legislative mandates established previously by the Council. In the particular case under review, we believe that the Commission is not legally precluded from taking action on draft resolution E/CN.4/1985/L.73. The issue as we see it is not whether the Commission is competent to request the Secretary-General to carry out the responsibilities entrusted to him under paragraph 4 of the draft resolution, but rather whether the Council must approve the Commission's decision before the Secretary-General can take the action requested of him. The actions requested of the Secretary-General are not ones that are exclusively within the competence of the Commission on Human Rights, particularly since they involve reporting to a principal deliberative organ of the General Assembly. In these circumstances, we believe that if the draft resolution is adopted by the Commission it would have the status of a recommendation to the Council and that approval of the Council would be necessary before the Secretary-General could act as requested in paragraph 4 of the draft resolution. The fact that the Security Council has considered and rejected a draft resolution on the situation in Lebanon which is much broader in scope even though it contains some similar provisions, does not preclude the Commission from taking action on draft resolution E/CN.4/1985/L.73 and recommending it to the Council for its consideration.

22 March 1985

10. PROPOSED PUBLICATION BY AN OUTSIDE PUBLISHER OF A BOOK OF SPEECHES AND LECTURES DELIVERED BY A UNITED NATIONS OFFICIAL—STAFF RULES 101.6 (e) AND 112.7 AND PARAGRAPH 14 (c) OF ADMINISTRATIVE INSTRUCTION ST/AI/189/ADD.9/REV.1 AND PARAGRAPH 8 OF ADMINISTRATIVE INSTRUCTION ST/AI/190/REV.1—QUESTION OF THE SECRETARY-GENERAL'S CONTRIBUTION OF A FOREWORD TO THE BOOK

Memorandum to the Special Assistant to the Secretary-General

1. This refers to your note of 15 March 1985, requesting my views on the following questions raised in connection with the proposed publication by an outside publisher of a book of speeches and lectures delivered by a United Nations official over the last 10 years:

- (a) To whom do the speeches of a United Nations official belong?
- (b) Might the Secretary-General contribute a foreword to the proposed book?

2. With respect to question (a) above, a distinction must be made between lectures and speeches delivered by the person in question in the course of his official duties (for example as a contribution to a conference or seminar prepared by the United Nations or its specialized agencies) and those given in his private capacity outside the framework of the United Nations.

3. In the former case, the proprietary rights are automatically vested in the United Nations, pursuant to staff rule 112.7 and paragraph 14 (c) of administrative instruction ST/AI/189/ADD.9/REV.1.

Staff rule 112.7 provides that:

"All rights, including title, copyright and patent rights, in any work performed by a staff member as part of his or her official duties shall be vested in the United Nations."

Paragraph 14 (c) of ST/AI/189/ADD.9/REV.1 provides that:

"Articles or papers prepared by staff members for inclusion in a United Nations publication, or as a contribution to a conference or seminar, are covered by the terms of staff rule 112.7 . . ." (emphasis added)

4. On the other hand, the rights to lectures and speeches delivered by the person in question in his private capacity at non-United Nations conferences and seminars belong to him. He may therefore submit them for publication by an external publisher, provided he obtains prior approval of the Secretary-General, in compliance with staff rule 101.6 (e) (iv), which provides:

"(e) Staff members shall not, except in the normal course of official duties or with the prior approval of the Secretary-General, perform any one of the following acts, if such act relates to the purpose, activities or interests of the United Nations:

. . .

- (iv) submit articles, books, or other material for publication."

Paragraph 8 of administrative instruction ST/AI/190/REV.1 provides:

" . . . The approval of the Secretary-General required in staff rule 101.6 (e) for such publication will normally be accorded, if the article, book or other material includes, where and when appropriate, the following disclaimer:

"The views expressed herein are those of the author(s) and do not necessarily reflect the views of the United Nations."

5. With respect to question (b) above regarding the Secretary-General's contribution of a foreword to the book, the decision depends primarily on policy rather than legal considerations. However, a research in our files shows that the following advice was previously given:

"As the work of the United Nations covers so many fields, it is only natural and gratifying that staff members and former staff members are authors or compilers of a large number of publications. It is difficult, however, for the Secretary-General to provide forewords for all such publications, whatever their merits, and it has thus been long-established policy that the Secretary-General should decline requests for this purpose save in the most exceptional and compelling

circumstances such as where the Secretary-General may have himself initiated the preparation of the work or where the author is a very close personal associate."

2 May 1985

-
11. PROPOSALS THAT THE GENERAL ASSEMBLY DECIDE THAT THE NEW INTEREST OR DISCOUNT RATE FOR PENSION COMMUTATION CALCULATIONS SET BY THE UNITED NATIONS JOINT STAFF PENSION BOARD IN 1984 TO BE APPLICABLE TO SERVICE AS FROM 1 JANUARY 1985 SHOULD INSTEAD BE APPLICABLE IN RESPECT OF ALL PERIODS OF SERVICE BY PARTICIPANTS AS OF SOME SPECIFIED FUTURE DATE—QUESTIONS OF COMPETENCE, ACQUIRED RIGHTS AND NON-RETROACTIVITY

*Statement made by the Legal Counsel before a working group
of the Fifth Committee on 11 December 1985*

An opinion from the Office of Legal Affairs has been requested in respect of certain suggestions advanced during the debate on the report of the Pension Fund that the General Assembly decide that the interest or discount rate of 6.5 per cent set by the United Nations Joint Staff Pension Board for the calculation of lump sums payable by the Pension Fund in partial commutation of retirement, early retirement or deferred retirement benefits due under articles 28-30 of the Regulations of the Fund, which new rate the Board set in 1984 to be applicable to service as from 1 January 1985, should instead be applicable in respect of all periods of service by participants as of some specified future date, e.g., 1 April 1986. These suggestions raise both procedural and substantive questions, which will be examined in that order.

A. PROCEDURAL QUESTIONS: COMPETENCE

The only provisions of the Regulations relevant to the setting of the interest rate to be used in calculating the value of a commuted benefit are contained in article 11, paragraph (c) of which specifies the rates to "be used in all calculations required in connection with these Regulations", and in particular sets the rate of 3.25 per cent to be used from 1 April 1961 "until changed by the Board", i.e., by the United Nations Joint Staff Pension Board established by articles 4 and 5 of the Regulations; in addition, paragraph (a) authorizes the Board to adopt and revise mortality and other tables—presumably including those from which lump sum computations are derived.

The language of these provisions is clear. It is the Board that sets these interest rates and establishes these tables, rather than any other organ established by the Regulations, such as the Committee of Actuaries or the Investment Committee, or those organs mentioned therein, such as the Secretary-General or the General Assembly itself.

Even though the Pension Board was established by and may in a sense be considered to be a subsidiary organ of the General Assembly, if the Assembly wishes to assume itself any function that it has assigned to the Board by the Regulations, then it must amend the Regulations. The adoption of such an amendment would of course be subject to article 49 of the Regulations, paragraph (a) of which requires either a recommendation of or prior consultations with the Board. As far as we know, these conditions have not yet been fulfilled in respect of such an amendment, i.e., an amendment under which the General Assembly rather than the Board would set certain interest rates relevant to the Fund.

In this connection the question has also been raised whether the Assembly could not simply direct the Board to change the interest rate or to adopt certain tables. However, it should be noted that the Board is both a tripartite body (i.e., one representing the interests of the legislative organs of the member organizations, of their executive heads and of their participants) and an inter-organizational one (i.e., one on which each participating organization is represented). The Assembly itself has specified (in article 5 (a) (i)) that it itself should have two representatives on the 21-person Board. While the Assembly can presumably instruct these two representatives, it evidently cannot instruct the others or

the Board as a whole as to any discretionary decision that under the Regulations lies within the authority of the Board.

Past practice is also relevant and significant. Three changes of the interest rate for calculating lump sum commutations have taken place since article 11 (c) of the Pension Fund Regulations was adopted in its present form: from 3.25 per cent to 4 per cent as from 1 January 1979, to 4.5 per cent from 1 January 1983 and to 6.5 per cent from 1 January 1985. Each of those changes was made by the Board. The changes to 4 per cent and 4.5 per cent were not even referred to in the General Assembly resolutions relating to the annual reports of the Board in which these changes were reported (respectively resolutions 33/120 of 19 December 1978 and 37/131 of 17 December 1982). Although the Assembly did purport to approve the increase to 6.5 per cent, this was done in the context of a portion of its resolution relating to an entire package of proposals, all other parts of which required Assembly approval (paragraph I.1 (g) of resolution 39/246 of 18 December 1984); as that decision merely confirmed the action the Board had already taken, to which a specific reference was indeed made in the resolution, no consideration had to be or was given to the legal effect or need of that part of the Assembly's decision.

Finally, it should be noted that even though it is not suggested to change the interest rate of 6.5 per cent established by the Board itself in 1984, but merely to change the period or method of its application, such a decision would not thereby be exempt from the requirements of article 11 (c) of the Regulations, for evidently the period as to which a given interest rate is to be used—or the calculation in which it is to be used—is integrally related to the rate itself, and no separation of the two parts of such a decision is possible.

B. SUBSTANTIVE QUESTIONS: ACQUIRED RIGHTS AND NON-RETROACTIVITY

The suggested change, i.e., to apply the interest rate of 6.5 per cent to the entire period of service of present Pension Fund participants and not only to periods of service as from 1 January 1985 (a date subsequent to that on which that increased rate had originally been set), also raises serious substantive problems, namely, whether such a change would not deprive participants of an acquired right or violate the prohibition against the retroactive application of changes in employment conditions.

The reason for this concern is that by applying an increased rate not only in respect of a pension to be earned during future periods of service but also in respect of past periods, affected participants will suffer an immediate reduction, from the effective date of the new regime, in the lump sums to which they are entitled. Thus, should the new rule be applied as of 1 April 1986, a staff member retiring on 31 March 1986 would have his lump sum benefit calculated using a composite rate consisting of 3.25 per cent for the portion of his service that preceded 1979, 4 per cent for the portion during the period 1979 through 1982, 4.5 per cent for 1983 and 1984 and 6.5 per cent for 1985. If he or she retires a day later, the entire calculation would be based on a 6.5 per cent rate and therefore result in a considerably reduced lump sum. As the benefit in question would all be payable in respect of past service, it clearly comes squarely within the concept of an acquired right, which may not be diminished unilaterally. Whatever else that doctrine may mean or require, the diminution of a sum of money calculated entirely on the basis of service already accomplished, is prohibited.

Indeed, until recently, there appears to have been no doubt as to this point at all. In each of its reports to the General Assembly (A/33/9, para. 93; A/37/9, para. 36; A/39/9, para. 20) the Board indicated that it was principally in order to preserve acquired rights that it would apply the new rate only prospectively, i.e., in respect of service after the end of the year during which the decision was taken. In the first two instances the Advisory Committee on Administrative and Budgetary Questions specifically noted these references to acquired rights in its reports to the Assembly but did not dispute or otherwise comment thereon (A/33/375, para. 32; A/37/674, para. 10); only last year did it state that "it does not agree that acquired rights are necessarily involved in questions relating to the discount rate" (A/39/608, para. 10), a position that it reiterated this year (A/40/848, para. 7).

Taken literally, i.e., as applying merely to the discount rate by itself, one might concur from a legal point of view with these recently expressed doubts of the Advisory Committee on Administrative and Budgetary Questions. Certainly there is no acquired right to any particular interest or discount rate, or mortality table, or method of making calculations, or to the competence of the organ that is to

determine these rates and tables or to make these calculations. However, even granting that, as the Pension Fund Board noted, "the judgements of the administrative tribunals . . . did not provide a detailed and consistent definition of what constituted 'acquired rights'" (A/40/9, para. 67), as the *Mortished* case⁴ indicates, the reduction of a sum of money payable in respect of past service has always been held to be violative of that principle.

Closely related to the issue of acquired rights, there is that of retroactivity, on which the United Nations Administrative Tribunal recently based its Judgement No. 360 in the *Taylor* case⁵ against the Pension Fund. Although in certain situations the implications of that principle may not be free of doubt, it must be pointed out that the application of an increased discount rate to establish the lump sums due in respect of pensions earned on already completed periods of service does have elements of retroactivity that are not likely to be upheld by the Tribunal. The principle is that when a staff member is working he must know what all the elements of his remuneration for that period are; no later change in the rules, even of apparently only prospective application, is admissible if its effect is to diminish an amount payable in respect of any past period of service.

Attention has also been called to the fact that if the 6.5 per cent discount rate is to be used for all past periods of service, this would also be accompanied by the retroactive introduction for all such periods of new mortality tables which, by reflecting greater longevity, would be favourable to Pension Fund participants—i.e., they would tend to increase the size of lump sums taken in partial commutation of periodic pensions. However, we understand that this favourable effect would only partially offset the negative effect of the higher discount rate. In so far as this is true, i.e., that a combination of the higher discount rate and the new mortality tables would serve to reduce lump sums due in respect of periods of service already completed, that combination would still appear to threaten acquired rights and to offend the prohibition against retroactivity.

Finally, I understand that it has been suggested that since the lump sum is merely an optional alternative to a full periodic pension, there can be no legal objection to diminishing the lump sum as long as the periodic pension is not also reduced. This is not so. If a person has a right to choose among a number of alternatives, then to diminish even one of these clearly diminishes the value of the entire package. Thus, in the matter here under consideration, a retiring participant who needs a sum of money for a particular purpose, for example, to buy a house on retirement, would obviously be injured by any reduction of the lump sum entitlement, regardless of what happens to the periodic benefit.

In conclusion, I should like to summarize that the proposal to have the General Assembly apply an increased discount rate in respect of lump sum commutation calculations to all past periods of service raises difficult points of procedure as to the limits of the Assembly's authority to do that which it has delegated to a tripartite inter-agency organ, as well as of substance relating to the acquired rights of Pension Fund participants and to their right not to have any retroactive changes imposed upon them.

-
12. APPLICATION TO DIPLOMATIC REPRESENTATIVES OF DOMESTIC LEGISLATION PROVIDING FOR PAYMENT OF A YEARLY *REDEVANCE* FOR THE USE OF HIGHWAYS—QUESTION WHETHER THE *REDEVANCE* IS TO BE CONSIDERED AS A CHARGE FOR SERVICES WITHIN THE MEANING OF ARTICLES 23 (1) AND 34 (e) OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961 OR A TAX FROM WHICH DIPLOMATIC AGENTS SHOULD BE EXEMPTED IN ACCORDANCE WITH THE GENERAL CLAUSE OF ARTICLE 34 OF THE CONVENTION—QUESTION WHETHER THE OFFICIAL VEHICLES OF THE INTERNATIONAL ORGANIZATIONS IN THE HOST COUNTRY SHOULD BE EXEMPTED FROM THE *REDEVANCE* IN THE LIGHT OF THE HEADQUARTERS AGREEMENT

Memorandum to the Director-General, United Nations Office at Geneva

1. I wish to refer to your memorandum of 30 January 1985 addressed to the Secretary-General, regarding the application of domestic legislation providing for the payment of a *redevance* for the use of highways and transmitting a copy of a letter addressed to you by the President of the Diplomatic Committee, in which it is requested that information be obtained from the Office of the Secretary-

General in New York as to what steps could be taken to protect the diplomatic privileges and immunities of representatives in the host State under the provisions of article 34 of the Vienna Convention on Diplomatic Relations of 1961.⁶

2. It has been noted from the correspondence relating to this matter that the position taken by the domestic authorities is that the *redevance* is a toll and is consequently to be considered as a charge for services within the meaning of articles 23 (1) and 34 (e) of the Vienna Convention on Diplomatic Relations of 1961, while the Diplomatic Committee has concluded that it is a tax and that diplomatic agents should, therefore, be exempted from it in accordance with the general clause of article 34 of the Convention which reads: "A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, . . ." The central issue, therefore, is whether the *redevance* is in the nature of a charge for services rendered or a tax, and the legal context in which this question must be considered is the Vienna Convention, particularly article 34 thereof.

3. As you know, article 34 does not create an exemption from all types of dues and taxes. The range and types of dues and taxes in nearly all countries today are so numerous that it is difficult to state with precision a general rule on this subject. The solution provided for in the Vienna Convention is to state a general rule followed by a list of dues, taxes, charges and fees from which diplomatic agents will not be exempt. It is accepted in international law, and the Vienna Convention has codified the matter, that there should be no exemption from taxes which are in fact no more than charges for specific services rendered. Although the Vienna Convention contains no definition of the term "charges levied for specific services rendered", practice seems to confirm that this term encompasses local rates or taxes which relate to services rendered to property and to road and bridge tolls where the proceeds are used for the maintenance of the particular road or bridge (see, for example, *Satow's Guide to Diplomatic Practice*⁷).

4. It seems clear from the foregoing that if the system of collection of the *redevance* were different, that is to say if instead of an annual fee individual tolls were collected for use of the *autoroutes*, no doubt whatsoever would exist that the charge properly falls within the meaning of article 34 (e) of the Vienna Convention. It is not the view of this Office that the character of a particular tax can be determined by the manner of its collection but rather that it must be determined by its purpose and incidence.

5. The Diplomatic Committee has specifically raised two arguments which it believes counter the characterization of the *redevance* as a service charge. The first relates to proportionality and to the fact that the fee charged is the same whether the service (i.e., the *autoroute*) is used once or many times. It is true that the fee is a fixed sum, but it should be noted that the fee is not mandatory but is imposed only on the drivers of the vehicles who wish to use the roads specified in the legislation concerned. Secondly, you raise the question of the use of the fee and the need to demonstrate that the proceeds are in fact dedicated exclusively to the maintenance of the roads in question. While we do not believe that international law requires the country concerned to demonstrate that the proceeds are dedicated exclusively to the maintenance of the roads, there is no doubt that there must be some relation between the *redevance* and the maintenance of the roads if it is to be considered a service charge. In our view there is a relation between the *redevance* and the maintenance of the roads since the same Government which collects the *redevance* is also directly or indirectly taking care of the maintenance of roads.

6. For the foregoing reasons, the Office of Legal Affairs is of the opinion that the *redevance* is in the nature of a charge for services rendered within the meaning of article 34 (e) of the Vienna Convention.

7. There remains, finally, the question of the exemption accorded to the official vehicles of the international organizations having their seat in the State concerned, an exemption specified in article 2 (e) of the legislation. At first sight, this exemption would appear to be incompatible with the position that the *redevance* is a charge for services rendered since the Headquarters Agreement⁸ provides in section 5 (a) that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services. Competent authorities provided a justification for this exemption as follows: "... the term 'taxes for services rendered' contained in the Headquarters Agreement has been interpreted in a restrictive manner by the United Nations and [the State concerned]."

8. In effect, the notion of "charges for public utility services" which is contained in section 5 (a) of the relevant Headquarters Agreement (and section 7 (a) of the Convention on the Privileges and Immunities of the United Nations⁹) is a more restrictive notion than that of article 34 (e) of the Vienna Convention and has consistently been interpreted in a restrictive manner by the United Nations. In the view of the United Nations, the exemption from direct taxes is absolute except for the charges for public utility services, which have been strictly defined as the charges for public utilities such as water, gas and electricity. We would refer you in this regard to the legal opinion issued by our Office on 27 February 1968¹⁰ and the *Pratique suisse en matière de droit international public*, 1977.¹¹ The position taken by the authorities of the State concerned is, therefore, in our view consistent with the well-established practice under the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations and is in accordance with the constant practice of the Organization in this regard.

9. In your memorandum you also request advice as to the attitude you should adopt towards the Diplomatic Committee. The Diplomatic Committee may be informed of the position taken by the United Nations in this matter. This position is not, of course, binding on the diplomatic community in the State concerned (except for the high officials of the Organization), although it may be persuasive. It may also be noted that the exemption in favour of the Organization's official vehicles is based on a particular interpretation of the Headquarters Agreement which is not applicable to diplomatic agents. It is clear, however, that to the extent that the Diplomatic Committee maintains its opinion on the character of the *redevance*, there would appear to be a difference as to the interpretation of articles 23 and 34 of the Vienna Convention between the State concerned and some, if not all, Member States. Since the said State is a party to the Optional Protocol concerning the Compulsory Settlement of Disputes, it would be possible for any other party to invoke the procedures foreseen in the Optional Protocol. While it would not seem necessary to invoke the jurisdiction of the International Court of Justice, some other form of settlement such as an arbitration by a single arbitrator could no doubt be agreed upon. The Secretary-General would, of course, be willing to lend his good offices to the parties in seeking to arrange such a settlement.

28 February 1985

13. TRANSPORTATION OF NON-UNITED NATIONS PERSONNEL IN VEHICLES OR AIRCRAFT OF PEACE-KEEPING MISSIONS — QUESTIONS OF THE LIABILITY OF THE UNITED NATIONS IN CASE AUTHORIZED VISITORS ARE INJURED OR DIE WHILE BEING TRANSPORTED IN VEHICLES OR AIRCRAFT OF A UNITED NATIONS PEACE-KEEPING MISSION

*Memorandum to the Senior Officer, Office of the Under-Secretaries-General
for Special Political Affairs*

1. The Office of Legal Affairs has re-examined the question of the liability of the United Nations for the transportation of non-United Nations personnel in vehicles or aircraft of the peace-keeping missions and, in particular, the question of whether a letter to the permanent representatives of contributing countries would be the most desirable and effective manner of dealing with this problem.

2. After further consideration, the Office of Legal Affairs has concluded that a letter from the Legal Counsel asking Governments to agree to a hold-harmless undertaking would not be effective. While such an undertaking could be effective as far as Governments are concerned, the same cannot be said of the release of third party claims by individuals.

3. The Office of Legal Affairs believes that a distinction must be drawn between passengers who are sponsored by troop-contributing countries and other passengers. In the case of the former, there is an implicit understanding between those Governments and the United Nations that the Governments concerned will hold the United Nations harmless against such claims. This implicit understanding could be made explicit by including in the "usual conditions" of approved visits an

understanding that the Government would hold harmless the United Nations in the event of the injury or death of the visitor or visitors in question. As far as other passengers are concerned, the practice which presently obtains in UNIFIL of requiring individual releases could be followed in respect of all peace-keeping missions.

22 March 1985

14. STATUS AND LEGAL RIGHTS OF THE UNITED NATIONS UNDER THE INTERNATIONAL TELECOMMUNICATION CONVENTION AND THE UNIDO HEADQUARTERS AGREEMENT IN RELATION TO COMMUNICATION FACILITIES CONTROLLED BY UNIDO IN VIENNA

Memorandum to the Assistant Secretary-General for General Services

1. By your memorandum of 25 March 1985 you have asked whether there are any legally based reasons for the United Nations to maintain ownership and control of the United Nations communication facilities (now controlled by UNIDO in Vienna) after UNIDO becomes a specialized agency.

2. The legal status and rights of the United Nations in this matter derive principally from two instruments, namely the International Telecommunication Convention¹² and the UNIDO Headquarters Agreement.¹³

3. Under the International Telecommunication Convention and the United Nations/International Telecommunication Union Agreement, the United Nations is placed substantially in the same position as States members of the Telecommunication Union and has all the rights of a member Administration, including that of registering frequencies. Specialized agencies do not have that status and all those rights. This was made clear in several resolutions of the Plenipotentiary Conference of ITU (Nairobi, 1982), namely resolutions 39, 40 and 41. Resolution 40 is of particular significance in this connection as it confirms that, notwithstanding article IV, section 11, of the Convention on the Privileges and Immunities of the Specialized Agencies,¹⁴ those agencies do not have the rights that Governments and the United Nations have under the International Telecommunication Convention.

4. Under section 4 (a) of the UNIDO Headquarters Agreement between the United Nations and Austria:

“(a) The United Nations shall for official purposes have the authority to install and operate a radio sending and receiving station or stations to connect at appropriate points and exchange traffic with the United Nations radio network. The United Nations as a telecommunications administration will operate its telecommunications services in accordance with the International Telecommunication Convention and the Regulations annexed thereto. The frequencies used by these stations will be communicated by the United Nations to the Government and to the International Frequency Registration Board.”

It should be noted that this provision refers specifically to the United Nations, even though almost all other provisions of the Agreement, including section 4 (b) (grant of appropriate radio facilities to UNIDO in conformity with technical arrangements to be made with ITU) and sections 13 and 14 (freedom of UNIDO communications from censorship; right of UNIDO to use codes and to broadcast in Austria) refer to UNIDO. It is thus clear that the Austrian Government also recognized the unique position of the United Nations in respect of telecommunications, and that however the existing Headquarters Agreement is transformed as a consequence of the separation out of UNIDO from the United Nations, the section 4 (a) rights are not ones that would be transferred to the new organization.

5. In view of the above, and also taking into account that the United Nations is the only worldwide organization in a position to operate a worldwide communication network, while organizations such as UNIDO could at best operate one terminal of such a system in a particular city, it appears entirely justified from a legal point of view for the United Nations to retain the existing communication facilities in Vienna and to establish any new ones, such as the proposed Alternate Voice and Data (AVD) circuit, under its ownership and control.

6. In this connection, it is important to note that paragraph 9 of the transitional arrangements

resolution¹⁵ authorizes the Secretary-General to transfer to the new UNIDO "the assets of the United Nations used by the existing [UNIDO]". However, the report of the formal meeting on the conversion of UNIDO into a specialized agency (Vienna, 16-20 May 1983)¹⁶ records the recognition of the participating States that changes in the existing working arrangements between the United Nations and UNIDO as a consequence of the transformation of the latter should only be made after UNIDO became a specialized agency. While the latter recommendation might inhibit changes at this time concerning any already existing facilities, the General Assembly's earlier decision indicates that to avoid differences at the time of separation any new communication facilities established by the United Nations in Vienna should from the beginning be operated under the aegis of the United Nations Office at Vienna rather than UNIDO.

7. In view of the above-mentioned legal considerations, it would appear appropriate and desirable to have the AVD circuit terminal located on UNOV the premises of the United Nations Office at Vienna and manned by the personnel of that Office.

15 April 1985

15. UNITED NATIONS JURISDICTION IN THE SPACE LEASED BY THE ORGANIZATION—SUPPLEMENTAL AGREEMENTS TO THE HEADQUARTERS AGREEMENT—RESPONSIBILITY OF THE SECURITY AND SAFETY SERVICE WITH REFERENCE TO FIRE PREVENTION AND CONTROL ARRANGEMENTS IN SPACE LEASED BY THE UNITED NATIONS

Memorandum to the Chief of the Security and Safety Services

1. This responds to your memorandum of 15 February 1985, requesting our advice on the jurisdiction of the United Nations in general and the responsibility of the Security and Safety Service in particular with reference to the subject matter dealt with in Administrative Management Service report No. 6-82, pages 13 to 15, namely, fire prevention and control arrangements in leased space, specifically the DC I, DC II and Alcoa buildings and 304 East 45th Street.

A. IMMUNITY OF PREMISES

2. Any lands or buildings occupied by the United Nations outside the original headquarters district are to be included in that district by a supplemental agreement to the Headquarters Agreement¹⁷ in accordance with section 1(a). 2 of that Agreement, which provides as follows:

"(2) Any other lands or buildings which may from time to time be included therein by supplemental agreement with the appropriate American authorities".

3. To date, three supplemental agreements have been concluded. The DC I and Alcoa buildings are already covered by the Third Supplemental Agreement, concluded in 1980. On 5 November 1984, the Office of Legal Affairs submitted to the United States Mission a draft of a fourth supplemental agreement which includes, *inter alia*, leased space in the DC II building and at 304 East 45th Street. Once the fourth supplemental agreement is concluded, the DC II building and the offices at 304 East 45th Street will be inviolable in accordance with section 9 (a) of the Headquarters Agreement, which provides as follows:

"(a) The headquarters district shall be inviolable. Federal, state, or local officers or officials of the United States, whether administrative, judicial, military or police, shall not enter the headquarters district to perform any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with the consent of and under conditions approved by the Secretary-General."

4. However, even pending the conclusion of the fourth supplemental agreement, the leased space in the UNDC II building and at 304 East 45th Street is inviolable under section 3 of the Convention on the Privileges and Immunities of the United Nations,¹⁸ which provides as follows:

"The premises of the United Nations shall be inviolable . . ."

5. Section 7 (b) of the Headquarters Agreement provides:

“(b) Except as otherwise provided in this Agreement or in the General Convention, the federal, state and local law of the United States shall apply within the headquarters district.”

6. However, under section 8 of the Headquarters Agreement,

“The United Nations shall have the power to make regulations, operative within the headquarters district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district. Any dispute, between the United Nations and the United States, as to whether a regulation of the United Nations is authorized by this section or as to whether a federal, state or local law or regulation is inconsistent with any regulation of the United Nations authorized by this section, shall be promptly settled as provided in section 21. Pending such settlement, the regulation of the United Nations shall apply, and the federal, state or local law or regulation shall be inapplicable in the headquarters district to the extent that the United Nations claims it to be inconsistent with the regulation of the United Nations. This section shall not prevent the reasonable application of fire protection regulations of the appropriate American authorities.”

B. LEGAL REGIME WITHIN UNITED NATIONS PREMISES

7. It should be noted, however, that such Headquarters regulations must be approved by the General Assembly in accordance with its resolution 481 (V) of 12 December 1950. None of the three regulations so far approved by the General Assembly are in any way relevant to fire prevention and control arrangements, and it would seem unlikely that any such regulation on this subject would be proposed by the Secretary-General or approved by the Assembly. In any event, the final sentence of section 8 of the Headquarters Agreement provides:

“This section shall not prevent the reasonable application of fire protection regulations of the appropriate American authorities.”

8. With respect to the leased premises, whether or not included by supplemental agreement in the headquarters district, it should be noted that the landlords are subject to state and city regulations and ordinances and pass on their obligation to the United Nations as tenant. As a matter of contractual obligation towards the landlords, the United Nations has undertaken in its leases to comply with the fire regulations set by the City. Thus, a fire clause is included under article 6 of the leases covering the DC I, DC II and Alcoa buildings and 304 East 45th Street, under the heading “Requirements of Law, Fire, Insurance, Flood Loads”.

C. OTHER REASONS FOR COMPLYING WITH LOCAL FIRE REGULATIONS

9. Section 17 (a) of the Headquarters Agreement provides:

“(a) The appropriate American authorities will exercise, *to the extent requested by the Secretary-General*, the powers which they possess to ensure that the headquarters district shall be supplied on equitable terms with the necessary public services, including electricity, water, gas, post, telephone, telegraph, transportation, drainage, collection of refuse, fire protection, snow removal, et cetera . . .” (emphasis added)

10. If the Organization is to benefit from the protection provided by section 17 (a), it is evidently necessary that, for practical reasons, the United Nations agrees to do so because this facilitates any action the local authorities would have to take in case of fire or other disaster. In any case, the United Nations has no choice in the matter unless and until a regulation is established under the Headquarters Agreement, as discussed in paragraph 5 above.

11. Even in the main complex, the United Nations agrees to follow City fire regulations because it acknowledges that those standards are objective and reasonable and meet the concerns of the Organization, namely, the maintenance of adequate security from fire and other hazards.

12. For the above-mentioned reasons, there should be coordination with the City of New York and direct negotiations with the City fire authorities to establish standards and procedures dealing with the prevention of fire as well as efficient means to be taken in case of a fire or other disaster in order to minimize the danger from or damage of fire. The negotiation and implementation of the coordination plan and the establishment of procedures are administrative tasks, but this Office would be prepared to assist as appropriate.

13. We suggest that, once an arrangement with the City fire authorities is completed and a coordination plan is finalized, the respective landlords should be informed of the arrangements and coordination plan. We could then seek letters of acknowledgement from them with respect to the arrangements for coordination rather than attempt to negotiate amendments to the leases currently in force, an attempt which might be resisted by the landlords.

28 May 1985

-
16. ESTABLISHMENT IN A MEMBER STATE OF EXCHANGE PARALLEL MARKET RATES—UNDER THE STANDARD BASIC ASSISTANCE AGREEMENT BETWEEN THE UNITED NATIONS DEVELOPMENT PROGRAMME AND THE MEMBER STATE CONCERNED UNDP REMAINS ENTITLED TO THE MOST FAVOURABLE RATE OF EXCHANGE

*Memorandum to the Chief of the Treasury Section,
United Nations Development Programme*

1. This is with reference to your memorandum of 2 December 1985 in which you request a legal opinion on the application of article X, paragraph 1 (e), of the Standard Basic Assistance Agreement (SBAA) concluded in 1981 between UNDP and a Member State.

2. The signature of the Agreement was accompanied by an exchange of letters recording the understandings of the Government and UNDP with regard to: (1) any new Standard Basic Assistance Agreement which UNDP might adopt for general use in the future, and (2) rights to intellectual property. Except for these understandings, the Member State concerned has accepted the Agreement without reservation or modification, in particular article X, paragraph 1 (e), which provides that the Government shall grant UNDP, its executing agencies, experts and other persons performing services on their behalf the rights and facilities of the most favourable legal rate of exchange.

3. An ordinance No. 181 concerning the exchange parallel market rates was promulgated a mere six weeks after the signing of the Agreement. Under article 1 of the ordinance, a parallel market for foreign currencies is officially created. Under this market, the purchase and sale of foreign currencies shall be in accordance with the rates of supply and demand. Article 4 provides that the parallel market rates shall be applied to all non-commercial operations, which would normally include activities of intergovernmental organizations; however, article 5 then excepts from article 4 the resources of international, regional and Arab organizations.

4. The ordinance clearly establishes a parallel market based on the market-determined rate of supply and demand as a legal rate of exchange. If this parallel rate is the most favourable rate of exchange, UNDP would in our view be entitled to that rate on the basis of article X, paragraph 1 (e), of the UNDP/SBAA notwithstanding the subsequent promulgation of the ordinance which in so far as it relates to UNDP is incompatible with the SBAA, which cannot be unilaterally modified by either party.

5. The Office of Legal Affairs, therefore, confirms that UNDP is entitled to receive the exchange parallel market rate if it is the most favourable rate of exchange, notwithstanding the apparent restrictions of article 5, paragraph B, of the ordinance.

17 December 1985

17. DISPOSAL OF AN OFFICIAL VEHICLE OF A UNITED NATIONS INFORMATION CENTRE IN THE LIGHT OF CUSTOMS REGULATIONS ISSUED IN A HOST STATE—SECTION 7 (b) OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

Memorandum to the Executive Officer, Department of Public Information

1. Your memorandum of 13 December 1985 on the disposal of an official vehicle of a United Nations Information Centre has been referred to this Office for advice.

2. We note that in this case the vehicle in question is an official vehicle of the Information Centre, that is to say it is the property of the United Nations. Section 7 (b) of the Convention on the Privileges and Immunities of the United Nations,¹⁸ to which the host State is a party, clearly stipulates that property of the United Nations shall be exempt from customs duties on imports in respect of articles imported by the United Nations for its official use. Such articles will not be sold in the country into which they were imported except under conditions agreed with the Government of the country into which they were imported.

3. The Convention on the Privileges and Immunities of the United Nations does not lay down the conditions for resale but merely the general principle, namely, that the conditions shall be agreed with the Government. Under the 1963 Customs Regulations issued in the host State, no particular problem arose if the vehicle was resold after five years since no duties were payable. Under the 1983 Customs Regulations, however, the payment of some duties is necessary. In the view of this Office, the new Customs Regulations provide a basis for the implementation of section 7 (b) of the Convention on the Privileges and Immunities of the United Nations. It should be noted first of all that the 1983 Customs Regulations are not intended to derogate from the customs exemptions granted to international organizations. Secondly, the formula which is set out in them appears to be flexible enough to permit each transaction to be considered on its own merits.

4. In the light of the foregoing, the Centre should attempt to reach agreement with the Government on the conditions for resale taking into account the Convention on the Privileges and Immunities of the United Nations and the local law. In this sense the Centre should abide by the new customs regulations.

24 December 1985

18. CONDITIONS UNDER WHICH OFFICIALS AND REPRESENTATIVES OF MEMBERS OF INTERNATIONAL ORGANIZATIONS ARE ADMITTED TO AND RESIDE IN THE UNITED STATES

Note to the Permanent Representative of a Member State to the United Nations

The Legal Counsel of the United Nations has the honour to refer to the Permanent Representative's note of 12 December 1984 addressed to the Secretary-General, requesting information with respect to the exemption from immigration laws of officials and representatives of members of international organizations in the United States.

The information which is provided below is based on the applicable law, whether an international instrument or domestic legislation giving effect to international obligations, and on the practice of the United Nations in interpreting such instruments in a universal manner.

Question (a)

[Is the exemption from immigration restrictions granted to officials and representatives of Members of the United Nations and the principal international organizations in the United States of America also granted, as a general rule, to other international organizations, whether headquartered there or not?]

Under section 7 of the United States International Organizations Immunities Act,¹⁹ representatives to international organizations (defined in the Act as a public international organization in which the United States participates) and officers and employees of such organizations, as well as members

of the immediate families of the aforementioned persons, do enjoy exemption from immigration restrictions and alien registration. With regard to the United Nations, specific provision for such exemption is made in sections 11 (d) (Representatives of Members) and 18 (d) (Officials) of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946,¹⁸ to which the United States is a party.

Question (b)

[Does the exemption from immigration restrictions mean that visas or entry permits, or both, are not required?]

Exemption from immigration restrictions does not mean that the designated beneficiaries are exempted from meeting normal travel and documentary requirements of the Government, including the issuance of visas or entry permits. However, Member States are not permitted to interpose their visa requirements in such a manner as to interfere with the privileges and immunities accorded to the exempted categories of persons. Section 13 (a) of the Headquarters Agreement²⁰ provides that where visas are required for representatives of Members or officials, experts, representatives of the media or non-governmental organizations and other persons invited to Headquarters on official business, they shall be granted without charge and as speedily as possible. In regard to United Nations officials, experts and other persons travelling on the business of the Organization, sections 25 and 26 of the Convention on the Privileges and Immunities of the United Nations also provide that applications for visas where required shall be dealt with as speedily as possible.

Question (c)

[If visas and entry permits are required, does the United States Government acknowledge *an obligation* to grant them to those who have been duly appointed or accredited as officials or representatives of members of international organizations to enable them to enter and remain in the country for the purpose of carrying out their official functions?]

The United States assumed certain obligations in this respect in sections 11 and 13 of the Headquarters Agreement.

Question (d)

[If visas are required, does the United States Government impose, or reserve the right to impose, conditions on the issue of the visas, e.g., officials or representatives of Members only to travel directly to the headquarters district or place of meeting and reside nearby, spouses not to work, etc.?]

As a general rule the United States has not imposed restrictions on movement or residence in connection with the issuance of visas. Officials of the Organization have never been subject to any such restrictions. In a small number of cases, the representatives of certain Member States have been restricted in their freedom of movement, usually on the basis of reciprocity, a restriction acquiesced in by the sending State. The United Nations does not, however, accept that the reciprocity principle applies. The right of spouses of representatives or officials to work is not dealt with in the applicable law but is largely a matter of policy and practice agreed upon between the United States and the Organization.

Question (e)

[Does the United States maintain that it has an overriding or residual *right to exclude* undesirable officials or representatives of Members on the grounds of national security, notwithstanding provisions in the relevant international instruments?]

In the rare instances where security concerns have been invoked, consultations between the Organization and the United States have usually resolved the issue. The Organization will not insist on the entry of persons with respect to whom substantial evidence of improper activities has been presented. The burden of proof in such matters lies with the host country.

Question (f)

[Does the Government reserve the right to deport alien officials and representatives of Members who abuse their privilege of residence by carrying out activities incompatible with their official status?]

Section 13 (b) of the Headquarters Agreement sets out the procedures to be followed in the event of an abuse of privilege.

Question (g)

[Does the United States Government recognize the United Nations laissez-passer as a valid travel document for use by officials not only for initial entry into its territory but also for transit and home leave?]

The United States recognizes the United Nations laissez-passer as a valid travel document in accordance with section 24 of the Convention on the Privileges and Immunities of the United Nations.

Finally, the Secretariat continues to maintain the views set out in the study of the status, privileges and immunities of the United Nations, specialized agencies and IAEA²¹ and in the legal opinions quoted in your inquiry.²²

30 January 1985

19. PERSONAL INJURY CLAIM BROUGHT AGAINST THE GOVERNMENT OF A MEMBER STATE BEFORE UNITED STATES COURTS UNDER THE FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976

*Letter to the Legal Officer of the Permanent Mission
of a Member State to the United Nations*

I wish to refer to your letter of 28 January 1985, following upon the meeting held in my office, requesting the comments or suggestions of the Office of the Legal Counsel with regard to a personal injury claim brought against your Government. Before addressing the specific points raised in your letter, we should point out that the Office of the Legal Counsel is in a position to provide legal advice to permanent missions on matters of a private law nature only to the extent that such advice concerns questions of principle involving points of international law or relations between the United Nations and the host country. For obvious reasons, this Office is not competent to provide legal advice on matters which fall under the domestic law and practice of individual Member States.

As we pointed out at our meeting, the legal basis of the claim in this case lies in the United States Foreign Sovereign Immunities Act of 1976.²³ That legislation was enacted by the United States Congress within the context of an evolving and restrictive interpretation of sovereign immunity by the international community at large, excluding, in a general way, commercial activities from the scope of sovereign immunity. As you know, the jurisdictional immunities of States and their property is a topic under active consideration by the International Law Commission and its Special Rapporteur. The essential purpose of the Foreign Sovereign Immunities Act is to submit immunity claims of foreign States to the judgement of United States courts in accordance with the principles set out in the Act. The claim in question is specifically brought pursuant to section 1605 (5) of the Act which provides, *inter alia*, that a foreign State shall not be immune from the jurisdiction of United States courts in any case in which money damages are sought for personal injury occurring in the United States and caused by the tortious act or omission of that State or any official or employee of that State.

Since the passage of the Foreign Sovereign Immunities Act in 1976, a fairly substantial jurisprudence has developed in the United States courts. Decisions arising under the Act are normally published in *International Legal Materials*, a publication of the American Society of International Law, which is readily available in the United Nations Libraries. Whether or not there are any precedents involving similar suits is a question that can only be answered after an extensive research of case-law, which this Office is not in a position to undertake. However, based on our general knowledge of the practice of the United States courts, it is our judgement that your Government would be well advised

to retain local counsel in this case with a view, if possible, to an eventual settlement out of court. Any other course of action would expose the Government to a judgement by default and possible execution by attachment of property or assets of the Government in the United States.

The questions which immediately come to mind in connection with the response to the complaint are whether or not the service of process meets the requirements of the Act, whether or not the Government can sustain a claim of immunity and, finally, whether the claim has any merit on the facts. These are questions which require familiarity with local law and practice and it is for this reason that we can confirm my oral advice to the effect that an experienced law firm be engaged by your Government.

5 February 1985

20. TRAVEL REGULATIONS OF THE HOST STATE—INCOMPATIBILITY OF THOSE REGULATIONS WITH THE INTERNATIONAL OBLIGATIONS OF THE HOST STATE UNDER THE CHARTER OF THE UNITED NATIONS, THE HEADQUARTERS AGREEMENT AND THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS—LEGAL AND PRACTICAL CAPACITY OF THE ORGANIZATION TO IMPLEMENT THE REGULATIONS

*Notes verbales to the Permanent Representative of a Member State
to the United Nations*²⁴

I

The Secretary-General of the United Nations has the honour to refer to the note of 29 August 1985 concerning certain measures that the host State Government wishes to apply to travel undertaken by members of the Secretariat of the United Nations.

A

The Secretary-General has noted with concern the suggestion in the communication that certain members of the United Nations Secretariat have engaged in espionage or other clandestine activities. At no time during his term of office has the United States Administration brought to the attention of the Secretary-General any evidence or charges against any member of the Secretariat. In the absence of any specific evidence or charges, he cannot accept any blanket, unsubstantiated accusation against members of the staff of the United Nations. The Secretary-General wishes to emphasize that, in his capacity as chief administrative officer of the United Nations, he would fully investigate information brought to his attention and would proceed to take quick and effective action against any staff member shown to have engaged in any improper activities against the security of the Host State.

B

The Secretary-General is aware that the proposed restrictive measures, which are set out in the above-mentioned note, are based on recently adopted legislation, namely certain provisions of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. While this legislation may contain certain directives addressed to organs of the United States Government, and the measures in question are evidently proposed in implementation of these directives, the Secretary-General is of the view that these measures are not compatible with the international obligations of the United States, *vis-à-vis* the Organization, under the latter's Charter, under the Headquarters Agreement and under the Convention on the Privileges and Immunities of the United Nations.

In particular:

(a) The proposed measures would seem to constitute discrimination among members of the Secretariat solely on the basis of their nationality, in violation of the principle that they are all international civil servants whose primary loyalty and responsibility are to the Organization. Any discrimination among them based on nationality runs counter to the essential character of the international civil service, as envisaged in the Charter of the United Nations. The unity of the international civil service

is absolutely essential if the Organization is to carry out its worldwide obligations with staff members whose individual nationalities might otherwise not be acceptable to the Governments with whom they have to deal or within whose jurisdiction they must operate. This principle of non-discrimination, indeed non-differentiation, is designed to protect both the Organization and its staff members, including American staff members serving in various countries.

(b) As applied to official travel, the proposed measures would improperly constrain the Secretary-General's choice of what staff members are to be assigned to carry out certain functions within the United States. The final provision of the note, whereby the United States Government reserves the right to review whether travel designated as official by the Secretary-General is "*bona fide* official travel of the United Nations", raises a particular problem with regard to the Secretary-General's independent exercise of his responsibilities under the Charter, free from national interference.

(c) As applied to private travel, in respect of which the proposed measures are even more restrictive, the question may be raised whether limiting staff members, who may spend years or even their entire working career assigned to Headquarters, to a distance of 25 miles from Columbus Circle, or just to the five boroughs of New York City, is, apart from being discriminatory, unduly onerous.

C

The note requests the Secretariat to ensure that the indicated measures are implemented. However, that would seem to be outside of both the legal and the practical capacity of the Organization. Furthermore, the Secretary-General does not see how he could instruct the Secretariat to implement measures that appear to him incompatible with the responsibilities entrusted to him by the Charter.

In view of the above, the Secretary-General would appreciate it if the United States Government could reconsider proceeding with the implementation of the proposed measures. In this connection he would like to note that the Secretary of State is given authority to waive implementation, *inter alia*, when foreign policy circumstances—which would certainly encompass relations between the United Nations and the United States—so require.

9 September 1985

II

The Secretary-General of the United Nations has the honour to refer to the note of 13 December 1985 concerning the regulation of travel of members of the Secretariat of the United Nations who are nationals of certain Member States.

In the view of the Secretary-General, these measures are similar to certain of those previously notified by the United States on 29 August 1985 in so far as they constitute a discrimination among members of the Secretariat solely on the basis of their nationality and improperly constrain the Secretary-General's functions as chief administrative officer of the Organization.

Consequently, the position taken by the Secretary-General in his note verbale of 9 September 1985 with regard to the notification of 29 August 1985, and which remains unchanged, applies also to the newly imposed travel regulations.*

14 December 1985

* Since the position of the host State remained unchanged, the Secretary-General informed staff members in information circular ST/IC/86/4 of 14 January 1986 of his views on the matter and announced the undertaking of a practical measure related to official travel of United Nations staff members in the United States:

" . . .

"2. In the course of the aforementioned discussion [with the host State], in so far as they related to official travel, the United Nations made it clear that such travel is the sole responsibility of the Organization, that arrangements for official travel must continue to be made by the United Nations in the usual way and that the Secretariat could not furnish data on such travel on a selective basis. The United States, while eventually accepting the United Nations insistence on these points, for its part insisted that it should be notified regarding official travel by staff members of the affected nationalities in the United States.

" 3. In the light of the situation thus created by the host country and in order to permit the normal functioning of the Organization within the United States and to obviate the effects of discrimination among staff members, the United Nations has undertaken, as a practical measure, to notify the host country of all official travel in the United States. In so doing, the United Nations has made it clear that it is acting on the basis of the specific obligations of both the host country and the United Nations for the protection of officials in the Organization both at Headquarters and while on official travel in the United States. In this connection reference is made, in particular, to General Assembly resolutions 39/83 of 13 December 1984 and 40/73 of 11 December 1985, in which the General Assembly has *inter alia* emphasized the duty of States to take all appropriate steps as required by international law to prevent any attacks on international and intergovernmental organizations and officials of such organizations. Reference is also made to the legislation of the host State, in particular to the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92-539 of 24 October 1972) and the Act for the Prevention and Punishment of Crimes against Internationally Protected Persons (Public Law 94-467 of 8 October 1976).

" . . . "

21. DENIAL BY A MEMBER STATE OF A REQUEST FOR THE ISSUANCE OF A VISA TO A STAFF MEMBER OF SOUTH AFRICAN NATIONALITY ASSIGNED TO A UNITED NATIONS MILITARY OBSERVER GROUP—SECTIONS 17, 18, 24 AND 25 OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

*Note verbale to the Permanent Representative of a Member State
to the United Nations*

The Legal Counsel of the United Nations has the honour to refer to the case of a United Nations staff member assigned to the United Nations Military Observer Group in . . . as secretary to the Chief Military Observer.

The United Nations has requested the competent authorities to issue a visa to the staff member concerned. The United Nations Travel Unit was orally informed on 26 February 1985 by the Counselor of the Permanent Mission that his authorities would not issue a visa in this case because of the nationality of the staff member in question (South Africa). The Travel Unit was informed that if the United Nations presented a visa application in respect of another staff member of a different nationality a visa would be granted.

The Legal Counsel of the United Nations wishes to draw the attention of the Permanent Representative to the fact that the person in question is an official of the United Nations within the meaning of section 17 of the Convention on the Privileges and Immunities of the United Nations,²⁵ to which (name of Member State) acceded, and that as such she is entitled to the privileges and immunities set out in section 18 of the Convention, including, in particular, immunity from immigration restrictions and alien registration. In addition, as a United Nations official, she is entitled to and is the holder of a United Nations laissez-passer, which shall be recognized and accepted as a valid travel document by the authorities of Member States pursuant to section 24 of the Convention.

Furthermore, section 25 of the Convention provides that applications for visas from the holders of United Nations laissez-passer shall be dealt with as speedily as possible and that such persons shall be granted facilities for speedy travel.

As the Permanent Representative will know, members of the Secretariat are international civil servants whose responsibilities are not national but exclusively international. In accordance with staff regulation 1.2, staff members are subject to the authority of the Secretary-General and to assignment by him to any office of the United Nations. In the discharge of his functions as the chief administrative officer of the Organization, the Secretary-General can make no distinction among staff members based on their nationality. Such discrimination would be contrary to the concept of the international civil service and would impede the effective functioning of the Organization.

It follows from what is stated above that by issuing a visa to the staff member in question the authorities of the State in question would not affect, change or alter in any way the State's position with respect to South Africa. Any misinterpretation in this respect could be countered by indicating

that she receives her visa exclusively because of her status as an international civil servant of the United Nations. Furthermore, the visa could be issued on the United Nations laissez-passer on which the nationality of the holder is not recorded.

13 March 1985

-
22. QUESTION WHETHER A UNITED NATIONS OFFICIAL COULD LEGITIMATELY BE REQUIRED BY A MEMBER STATE TO POSSESS A TRANSIT VISA ISSUED ONLY UPON THE SUBMISSION OF A BIRTH OR BAPTISMAL CERTIFICATE — ARTICLE 105 OF THE CHARTER OF THE UNITED NATIONS

*Memorandum to the Chief of the Legal Liaison Unit, United Nations
Industrial Development Organization*

Your cable of 5 February 1985 requested our views on a visa matter which we took some time to investigate, taking into account in particular the fact that the Member State concerned is not a party to the Convention on the Privileges and Immunities of the United Nations. Since we do not know whether we are dealing with an isolated case, we feel that at this juncture no immediate action is needed. However, any subsequent case should be taken up with the Government of the Member State concerned, and our response should be based on the following arguments:

Travel routes for United Nations officials are determined in accordance with the Staff Regulations and Rules and pertinent administrative instructions, whereby the normal route for all official travel shall be the most direct and economical route. The requirement that the official must possess a transit visa which is to be issued only upon the submission of a birth or baptismal certificate creates a specific obstacle to the travel as prescribed by the Organization. The right to freedom of movement of United Nations personnel travelling on official business from country to country has been based on the relevant provisions of the Charter of the United Nations, in particular Article 105, and on various sections of the Convention on the Privileges and Immunities of the United Nations. Although the Member State concerned has not acceded to the Convention, it has nevertheless assumed certain obligations under the Charter *vis-à-vis* the Organization. Among these is the undertaking to accord to officials such privileges and immunities as are necessary for the independent exercise of their functions. The position of the United Nations has always been to consider the mere requirement of a visa and the submission of pertinent information as unobjectionable as long as no more is involved than a formality. The action taken by the State concerned is more than just a formality and affects the Organization from the administrative point of view.

As regards the information to be submitted, the United Nations has always taken the stand that no question on religious affiliation should be asked in such documents as personal status forms. It has consistently maintained that such questions as religious affiliation are personal matters and are unrelated to the fulfilment of the purposes of the United Nations. By way of consequence, the Organization never instructs officials to comply with requests for information about religion.

15 March 1985

-
23. STIPULATION IN A FINANCE LAW ENACTED BY A MEMBER STATE THAT ALL EMPLOYEES OF INTERNATIONAL ORGANIZATIONS OF THE NATIONALITY OF THAT STATE MUST PAY ONE TWELFTH OF THEIR ANNUAL SALARY AND 20 PER CENT OF THEIR INDEMNITIES AS A SPECIAL CONTRIBUTION IN 1985 — QUESTION OF THE APPLICABILITY OF THE LAW TO UNITED NATIONS STAFF MEMBERS — SECTIONS 17 AND 18 (b) OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

*Note verbale to the Permanent Representative of a Member State
to the United Nations*

The Legal Counsel of the United Nations presents his compliments to the Permanent Representa-

tive of (name of Member State) to the United Nations and has the honour to refer to the 1985 Finance Law, articles 37 and 57 of which stipulate *inter alia* that all employees of international organizations who are of the nationality of the Member State must pay one twelfth of their annual salary and 20 per cent of their indemnities as a special contribution in 1985.

The Legal Counsel wishes to draw the attention of the Permanent Representative to the following: By decision of the General Assembly in resolution 76 (I) of 7 December 1946, all staff members of the United Nations, regardless of nationality, place of recruitment or rank, are officials within the meaning of section 17 of the Convention on the Privileges and Immunities of the United Nations and enjoy exemption from taxation on the salaries and emoluments paid to them by the United Nations pursuant to section 18 (b) of the Convention, to which the State concerned acceded on 27 April 1962. Consequently, in the view of the United Nations, the 1985 Finance Law is not applicable to United Nations staff members of the nationality of that State.

The Legal Counsel also wishes to take this opportunity to point out that article IX, paragraph 1, of the United Nations Development Programme Standard Basic Assistance Agreement, to which the State concerned is a party, also makes applicable to the United Nations and its organs, including UNDP and subsidiary organs of the United Nations acting as UNDP Executing Agencies, and to their officials, the provisions of the Convention.

The Legal Counsel would be grateful if the foregoing views of the United Nations could be brought to the attention of the appropriate authorities with a view to ensuring the non-application of the 1985 Finance Law to officials of the United Nations.

19 March 1985

-
24. TRAFFIC ACCIDENT INVOLVING AN EMPLOYEE OF A COMPANY WHICH IS A SUBCONTRACTOR TO THE UNITED NATIONS DEVELOPMENT PROGRAMME—QUESTION WHETHER THE PERSON IN QUESTION COULD BE REGARDED AS HAVING BEEN ENGAGED IN OFFICIAL BUSINESS AT THE TIME OF THE ACCIDENT

*Letter to the Permanent Representative of a Member State
to the United Nations*

I wish to refer to our meeting of 16 May 1985, at which we discussed an accident involving an employee of a company which is a subcontractor to UNDP/Office for Project Execution (OPE). You indicated that, while your authorities do not question the applicability of the UNDP/Standard Basic Assistance Agreement (SBAA) (and through the SBAA the Convention on the Privileges and Immunities of the United Nations) to this case, some questions have been raised as to whether the person in question could be regarded as having been engaged in official business at the time of the accident.

In response to your request for clarification on this point we are pleased to confirm the following: The United Nations (and UNDP) as a matter of law and practice take the view that any act which is performed by officials, experts, consultants or, in the case of UNDP, "persons performing services" for UNDP within the meaning of article IX of the UNDP/SBAA which is directly related to the mission or project, such as driving to and from a project site, would constitute *prima facie* an official act within the meaning of section 18 (a) of the Convention on the Privileges and Immunities of the United Nations. Travel to and from a project site necessarily forms part of the work of the persons engaged in the project. In the particular case of the person concerned, the fact that he was driving a project vehicle at the time of the accident would be an additional indication that *prima facie* he was performing an official act. Subsequent to our meeting, we requested information from UNDP regarding traffic accidents involving its official vehicles in Africa within the last few months and in which the Organization has followed the practice outlined above. Since December 1984 three accidents have occurred. In two of those cases the accidents occurred while the official concerned was driving to or from a project site, while in the third case the accident occurred while the official was driving from the UNDP office to the local airline office to arrange for home leave travel.

We also wish to take this opportunity to underline that, while the Secretary-General alone deter-

mines what may constitute an official act, the United Nations is under an obligation to cooperate with the appropriate authorities to facilitate the proper administration of justice and to prevent any abuse of privileges and immunities. You may, therefore, rest assured that before making a final determination under section 18 (a) of the Convention the Secretary-General always gives due consideration to all of the relevant circumstances. In the present case, if facts come to light which would indicate that it would be improper to invoke section 18 (a), the Secretary-General will refrain from doing so.

As we also informed you, the United Nations insures all of its vehicles and as a matter of policy seeks to settle all insurance claims either directly by the insurance company or, if necessary, by arbitration or judicial determination. It is not the policy of the United Nations to interpose its immunity to prevent the settlement of such claims.

22 May 1985

25. TRADE CONTROL REGULATIONS ISSUED IN A HOST STATE — APPLICABILITY OF THE REGULATIONS TO THE SHIPMENT OF FURNITURE AND PERSONAL EFFECTS TO THE HOME COUNTRY BY MEMBERS OF A PERMANENT MISSION TO THE UNITED NATIONS — ARTICLE 31 OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS

*Note verbale to the Permanent Representative of a Member State
to the United Nations*

The Legal Counsel of the United Nations presents his compliments to the Permanent Representative of (name of the host State) to the United Nations and has the honour to refer to the question of the shipment of the furniture and personal effects of members of the Permanent Mission of (name of a Member State) to the United Nations on their return to their home country. The United Nations has been advised that several members of the Permanent Mission have recently encountered difficulties in making the necessary arrangements for the shipment of their furniture and personal effects to the home country due to the trade control regulations issued in the host State.

The applicability of the regulations to the shipments of members of the Permanent Mission of (name of the Member State) to the United Nations is governed by the relevant rules of international law as well as by the language of the domestic regulations.

Under article 31 of the Vienna Convention on Diplomatic Relations of 1961,²⁶ a diplomatic agent enjoys immunity from the civil and administrative jurisdiction of the receiving State except in the case of (a) a real action, (b) an action relating to succession or (c) an action relating to any professional or commercial activity exercised by the diplomatic agent outside his official functions. The shipment of a diplomatic agent's furniture and personal effects clearly forms part of his official functions and would, therefore, be immune from the civil and administrative jurisdiction of the host State, including the regulations in question. Furthermore, the regulations themselves would seem to bear out that it was not the intention of the executive department, to which the President has delegated his authority in this respect, to prevent the shipment of furniture and personal effects by diplomatic and official personnel of the Member State in question employed by the diplomatic missions of that State or its missions to international organizations located in the host State. An appropriate section of the regulations, for example, expressly authorizes certain imports for diplomatic or official personnel, as follows:

"All transactions ordinarily incident to the importation of any goods or services into the [name of the host State] from [name of Member State] are authorized if such imports are destined for official or personal use by personnel employed by diplomatic missions [of this State] or [its] missions to international organizations located in the host State, and such imports are not for resale."

Although no equivalent export provision appears in the regulations, the logical implication of the section in question is that the exportation of furniture and personal effects lawfully imported shall be permitted.

In the light of the foregoing, the Legal Counsel would be most grateful if the Permanent Representative of (name of the host State) to the United Nations could intervene with the appropriate author-

ities with a view to facilitating the shipment of furniture and personal effects of the members of the Permanent Mission of (name of the Member State) to the United Nations who are returning to their country.

15 July 1985

B. Legal opinions of the secretariats of intergovernmental organizations related to the United Nations

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

CONSEQUENCES OF THE WITHDRAWAL OF A MEMBER STATE

Report by the Director-General²⁷

Introduction

1. This document has been prepared in pursuance of 120 EX/Decision 3.1, section III, paragraph 4, in which the Executive Board, at its 120th session, requested the Director-General:

“to study and report to the members of the Executive Board as soon as possible, and as far as possible, before the 121st session of the Board, on all the likely consequences of the withdrawal of a member State from UNESCO, in the light of precedents, if any, in UNESCO as well as other United Nations agencies, to enable the Executive Board to consider, take and suggest to the General Conference, the member States and their National Commissions, such steps as may be necessary to meet such consequences.”

2. The following matters will be considered in turn in this document:

- I. Constitutional provisions relating to withdrawal and precedents;
- II. The withdrawal of a member State and the various organs of UNESCO;
- III. Possible relations between the organization and States withdrawing;
- IV. Impact of withdrawal on the activities of the organization;
- V. Budgetary and financial consequences of withdrawal.

I. Constitutional provisions relating to withdrawal and precedents

A. CONSTITUTIONAL PROVISIONS

3. The Constitution of UNESCO did not originally contain any provision for the withdrawal of a member. The same was and still is the case with the Charter of the United Nations, to which the Constitution of UNESCO refers in assigning to the organization the objectives of international peace and of the common welfare of mankind which the Charter proclaims. Those who drafted the Charter of the United Nations took the view that it should not make express provision either to permit or to prohibit withdrawal from the Organization. They deemed that “the highest duty of the nations which will become members is to continue their cooperation within the Organization for the preservation of international peace and security. If, however, a member because of exceptional circumstances feels constrained to withdraw, and leave the burden of maintaining international peace and security on the other members, it is not the purpose of the Organization to compel that member to continue its cooperation in the organization”.²⁸

4. Similar considerations apparently prompted the decision by the Conference of Allied Ministers of Education, held in London in 1945 with a view to the establishment of UNESCO, not to include in the Constitution a provision concerning the withdrawal of members.

5. Following decisions to withdraw notified to UNESCO by Poland, Hungary and Czechoslovakia, the General Conference, meeting in July 1953 in extraordinary session, while “hoping that UNESCO will continue to adhere to the principle of universality of membership”, requested the

Director-General and the Executive Board "to consider the matter of withdrawals from the organization and if appropriate, draft amendments to the Constitution to provide for such withdrawals".

6. In March 1954, the Executive Board, having before it the study prepared by the Director-General, noted that in accordance with the Constitution no draft amendment to the Constitution could be adopted by the General Conference unless the text had been communicated to member States at least six months in advance of the session.

7. The Board therefore requested the Director-General to prepare and circulate to member States within the regulation period alternative draft amendments on the subject, to enable the General Conference to adopt them if it saw fit.

8. In July 1954 the Board considered the draft amendments prepared by the Director-General in accordance with the directives he had been given. Learning that the United Nations was going to examine its Charter with a view to its possible revision, the Board recommended that the General Conference defer consideration of the matter to its ninth session (1956) in order to be able to take account of the attitude that might be adopted by the United Nations regarding withdrawal.

9. However, at the eighth session of the General Conference, held in Montevideo from 12 November to 10 December 1954, a number of delegations—Japan, South Africa, Belgium, the United Kingdom of Great Britain and Northern Ireland, India and the United States of America—opposed postponement of consideration of the matter.

10. The General Conference then decided, on the proposal of Australia, to amend the Constitution by adding a new paragraph 6 to article II, worded as follows:

"6. Any member State or associate member of the organization may withdraw from the organization by notice addressed to the Director-General. Such notice shall take effect on 31 December of the year following that during which the notice was given. No such withdrawal shall affect the financial obligations owed to the organization on the date the withdrawal takes effect. Notice of withdrawal by an associate member shall be given on its behalf by the member State or other authority having responsibility for its international relations."

11. This provision has not been modified since and thus remains in force today.

B. PRECEDENTS

(a) *Withdrawal of Poland, Hungary and Czechoslovakia* (December 1952–January 1953)

12. Even before the eighth session of the General Conference and the introduction into the Constitution of a clause providing for withdrawal, three States members of UNESCO—Poland, Hungary and Czechoslovakia—took the decision to withdraw from the organization.

13. On 5 December 1952, the *Chargé d'affaires ad interim* of Poland in France informed the Acting Director-General by letter of the decision to withdraw taken by his Government. In this letter, UNESCO was accused *inter alia* of having "begun to become a docile instrument of the cold war".

14. On 31 December 1952, the Minister for Foreign Affairs of Hungary, and on 29 January 1953, the Ambassador of Czechoslovakia, also informed the Acting Director-General of the decision taken by their respective Governments to withdraw from the organization for reasons similar to those given above.

15. The communication of the Polish Government was sent to the Director-General while the seventh session of the General Conference was being held (November–December 1952) and the Acting Director-General was thus able to submit it direct to the Conference.

16. After considering that communication, the General Conference adopted resolution 7 C/O.13, which reads as follows:

"*Communication from the Government of Poland*

"The General Conference,

Having taken note of the communication addressed to the Director-General by the *Chargé d'affaires ad interim* of the People's Republic of Poland in France, announcing, on the orders of his Government, Poland's decision to withdraw from the organization;

"1. Declares that the allegations contained in the aforesaid communication are completely unfounded; and

"Considering that the organization was set up to ensure the cooperation of all the nations of the world in the field of education, science and culture;

"Considering that the States members of UNESCO have, in consequence, recognized the universal character of the purposes and functions of the organization, which has always faithfully observed the principle of universality in all its activities;

"2. Invites the Government of the People's Republic of Poland to reconsider its decision, and to resume its full collaboration in the organization's activities.

"Twenty-fifth plenary meeting
11 December 1952."

17. The communications from the Governments of Hungary and Czechoslovakia were submitted by the Director-General to the Executive Board at its 33rd session, which took place from 8 to 18 April 1953.

18. The Board decided to include the question on the provisional agenda of the second extraordinary session of the General Conference, recommending "that it adopt regarding these communications a position similar to that already taken at the seventh session on the communication received from Poland (cf. 7 C/Resolutions, 0.13), refuting the allegations contained in the communications and inviting the Governments concerned to reconsider their decision;"

19. Resolutions 9.1 and 9.3 adopted by the General Conference at its second extraordinary session (July 1953) reflected in all respects the recommendations of the Executive Board.

20. Poland, Hungary and Czechoslovakia rejoined UNESCO in 1954.

(b) *Withdrawal of South Africa (1955)*

21. On 5 April 1955, the Ambassador of the Union of South Africa in Paris addressed a communication to the Director-General informing him of the decision of his Government to withdraw from the organization as of 31 December 1956. That decision, according to the South African authorities, was motivated by "the interference in South Africa's racial problems by means of UNESCO publications".

22. The communication was submitted by the Director-General to the Executive Board at its 42nd session (November 1955), and the Board adopted a decision in which it:

"Declares that, in the matter of race problems, as in all other spheres, the planning and conduct of UNESCO's activities, as decided on by the General Conference, have never violated article I, paragraph 3, of the Constitution, which prohibits the organization from intervening in matters which are essentially within the domestic jurisdiction of the member States;

"Deeply regrets the decision of the Government of the Union of South Africa;

"Urgently appeals to the Government of the Union of South Africa to reconsider its decision before it takes effect".

23. South Africa ceased to be a member of UNESCO on 31 December 1956 and has maintained no relations with the organization since that time.

(c) *Notice of withdrawal of Indonesia (1965)*

24. On 12 February 1965, the Minister for Foreign Affairs of Indonesia notified the Director-General of the decision of his Government to withdraw from the organization. A similar decision of withdrawal from the United Nations and the Food and Agriculture Organization of the United Nations (FAO) had also been taken by the Indonesian Government. The reason for these decisions was the founding of the State of Malaysia and its election to the United Nations Security Council.

25. On 30 July 1966, the Indonesian Government addressed a letter to the Director-General "superseding the notice of withdrawal of 12 February 1965 which [had] not yet taken effect".

(d) *Withdrawal of Portugal (1971)*

26. On 18 June 1971, the Minister for Foreign Affairs of Portugal notified the Director-General of the decision of his Government to withdraw from the organization.

27. The grounds for this decision were said to be that "in recent years . . . the organization has deviated from its statutory purposes and taken a number of political decisions [which] were not only outside its terms of reference but were juridically forbidden to it". This decision was connected with the resolutions adopted by the General Conference concerning the Portuguese colonies (Angola, Cape Verde, Guinea-Bissau, Mozambique, Sao Tome and Principe).

28. Portugal resumed its place in UNESCO on 11 September 1974.

29. These different States which withdrew from UNESCO or regarded themselves as no longer members of UNESCO did not maintain relations with the organization and were not represented in it in any way until they returned to the organization and fully resumed their activities as member States.

(e) *Withdrawal of the United States of America*

30. On 28 December 1983, Mr. Schultz, Secretary of State of the United States of America, addressed a letter to the Director-General in accordance with the provisions of article II, paragraph 6, of the Constitution, notifying him of the withdrawal of the United States of America from the organization. (The text of the letter was reproduced as an annex to document 119 EX/14.) The United States withdrawal took effect on 31 December 1984. In this connection, Mr. Schultz addressed a communication to the Director-General on 20 December 1984, which the latter received on 4 January 1985 and the text of which is reproduced in annex I to the present document.

C. CONSTITUTIONS OF THE OTHER SPECIALIZED AGENCIES

31. The Constitutions of the agencies listed below contain provisions concerning the withdrawal of member States:

International Labour Organisation (ILO);
Food and Agriculture Organization (FAO);
International Telecommunication Union (ITU);
Universal Postal Union (UPU);
International Civil Aviation Organization (ICAO);
World Meteorological Organization (WMO);
Work Bank;
International Monetary Fund (IMF).

32. On the other hand, there is no clause in the Constitution of the World Health Organization (WHO) which relates to the withdrawal of a member State. It should be noted, however, that the resolution of the Congress of the United States of America, quoted in the instrument of ratification which the United States deposited on becoming a member of the World Health Organization, contains a provision which expressly reserves its right to withdraw, one year after giving notice, in view of the absence of any withdrawal clause in the Constitution. Several States have given notice of their decision to withdraw from WHO, including the Union of Soviet Socialist Republics, the Ukrainian Soviet Socialist Republic, Bulgaria and Albania (1949-1950). They subsequently resumed their place within WHO.

33. The withdrawal of these member States was not considered as effective by the World Health Assembly, which repeatedly invited them to take part in the activities of the organization. In May 1956, therefore, to assist them to resume their participation, and given the absence of constitutional provisions or regulations concerning withdrawal and, consequently, the financial obligations of a State giving notice of withdrawal, the World Health Assembly took the following decisions:

"The Ninth World Health Assembly,

"Having studied the recommendations of the Executive Board in resolution EB17, R27,

"Desiring to find ways and means of enabling those members who have not been actively participating in the work of the organization rapidly to resume the exercise of their rights and to fulfil their obligations,

“Considering the provisions of the Constitution governing the financial obligations of members, together with the provisions of the Financial Regulations,

“Having considered the principles and policies which should apply to the settlement of the arrears of contributions of those members,

“Considering that, during the period in which those members were not actively participating in the work of the organization the members who were actively participating carried the financial burden of the organization, bore the cost of acquiring assets which now belong to the organization, and of providing to members not actively participating certain services of the organization,

“1. Decides that contributions must be paid in full for the years during which the members participated actively in the work of the organization (including the year during which the intention of the member concerned no longer to participate in the work of the organization was communicated to the organization;

“2. Decides that, for those years during which the members did not actively participate in the work of the organization, a token payment of 5 per cent of the amount assessed each year shall be required which shall, upon payment, be considered as discharging in full the financial obligations of those members for the years concerned;

“3. Decides that the payments required under paragraphs 1 and 2 above must be paid in United States dollars or Swiss francs; and may be paid in equal annual instalments over a period not exceeding ten years beginning with the year in which active participation is resumed if the members concerned wish to take advantage of this provision of the resolution; and that payment of those annual amounts shall be construed as preventing the application of the provisions of article 7 of the Constitution;

“4. Decides that in accordance with financial regulation 5.6, payments made by the members concerned shall be credited first to the Working Capital Fund; and, further,

“5. Decides that, notwithstanding the provisions of financial regulation 5.6, payments of contributions for the years beginning with that in which the members return to active participation shall be credited to the year concerned;

“6. Requests the Director-General, as the token payments established in paragraph 2 above are received, to so adjust the accounts of the organization as is appropriate under the terms of this resolution in respect of those years;

“7. Requests the Director-General to inform the members concerned of these decisions;

“8. Expresses the hope that this decision of the Health Assembly will facilitate the resumption by the members concerned of active participation in the work of the organization.”

In May 1957, the tenth session of the World Health Assembly noted with satisfaction that Albania, Bulgaria, Poland, the Ukrainian SSR and the USSR had resumed full participation in the activities of the organization.

34. At the International Labour Organisation (ILO), the withdrawal of a member State does not take effect until two years after notification, which should be submitted to the Director-General, and provided that the member which withdraws has fulfilled all its financial obligations (article 1.5 of the Constitution). The United States of America, which withdrew from ILO on 6 November 1977, resumed its place on 18 February 1980.

35. At the Food and Agriculture Organization (FAO), the withdrawal of a member nation takes effect one year after the date of its communication to the Director-General. The member nation which withdraws must pay its contribution for the entire calendar year in which notice takes effect (article XIX). However, although its sessions are biennial, the General Conference of FAO adopts two separate draft programmes, each covering one year. The budget of the second year is purely provisional and has to be approved by the Council.

36. In the following organizations:

International Telecommunication Union (ITU);
International Civil Aviation Organization (ICAO);

Universal Postal Union (UPU);

World Meteorological Organization (WMO);

the withdrawal of a member State takes effect one year after notification is given.

37. The Constitutions of those four agencies make no explicit reference to the financial obligations of a member which withdraws.

38. The withdrawal of a member State from an international organization presents a wide variety of problems, involving among other things its obligations to the organization in question, e.g., its possible participation or that of its nationals in the work or activities of the organization and its possible representation within the organization. In fact, the withdrawal of a member State from an international organization radically alters the status which it had *vis-à-vis* that organization and has an undoubted effect on the budget of the organization.

39. These problems are examined below.

II. *The withdrawal of a member State and the various organs of UNESCO*

40. Article III of the Constitution states that UNESCO has three constitutional organs: the General Conference, the Executive Board and the secretariat.

THE GENERAL CONFERENCE

41. The General Conference consists of the representatives of the States members of the organization. A State whose withdrawal from the organization becomes effective *ipso facto* loses the right to be represented by a delegation at the sessions of the General Conference. Consequently, it is also unable to belong to the subsidiary bodies of the General Conference, i.e., the commissions (programme commissions, administrative commission) and committees (in particular the Legal Committee or the Headquarters Committee). It should be noted that at each of its ordinary sessions, the General Conference elects the member States which will sit on the Legal Committee or the Headquarters Committee until the end of the next ordinary session.

42. States which are not members of UNESCO may, however, be invited to send observers to the sessions of the General Conference, in accordance with rule 6 (4) of the Rules of Procedure of the General Conference which states that:

"The Executive Board shall before each session of the General Conference decide upon the list of States not members of UNESCO which are to be invited to send observers to that session. This decision shall be taken by a two-thirds majority. The Director-General shall notify the States which appear on this list of the convening of the session and shall invite them to send observers."

THE EXECUTIVE BOARD

43. In accordance with article V.A.1 of the Constitution, "the Executive Board shall be elected by the General Conference from among the delegates appointed by the member States and shall consist of 51 members each of whom shall represent the Government of the State of which he is a national".

44. It is clear from the wording of the relevant provisions of the Constitution, as well as from their context, that only the representatives of the Governments of member States sit on the Executive Board as members.

45. The Constitution states in article V.A.3 that the members of the Executive Board shall serve from the close of the session of the General Conference which elected them until the close of the second ordinary session of the General Conference following that election. This is a standard clause which lays down a specific length of time for the term of office.

46. The withdrawal of a State represented on the Executive Board is not specifically mentioned in article V.A.4 of the Constitution as one of the instances where the term of office of a member of the Board ends before its normal conclusion. However, when a State withdraws from the organization, its representative automatically loses the essential qualification to be a member of the Board, namely to be the representative of a member State, since non-member States are not and cannot be represented on the Executive Board.

THE SECRETARIAT

47. The Constitution states, *inter alia*, in Article VI that:

“1. The secretariat shall consist of a Director-General and such staff as may be required.

“ . . .

“4. The Director-General shall appoint the staff of the secretariat in accordance with Staff Regulations to be approved by the General Conference. Subject to the paramount consideration of securing the highest standards of integrity, efficiency and technical competence, appointment to the staff shall be on as wide a geographic basis as possible.

“5. The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive any instructions from any Government or from any authority external to the organization. They shall refrain from any action which might prejudice their positions as international officials. Each State member of the organization undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties.”

48. Furthermore, the Staff Regulations and Staff Rules state in rule 104.2, entitled “Limitations on employment”:

“(a) Except when another person equally well qualified cannot be recruited, an appointment shall not be granted to a candidate who is not a citizen of a member State.”

No provision of the Constitution or of the Staff Regulations and Staff Rules makes reference to the case of staff members engaged as citizens of a member State who are still employed when the withdrawal of that member State becomes effective.

Nothing in the existing Rules and Regulations implies that the situation of these staff members and the rights arising out of their contracts of employment can be affected by the withdrawal of the member State of which they are citizens.

However, it is clear that the number of staff members who are citizens of a State which has ceased to be a member and the importance of the offices they hold cannot fail to have an effect on, and may even result in some disturbance in, the operation of the quota system established in implementation of the decisions of the General Conference.

Furthermore, it is clear that, in accordance with rule 104.2 (a) of the Staff Regulations and Staff Rules, new staff members who are citizens of a State whose withdrawal has become effective can be recruited only in quite exceptional circumstances.

The total number of staff of United States nationality is 143 (98 staff in the Professional category and above and 45 General Service staff). The distribution of the Professional staff according to grade is as follows:

1	ADG
2	D-2
8	D-1
25	P-5
28	P-4
21	P-3
13	P-1/P-2

Among the staff in the Professional category and above listed above, 81 are paid from the regular budget of the organization. They are therefore part of the quota allotted to the United States as a member State.

49. It should be pointed out that, when the International Labour Office was obliged to eliminate a number of posts and not to renew a number of contracts in order to cope with the budget difficulties resulting from the withdrawal of the United States of America during the period from 6 November

1977 to 18 February 1980, no special measures were taken in respect of United States staff members. They were treated in the same way as officials of other nationalities. However, the Deputy Director-General, a United States national, was invited by the Director-General to submit his resignation on the basis of a mutual agreement, bearing in mind the fact that his post was one of those whose elimination had been proposed by the Director-General and approved by the Governing Body, the latter acting with the delegated authority of the International Labour Conference.

50. A major problem arises in connection with the reimbursement of the tax levied on the salaries of United States staff members of UNESCO currently in service. Under the provisions of staff rule 103.18, the organization is required to reimburse to its staff members the amount of income tax levied on their salaries and emoluments by the States of which they are nationals. That provision is worded as follows:

“(a) Income tax levied by the authorities of the country of which the staff member is a national on salaries and emoluments received by him from the organization shall, subject to the provisions of (b) below, be reimbursed by the organization;

“(b) The amount of the reimbursement shall be the difference between the tax payable on the staff member’s total income, including UNESCO earnings, and the tax which would be payable on his income excluding UNESCO earnings.”

Such reimbursements are based on the principles which require that all officials of international organizations should receive equal remuneration in their respective pay categories, independent of the influences of tax legislation. In this regard it should be pointed out that UNESCO’s Constitution incorporates, through its article XII, articles 104 and 105 of the Charter of the United Nations, the latter of which stipulates that officials of the Organization shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions.

51. Accordingly, article VI, section 19, of the Convention on the Privileges and Immunities of the Specialized Agencies provides for exemption from taxation in respect of the salaries and emoluments paid by the specialized agencies to their officials.

52. Not having ratified that Convention, the United States Government levies income tax on the salaries of its nationals who are officials of agencies of the United Nations system.

53. Nevertheless, by the terms of an agreement concluded by an exchange of letters in 1972, the United States Government undertook to pay to UNESCO the amount that the organization is required to pay to its staff members in accordance with the provisions of the staff rule governing the reimbursement of tax levied on salaries and emoluments.

54. That agreement was denounced on 14 October 1981 by the United States Government, which proposed that it be replaced by a new arrangement, one that would be less favourable inasmuch as it would result in changing the method of calculating the amount to be reimbursed by the United States, reducing that amount in relation to the amount which the organization is itself required, under its Staff Rules, to pay to the staff members concerned. Since 31 December 1982, no reimbursement has been made to UNESCO in this respect by the United States Government.

55. As the same problem has arisen in the other agencies of the United Nations, consultations have been held among the various organizations concerned, within the Administrative Committee on Coordination, and negotiations are currently under way between the United Nations Secretariat, acting on behalf of all the organizations of the United Nations system, and the competent authorities of the United States.

56. It should be noted that total reimbursements of income tax on salaries made by UNESCO to its United States staff members amounted in 1983 to \$ US 166,738.48, of which \$105,098.05 was paid as advances on income tax payable in 1983.

III. *Possible relations between the organization and States withdrawing*

57. Article VII of UNESCO’s Constitution, relating to “National Cooperating Bodies”, contains the following provisions:

"1. Each member State shall make such arrangements as suit its particular conditions for the purpose of associating its principal bodies interested in educational, scientific and cultural matters with the work of the organization, preferably by the formation of a National Commission broadly representative of the Government and such bodies.

"2. National Commissions or National Cooperating Bodies, where they exist, shall act in an advisory capacity to their respective delegations to the General Conference and to their Governments in matters relating to the organization and shall function as agencies of liaison in all matters of interest to it.

"3. The organization may, on the request of a member State, delegate, either temporarily or permanently, a member of its secretariat to serve on the National Commission of that State, in order to assist in the development of its work."

58. The existence and legal status of National Commissions are therefore governed by the domestic legislation of member States. Accordingly, the fate of the National Commission of a member State that withdraws from UNESCO depends on the domestic legislation by which it was set up.

PERMANENT DELEGATIONS

59. In accordance with a well-established practice, many member States have accredited permanent delegations to UNESCO. According to the terminology used in the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character—which has not yet come into force—"permanent mission means a mission of permanent character, representing the State, sent by a State member of an international organization to the organization" (article 1, paragraph 1 (7)).

When a State loses its membership of UNESCO, its permanent delegation also loses its *raison d'être*. It ceases to be sent by a member State and, consequently, its functions as representing that State come to an end. As a result, the arrangements between the organization and the State concerned as regards its mission and in particular the facilities it enjoys (rental of premises, distribution of documents, etc.) no longer stand. By analogy with the practice in regard to diplomatic relations, a certain "winding-up period" could be granted to the State concerned to enable it to settle all the problems related to the closing of its mission.

POSSIBILITY, FOR A NON-MEMBER STATE, OF ESTABLISHING A PERMANENT OBSERVER MISSION AT UNESCO

60. Under the terms of article II of its Constitution, UNESCO has only member States or associate members. There is no constitutional provision for the accreditation to the organization of non-member States or of States which, having been members of the organization, have decided to withdraw.

61. Article 5.2 of the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character provides that non-member States of an international organization may, if the rules of the organization concerned so allow, establish permanent observer missions for the performance of certain functions in respect of that organization. It should be noted that under the Vienna Convention—which is quoted here for documentary purposes only; it is not yet in force, as there have not been a sufficient number of ratifications—the expression "rules of the organization means, in particular, the constituent instruments, relevant decisions and resolutions, and established practices of the organization" (art. 1, paras. 1-34).

62. As far as UNESCO is concerned, the issue of admitting permanent observers of a non-member State was considered by the Executive Board at its second session in 1947. In the report which he submitted to the Board on the subject, the Director-General referred to the possibility of extending certain facilities enjoyed by the representatives of member States to delegates who might be accredited to the organization by certain States which were not yet members. The report stated:

"Such extension may, in some cases, seem advisable from the diplomatic point of view, and may facilitate the progressive participation in UNESCO activities of States which, for one reason or another, have not been able yet to accept the Constitution. The fact that a State which has not yet

joined UNESCO appoints a delegate to the organization is a sign of interest. It would therefore be advisable to give such representatives and delegates the broadest possible facilities in the accomplishment of their mission."

63. However, it was not until 6 February 1951 that the Executive Board approved the principle of the possible admission to headquarters of permanent observers from non-member States (25 EX/SR.14).

64. On 27 July 1951, following the report of its External Relations Committee, the Executive Board authorized the Director-General to grant observers from non-member States the facilities indicated in document 26 EX/22. These facilities were as follows:

"(a) Observers are issued with a laissez-passer authorizing them to attend all public meetings of the various organs of UNESCO, subject to the proviso that observers may neither sit at the meeting table or make comments except at the express invitation of the competent authority, and in accordance with the regulations in force;

"(b) Observers receive all documents supplied to permanent delegations;

"(c) Observers have access to all the various working rooms, restaurants and bars arranged for the use of permanent delegations".

It should be noted that although it refers in general terms to non-member States, this decision, its context and, in particular, the report of the Director-General which it approves, indicate that it is concerned with States that have not yet accepted the Constitution. The case of States which are no longer members of the organization—having withdrawn of their own free will—does not seem to have been envisaged. The subsequent discussion refers to non-member States, making no distinction between those that may not yet have accepted the Constitution and those that have withdrawn from the organization.

65. The renting of offices to permanent delegations was the subject of special regulations adopted by the Executive Board at its fiftieth session. This text refers only to the permanent delegations of member States. Nevertheless, it should be noted that offices have been leased to the Holy See and to the Palestine Liberation Organization (PLO), as well as to intergovernmental organizations and to international non-governmental organizations.

66. With respect to the privileges and immunities which a permanent observer mission might enjoy, this issue would have to be settled mainly between the sending State and the host State. The Headquarters Agreement concluded between UNESCO and the French Government contains no special provision for observers from non-member States. That Agreement provides only that the French authorities shall not impede the transit to or from headquarters of any persons having official duties or invited there by the organization (Art. 9, para. 1).

67. With respect to the precedent of American withdrawal from the International Labour Organisation (ILO), it should be noted that the Government of the United States did not set up a permanent observer delegation to the organization from which it had withdrawn. Nevertheless, the United States has a permanent delegation to the United Nations Office at Geneva which provides liaison with all the agencies of the United Nations system having their headquarters in Geneva.

68. The ILO office in Washington continued to operate throughout the period of withdrawal of the United States from that organization. The United States sent unofficial delegations to sessions of the International Labour Conference held during the period of withdrawal. Those delegations had no specific status and are not mentioned in the Records of the Conference.

69. As regards the establishment of a "United States observer mission to UNESCO", the Director-General wishes to inform the Executive Board that on 11 January 1985 he received the communication reproduced in annex II. The reply to that communication is given in annex III.

IV. *Impact of withdrawal on the activities of the organization*

1. IMPACT ON THE ORGANIZATION'S ACTIVITIES IN THE UNITED STATES

70. A major international organization can conduct its activities in a country only if its legal status is recognized there and if it enjoys a certain number of immunities and privileges there. The

Constitution of UNESCO also stipulates in article XII that "the provisions of Articles 104 and 105 of the Charter of the United Nations Organization concerning the legal status of that Organization, its privileges and immunities, shall apply in the same way to this organization".

71. The Convention on the Privileges and Immunities of the Specialized Agencies defines their legal status in member States and grants them the status and the rights, privileges and immunities required for the performance of their functions in their territories.

72. The United States of America has not, however, acceded to that Convention, and it is by virtue of a federal act passed by the United States Congress in 1945 (The International Organizations Immunities Act) that UNESCO enjoys, in the United States, the status, immunities and privileges required for the performance of its functions on United States territory.

73. "The International Organizations Immunities Act" defines the international organizations to which its provisions apply as those "in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate executive order", which is nevertheless subject to revocation.

74. The International Organizations Immunities Act was made applicable to UNESCO by Executive Order No. 9863, 12 *Fed.Reg.* 3559 (1947).

75. UNESCO has established two liaison offices in the United States: one in New York, the other in Washington.

76. UNESCO's liaison office in New York is the central body for liaison with the United Nations. It ensures that UNESCO is represented at the United Nations General Assembly and on its committees and commissions, at the Economic and Social Council (ECOSOC) and in its subsidiary bodies, and at the Committee for Programme and Coordination (CPC). It also provides liaison between the various units of the United Nations Secretariat and the secretariat of UNESCO. It is located on the premises of the United Nations, and this allows UNESCO staff members, their families and experts designated by the organization to enjoy the right of access to Headquarters and transit, in accordance with the provisions of the Headquarters Agreement concluded on 14 December 1946 between the United Nations and the United States. However, although staff of the office in New York and members of their families are authorized, under that Agreement, to reside in the United States, the other immunities and privileges which they enjoy, including exemption from taxation on the salaries paid to them by UNESCO, are granted to them through the International Organizations Immunities Act.

77. The Washington office, set up in 1963 and closed two years later, was reopened in 1978.

78. It is responsible for liaison with the International Bank for Reconstruction and Development, the International Development Association, the International Monetary Fund and the Organization of American States. It also liaises with the authorities of the United States and, in particular, the United States National Commission for UNESCO. The status of the Washington office and the immunities and privileges enjoyed by its officials are governed by the International Organizations Immunities Act.

79. It should be recalled, however, that the essential role of the UNESCO office in New York is to provide liaison with the United Nations and that of the UNESCO office in Washington is to provide liaison with several international organizations that have their headquarters in that city. The functions of these offices therefore concern the United Nations and the organizations located in Washington as much as they do UNESCO itself. The United States continues to be a member of these various organizations and its withdrawal from UNESCO does not seem to have affected the operations of the other organizations involved, which should continue to enjoy appropriate facilities for their relations with UNESCO. Moreover, the United Nations maintains close and constant relations with many organizations to which the United States does not belong, in particular the European Economic Community and the Council for Mutual Economic Assistance, both of which have observer status at the General Assembly of the United Nations and enjoy, in that capacity, certain facilities, privileges and immunities in the United States.

80. UNESCO also has programme activities in the United States. During the 1984-1985 bien-

nium, these included, in particular, the holding of meetings and the sending of fellowship holders to institutions of higher education.

81. There is no question but that it would become very difficult for UNESCO to continue these activities on the territory of the United States if its legal status, immunities and privileges should cease to be recognized there.

82. The withdrawal of the United States from the organization should not automatically make the International Organizations Immunities Act inapplicable to UNESCO, as this would require formal revocation by the President of the United States of the 1947 Executive Order, mentioned earlier.

83. It should be noted that the United States continued to apply the Immunities Act to the International Labour Organisation after its withdrawal in 1977. A 1979 law amended the Immunities Act in order to confirm the application of the Executive Order, which had continued to govern the situation regarding the International Labour Organisation after the withdrawal of the United States.

2. CONSEQUENCES REGARDING MULTILATERAL CONVENTIONS AND AGREEMENTS ADOPTED UNDER THE AUSPICES OF UNESCO

84. With the exception of the Beirut and Florence Agreements, conventions adopted by the General Conference are submitted to the member States for ratification and are open to the accession of any non-member State that is invited to accede to them by the Executive Board or the General Conference, as the case may be. The status of member State of UNESCO is thus a necessary condition for ratification; but while that status is required at the time when consent to be bound by the treaty is expressed, and while it determines the ratification procedure, it is not a condition of being or remaining party to the treaty. Consequently, a State which, in its capacity as a member State, has ratified conventions adopted by the General Conference does not cease to be party to those conventions merely by the fact of its withdrawal from UNESCO.

85. The Beirut and Florence Agreements, as well as all conventions adopted by international conferences of States, are open not only to the States members of UNESCO but also to every State Member of the United Nations or one of its specialized agencies, or even to any State without qualification, as the case may be. Membership of UNESCO is thus not a condition for the expression of consent to be bound by these conventions. Nor is the status of member State required in order to be or to remain party to these conventions. Consequently, a State whose withdrawal from UNESCO has become effective does not cease to be party to these conventions or agreements merely by the fact of that withdrawal.

86. As regards bodies established by conventions and agreements to which a State that has withdrawn from UNESCO is party, there is nothing to prevent that State from becoming or remaining a member of such bodies for as long as it remains party to the convention concerned. The bodies in question are the World Heritage Committee established by the Convention for the Protection of the World Cultural and Natural Heritage and the Intergovernmental Copyright Committee established by the Universal Copyright Convention. Each of these conventions provides that its committee shall be composed of States parties to the convention. Membership of UNESCO is thus not required in these instances.

87. The Convention for the Protection of the World Cultural and Natural Heritage stipulates that the World Heritage Committee shall be established under the auspices of UNESCO. This, however, does not make the Committee a subsidiary body of UNESCO. It was established by the general assembly of only the States parties to the Convention, and the fact that the Convention had been adopted by the General Conference makes no difference.

88. It should be noted that invitations to the general assemblies of parties to the Convention for the Protection of the World Cultural and Natural Heritage are issued by the Director-General of UNESCO. The Intergovernmental Copyright Committee is convened on the initiative of its Chairman. Invitations to sessions of the Committee are sent out by the Director-General of UNESCO, the organization providing the secretariat of the Committee.

89. The United States of America is party to:

the Agreement for Facilitating the International Circulation of Auditory Materials of an

Educational, Scientific and Cultural Character, adopted by the General Conference at its third session, on 10 December 1948 (Beirut Agreement);

the Agreement on the Importation of Educational, Scientific and Cultural Materials, adopted by the General Conference at its fifth session, on 17 June 1950 (Florence Agreement);

the Universal Copyright Convention and Protocols 1, 2 and 3 annexed thereto, adopted on 6 September 1952 by an international conference of States convened by UNESCO;

the Convention concerning the Exchange of Official Publications and Government Documents between States, adopted by the General Conference at its tenth session, on 3 December 1958;

the Convention concerning the International Exchange of Publications, adopted by the General Conference at its tenth session, on 3 December 1958;

the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the General Conference at its sixteenth session, on 14 November 1970;

the Universal Copyright Convention as revised at Paris on 24 July 1971 and Protocols 1 and 2 annexed thereto, adopted on 24 July 1971 by an international conference of States convened by UNESCO;

the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms, adopted on 29 October 1971 by an international conference of States convened by UNESCO;

the Convention for the Protection of the World Cultural and Natural Heritage, adopted by the General Conference at its seventeenth session, on 16 November 1972.

90. According to the general information contained in paragraphs 84 and 85 above, the United States has not ceased to be a party to these conventions or agreements by the mere fact of its withdrawal from UNESCO. As stated in paragraph 86 above, it can still become a member of the subsidiary bodies established under the conventions or agreements to which it is a party, or remain a member of such bodies.

91. Furthermore, the United States of America is a signatory to:

the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted on 14 May 1954 by an international conference of States convened by UNESCO;

the Convention relating to the Distribution of Programme-carrying Signals Transmitted by Satellite, adopted on 21 May 1974 by an international conference of States convened by UNESCO. It deposited the instrument of ratification of this Convention with the Secretary-General of the United Nations on 7 December 1984. Under the terms of the Convention, the latter will enter into force for the United States of America three months after the deposit of that instrument;

the Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region, adopted on 21 December 1979 by an international conference of States convened by UNESCO.

92. Among these conventions, a distinction should be drawn between:

- (i) The Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region, which is open "for signature and ratification by the States of the Europe region which have been invited to take part in the diplomatic conference entrusted with the adoption of this Convention . . .". On withdrawal from UNESCO, the United States will cease to belong to the "Europe region" as defined by UNESCO. It follows that the ratification procedure can no longer be open to it. On the other hand, it can accede to the Convention if so authorized by the ad hoc committee for which provision is made to that end under the Convention;
- (ii) The Convention for the Protection of Cultural Property in the Event of Armed Con-

flict, which the United States has signed but not yet ratified, and which remains open for ratification by the United States since, in accordance with its provisions, it is submitted to the signatory States for ratification.

Consequences of the withdrawal of a member State on the financing of secretariat activities relating to the UNESCO conventions to which that State is a party

93. No UNESCO convention, whether adopted by the General Conference or by a conference convened by the General Conference, contains provisions concerning the financing by the States parties to the convention of the secretariat activities entailed thereby.

94. Only the Convention for the Protection of the World Cultural and Natural Heritage institutes a fund to which the States Parties to the Convention must contribute. The resources of the fund are not allocated under the Convention to coverage of the secretariat costs of the Convention, or to coverage of the costs of the secretariat of the World Heritage Committee entrusted to the Director-General. However, further to a decision of the World Heritage Committee, which is responsible for managing the fund, a substantial sum (\$90,000 in 1985) drawn from the fund is earmarked for the remuneration of temporary staff.

95. While the UNESCO conventions contain no provisions making the States parties responsible for financing secretariat activities consequent upon the conventions, all these instruments entrust the organization with specific assignments which may be more or less onerous:

secretariat of an intergovernmental committee instituted under the Convention (Universal Copyright Convention, Convention for the Protection of the World Cultural and Natural Heritage, regional Conventions on the Recognition of Studies, Diplomas and Degrees in Higher Education, International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations);

secretariat of a particular body (for example, the Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education); in addition, the Protocol (article 9) makes the organization responsible for the travel and per diem allowances of the members of the Commission;

convening of any revision conferences (Florence Agreement, Rome Convention, Madrid Convention for the Avoidance of Double Taxation of Copyright Royalties);

collection and circulation of reports by States on implementation of the convention, publication of information and studies on the subject (Beirut, Florence and Protocol, The Hague, Illicit Dealing in Cultural Property, World Heritage, Exchanges of Publications, Protection of Phonograms, Combating Discrimination in Education);

technical assistance for implementation of the convention (The Hague, Illicit Dealing in Cultural Property, Exchanges of Publications, Protection of Phonograms);

certificates (Beirut) and advice regarding the educational, scientific or cultural character of material (Beirut, Florence and Protocol);

offer of good offices for the settlement of disputes (Illicit Dealing in Cultural Property, The Hague);

preparation of official versions of the convention in different languages (Universal Copyright Convention, satellite conventions, Convention on the Double Taxation of Copyright Royalties).

96. In all these cases, the General Conference of UNESCO has accepted the duties assigned to it in the draft convention; and in the light of that acceptance the convention has been adopted. The question arises whether the organization can require a State which is not a member State but which is a party to a convention of this kind to contribute to the secretariat costs when such a contribution to the costs is not provided for in the convention itself. It should be noted in this connection that conventions adopted within the framework of UNESCO are usually open, with no financial conditions attached, to accession by States which are not members of the organization.

97. One recent fact, however, needs to be pointed out: the secretariat of the Convention on Wetlands of International Importance especially as Waterfowl Habitat, generally known as the Ram-

sar Convention, of which UNESCO is the depositary, is provided by a non-governmental organization: the International Union for Conservation of Nature and Natural Resources (IUCN), which was assigned and accepted this task on a provisional basis. However, this work seems to be placing a heavy financial burden on IUCN, which has limited resources. In fact, the Ramsar Convention contains no provision for the financing of its secretariat, and no State contributes to its operation. In so far as IUCN wishes to continue to provide the secretariat of the Convention, it has no choice but to call for voluntary contributions or to request that the Convention be revised. It is working on this problem.

98. In the absence of binding provisions, it would therefore appear that only voluntary contributions to the financing of the secretariat work entailed by UNESCO conventions may be expected from States which, while being parties to these conventions, are not, or are no longer, members of the organization. Equity nevertheless calls for a financial contribution from the above-mentioned States to cover such costs. In the absence of such a contribution, the total costs would be borne by the States members of UNESCO, while those States which had withdrawn from the organization would continue to enjoy, free of charge, all the advantages and services contingent upon those conventions.

Possible participation by a State which has withdrawn from the organization in the various categories of meetings convened by UNESCO

99. Subject to any specific provisions contained in the regulations or agreements relating to the meetings themselves, and subject to decisions of the competent organs of UNESCO concerning such meetings, participation in them is established by the "Regulations for the general classification of the various categories of meetings convened by UNESCO".

International conferences of States (category I)

100. With regard to international conferences of States or diplomatic conferences, article 11, paragraph 1, of the above-mentioned Regulations provides that "the General Conference, or the Executive Board, authorized by it, shall decide which States shall be invited". The Regulations do not qualify the States at this point. However, paragraph 2 of the same article states that "Member States and associate members of UNESCO not invited under paragraph 1 above may send observers to the conference". Member States and associate members thus have a right to be represented by an observer at all the international conferences of States members of UNESCO, even without special invitation. The Regulations make no reference to non-member States. It should, however, be pointed out that the Executive Board has invited the Holy See to send an observer to the various conferences of States concerning the recognition of studies, diplomas, and degrees in higher education. In one case, that of the Europe region, the Holy See was invited as a chief participant. Djibouti, a non-member State, was similarly invited as a chief participant to attend the International Conference of States with a view to adoption of the Regional Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in the African States.

Intergovernmental meetings other than international conferences of States (category II)

101. With regard to such meetings, article 21, paragraph 1, of the relevant Regulations provides that "subject to the existing regulations applicable, the Executive Board, on the Director-General's proposal, shall decide on the member States and associate members whose Governments are to be invited to the meeting". Paragraph 2 specifies that "Member States and associate members not invited under paragraph 1 above may send observers to the meeting". The status of member State or associate member is therefore required here, if the country concerned is to enjoy the right to participate *fully* in these meetings or if it is to send observers. However, by virtue of paragraph 3 of article 21 of the Regulations: "The Executive Board may designate non-member States, and territories for whose international relations, a member State is responsible, to be invited to send observers to the meeting."

Non-governmental conferences (category III)

102. Non-governmental conferences, in the sense of article IV.B.3 of the Constitution, are conferences attended either by international non-governmental organizations, or by intergovernmen-

tal organizations, or by both international non-governmental and intergovernmental organizations, and addressing their conclusions either to the participating organizations or to UNESCO (article 28 of the Regulations for the general classification of the various categories of meetings convened by UNESCO).

103. In accordance with article 31 of these Regulations, member States and associate members of UNESCO may send observers. However, there are no provisions in the Regulations concerning non-member States, whose participation appears to be excluded.

International congresses (category IV)

104. International congresses are meetings of specialists serving in an individual capacity. The results of their work are addressed to the Director-General who secures their distribution and utilization in the appropriate circles (article 38 of the above-mentioned Regulations). Participants in congresses are designated individually by the Director-General, who may, for that purpose, enter into consultations with the competent authorities in member States. Persons invited to participate in a congress must, as a general rule, be nationals of States members of UNESCO or of States Members of the United Nations, but the Director-General is authorized to extend invitations to congresses to nationals of States which are not members of UNESCO or of the United Nations. For the selection of these specialists, the Director-General consults international non-governmental organizations having consultative status with UNESCO. The specialists chosen by this means are invited through such organizations, and through the same channels make known their intention of participating in the congress.

Advisory committees (category V)

105. According to article 47 of the above-mentioned Regulations, "Advisory committees are standing committees governed by statutes approved by the Executive Board and are responsible for advising the organization on special questions within their competence or on the preparation or implementation of its programme in a particular sphere."

106. Members of these committees are specialists serving either in an individual capacity or as representatives of international non-governmental organizations. They are appointed in accordance with the provisions of the statutes of these committees. Member States and associate members of UNESCO may send observers (article 50). On the other hand, no mention is made in the Regulations of non-member States, whose participation appears to be excluded.

Expert committees (category VI)

107. According to articles 56 and 57 of the Regulations, expert committees are committees set up on an ad hoc basis to submit suggestions or advice to the organization on the preparation or implementation of its programme in a particular field. They are convened by the Director-General, and the participants, who serve in a private capacity, are appointed individually, either by the Director-General or by Governments at his invitation.

108. As a general rule, meetings of expert committees are private. The Director-General may, however, if he considers it desirable from the programme point of view, invite member States and international governmental or non-governmental organizations to follow their proceedings. The participation of non-member States appears to be excluded.

Seminars and training or refresher courses (category VII)

109. According to article 65 of the Regulations, the main purpose of these meetings is to enable participants to acquire a knowledge of some subject of interest to UNESCO or to give them the benefit of experience gained in this field.

110. Participants, who are selected individually by the Director-General, are, as a general rule, nationals of States members of UNESCO or of States which are Members of the United Nations or associate members of UNESCO. As a general rule, meetings in this category are private. The Director-General may, however, if he considers it desirable from the programme point of view, invite member States and international organizations to send observers to follow their proceedings. Non-member States are not mentioned in the Regulations, and their participation appears to be excluded.

Symposia (category VIII)

111. These meetings, whose purpose is to provide for an exchange of information within a

given specialty or on an interdisciplinary basis, do not usually lead to the adoption of conclusions or recommendations (article 74).

112. Participants in these meetings are designated in accordance with rules identical to those for meetings in categories V, VI and VII (cf. paras. 105-110 of this document).

113. There is no mention, in this section of the Regulations, of observers from non-member States, whose participation appears to be excluded.

Meetings convened jointly by UNESCO and an intergovernmental organization whose membership includes a non-member State of UNESCO

114. The Regulations for the general classification of the various categories of meetings convened by UNESCO remains applicable in this case. Since, however, these Regulations were drawn up for meetings convened by UNESCO alone, account is normally taken of the relevant rules applied in the other intergovernmental organization acting jointly with UNESCO.

115. Subject to the relevant General Conference resolutions and Executive Board decisions, the usual practice when a meeting is organized jointly by UNESCO and another intergovernmental organization is to invite the member States of both organizations jointly either as chief participants or, if appropriate, as observers according to the category of the meeting in question.

Place of meeting

116. With regard to countries where meetings can be held, the Regulations relating to meetings convened by UNESCO provide that, as far as categories I, II and III are concerned, the General Conference, the Executive Board, the Director-General or the body calling the conference, as the case may be, shall consider invitations received from member States. Consequently, it does not appear possible for a non-member State to host a meeting of categories I, II or III.

117. With regard to meetings in categories IV, V, VI, VII and VIII, the Regulations stipulate that the Director-General shall fix the date and place.

Intergovernmental councils and committees

118. The General Conference has instituted various intergovernmental councils and committees to guide and supervise the preparation and implementation of certain specific parts of the organization's programme. These bodies, whose meetings are assimilated to category II meetings, are as follows:

Council of the International Bureau of Education;

Intergovernmental Committee for Physical Education and Sport;

Intergovernmental Council of the International Hydrological Programme;

International Coordinating Council for the Programme on Man and the Biosphere;

Intergovernmental Council for the General Information Programme;

Executive Committee of the International Campaign for the Establishment of the Nubia Museum in Aswan and the National Museum for Egyptian Civilization in Cairo;

International Programme for the Development of Communication;

Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Cases of Illicit Appropriation.

119. These various committees are made up of member States elected or designated by the General Conference. Should a member State elected by the General Conference (or by one of its committees) decide to withdraw from the organization, it would cease to be a member of these committees as soon as its withdrawal took effect.

120. The case of the Intergovernmental Oceanographic Commission is different. Under article 4, paragraph 1, of the Commission's statutes, membership is open to any member State of any one of the organizations of the United Nations system. A member State that withdraws from UNESCO does not lose the right to remain a member of the Commission and to continue to participate in its activities. However, as mentioned earlier (paras. 93-98) in connection with activities relating to UNESCO's conventions, this question is solely one of equity. It is fundamental none the less.

Contractual arrangements (consultants, publications, studies, the purchase of equipment, fellowships)

(i) Consultants

121. Although they are not expressly mentioned in rule 104.2 of the Staff Regulations and Staff Rules (which concern staff members only), it is a corollary of the standard practice of the organization, and of item 2435 of the Manual in particular, that consultants are recruited from among nationals of member States. If the same principle is applied as for the recruitment of staff members, a national of a non-member State may be selected as a consultant only in quite exceptional circumstances, when it is impossible to find an equally well qualified person who is a national of a member State. At all events, the arrangements between the organization and the State which has withdrawn from it regarding consultations for the purpose of recruiting consultants become as a result null and void.

(ii) Publications

122. The printing of UNESCO publications normally takes place in various countries, taking into account the quality and cost of the work, terms of delivery and the transport costs involved. Unless the quality of the work so warrants it, contracts for printing or typesetting operations will not be entrusted to firms situated in non-member States of UNESCO.

(iii) Study contracts and other contractual arrangements

123. With regard to contracts for research, for writing articles or books, for public information or for organizing meetings and seminars, the choice of the contractor is made on the basis of technical competence, availability, cost considerations and other relevant factors. No existing rule requires that the individual, firm or institution concerned be located in a State member of UNESCO. At present, a large number of training courses and seminars are organized directly by UNESCO or by universities or institutions of higher learning under contract (e.g., postgraduate courses listed in paras. 10154 and 10360 of 22 C/5 Approved). Since the institutions concerned are selected for their technical competence in certain specialized fields of study, their willingness to conduct such courses and the facilities available, the fact that they are located in a member State which has withdrawn from UNESCO does not seem to affect such choice.

(iv) Equipment and supplies

124. The main considerations which are taken into account in the award of purchase contracts are the related cost of equipment, the specific requirements of the recipient member States, the after-sales service available locally and the delivery terms offered by the suppliers. The general rule is for contracts to be awarded to the lowest bidder, provided: (a) he can meet the exact specifications of the equipment needed by the member State concerned; (b) the equipment supplied is compatible with the existing equipment; and (c) servicing and maintenance are readily available on the spot. There are no particular provisions for purchases in a non-member State.

(v) Fellowships and grants

125. Whether UNESCO will place a fellow in an institution of higher education or research situated in a non-member State of UNESCO or not depends, on the one hand, on the quality or academic standard of the institution and, on the other, on the desire expressed by the recipient member State concerned. Cost factors as well as the facilities available for administering the fellowship naturally play a significant role in the choice of the institution. This applies to fellowships and grants awarded from regular programme as well as from extrabudgetary sources. However, it is reasonable to assume that the organization will have more difficulty in securing the various advantages or services referred to above in a State that ceases to be a member of UNESCO.

V. Budgetary and financial consequences of withdrawal

126. The questions to be considered here are, first, the payment of contributions to the regular budget on the basis of the assessments determined by the General Conference and, secondly, other financial matters.

PAYMENT OF CONTRIBUTIONS

127. The withdrawal of a Member State may take effect either at the end of a biennium or at the end of the first year of a biennium.

128. In the first case, the programme and budget voted by the General Conference before the withdrawal takes effect are not affected. Furthermore, the General Conference is informed, prior to the vote on the programme and budget for the following budgetary period, of the financial consequences of such withdrawal and can take the necessary measures to deal with them.

129. In the second case, it has become clear that the provisions of the Constitution (art. II, para. 6) can give rise to two interpretations. The Director-General accordingly set up a working group of four jurists, assisted as regards matters falling within their competence by the Comptroller and the Director of the Bureau of the Budget, to give an opinion on the matter.

130. The opinion submitted to the Director-General by the working group was as follows:

"In the light of the foregoing considerations, the working group concludes that, under the terms of article II, paragraph 6, of the Constitution, a State member of UNESCO whose withdrawal becomes effective on 31 December 1984 will be legally bound to discharge all financial obligations, and, in particular, to make its full financial contribution to the organization's regular budget for 1984-1985 as determined by the General Conference in resolution 16 and resolution 29.1 adopted at its twenty-second session."

131. The considerations that prompted the working group to express that opinion are set out below:

"3. The working group had before it two differing opinions from the legal service and examined in detail the respective arguments on which those opinions were based. In so far as the problem before it was linked to that of programme execution and the application of the Financial Regulations, it also took account of these aspects of the question in its opinion after hearing the explanations provided in that connection by the Comptroller and the representative of the Director of the Bureau of the Budget.

"4. All but one member of the working group rejected the view that a State whose withdrawal from the organization became effective at the end of the first year of the biennium would not be liable to pay the second half of its contribution. [This view, which was supported by one member of the working group, is set out below in paragraph 132.]

"5. It indeed appeared to the other members of the working group that that view disregarded the fundamental distinction which is made in law between the coming into being of an obligation and the actual existence of a debt on the one hand, and the date on which it has to be settled, on the other. The fact that the contribution to the biennial budget is divided into two equal instalments, payment of which is required on two different dates, does not affect the fact of the existence of the debt owed by the member State concerned to the organization. It is current practice for a debtor to have time in which to make payment. His debt exists but it does not become due for settlement until the date laid down by the relevant law, decision or contract.

"6. Article II, paragraph 6, of the Constitution, relating to the withdrawal of a Member State, provides that:

'Such notice shall take effect on 31 December of the year following that during which the notice was given. No such withdrawal shall affect the financial obligations owed to the organization on the date the withdrawal takes effect.'

"7. The working group therefore discussed the date on which member States' financial obligations as regards their contributions to the biennial budget come into being.

"8. The answer to this question is given in article IX, paragraph 2, of the Constitution, which says that 'the General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the States members of the Organization'. The English text of the Constitution makes it quite clear that the *final effect* of the decision taken by the General Conference in this respect applies to both the adoption of the budget and the apportionment of financial responsibility among the 161 member States.

"9. It is this decision of the General Conference that creates the financial obligation of member States in regard to their contributions. The budget is adopted for a two-year financial

period and the apportionment of member States' financial responsibility covers the same period of two years. Furthermore, the programme voted by the General Conference is not divided into two equal parts to be apportioned between two years, and its execution may involve less expenditure during the first year than during the second and vice versa.

"10. To allow exceptions to the rule of the unity of the programme and of the budget and admit any reduction in the financial obligations of a State that withdraws one year before the end of the financial period would be not only to abandon a claim that comes into being, legitimately and naturally, on the date of the 'final' approval of the budget and the 'final' apportionment of the scales of contribution, but also to call in question the budget and the scales of assessment as well as the programme approved by the General Conference. Here, practical arguments coincide with the logic of article II, paragraph 6, of the Constitution, which clearly states that no such withdrawal shall affect the financial obligations owed to the organization on the date the withdrawal takes effect.

"11. As a result of this article, and in accordance with 22 C/Resolutions 16 (the Appropriation Resolution for 1984-1985) and 29.1 (Scale of assessments), all the States that were members of the organization at the time of the twenty-second session of the General Conference and remained so during 1984, became debtors to the organization for their assessed share of the total budget adopted. The fact that this assessed share is divided into two in no way affects the legal existence of the debt they owe to the organization, but enables them to have a longer period for payment of the second half of their debt.

"12. This interpretation of article IX of the Constitution corresponds to the interpretation given by the International Court of Justice to Article 17 of the Charter of the United Nations, the wording of which is almost identical to the wording of the Constitution. In its opinion of 20 July 1962 on certain expenses of the United Nations, the Court declared:

'By Article 17, paragraph 1, the General Assembly is given the power not only to "consider" the budget of the Organization, but also to "approve" it. The decision to "approve" the budget has a close connection with paragraph 2 of Article 17, since thereunder the Assembly is also given the power to apportion the expenses among the Members and the exercise of the power of apportionment creates the obligation, specifically stated in Article 17, paragraph 2, of each Member to bear that part of the expenses which is apportioned to it by the General Assembly.'

"13. It cannot be overemphasized that the arguments used to counter the view of the majority of the group and based on the fact that the two halves of the contributions are paid on different dates, are in opposition to the principle of the unity of the programme and of the budget permitting its execution. The organization's practice, in accordance with the financial regulations, of dividing contributions into two halves payable at the beginning of each of the two years of the biennium, is motivated by considerations of financial convenience since UNESCO has a Working Capital Fund and does not immediately need all the contributions, and since the contributions of States in most cases come from annual budgets. This practice in no way affects the unity of the biennial contribution nor the date on which member States' obligations come into being. Article 5, paragraph 3, of the Financial Regulations clearly underlines the difference existing between the total 'commitments in respect of contributions to the budget and advances to the Working Capital Fund' and the request to member States at the beginning of the financial period to 'remit one half of their contributions for the two-year financial period'.

"14. The working group also recalled that article II, paragraph 6, of the Constitution, which deals with withdrawal, was not adopted until 1954 at the eighth session of the General Conference, i.e., two years after the Conference had decided that the organization's programme, budget and financial period would henceforth cover a two-year period and had amended the Constitution and Financial Regulations accordingly.

"15. The debates of the Legal Committee in 1954 have been taken to back up an interpretation of article II, paragraph 6, of the Constitution as limiting the financial obligations of a State

whose withdrawal became effective on 31 December 1984 to half of its contribution for the 1984-1985 biennium. The working group, however, considers that these debates show that States which withdraw are required to pay the contributions due for the full financial period.

"16. Reference should be made to the events and records of the eighth session of the General Conference.

"17. On the instructions of the Executive Board, the Director-General submitted to the General Conference a draft amendment to article II of the Constitution making it possible for any member to withdraw from the organization, provided that one year's notice was given, to run from the date on which that notice was communicated.

The text of the amendment was as follows:

'Any member State or associate member State of the United Nations Educational, Scientific and Cultural Organization may withdraw from the organization by notice addressed to the Director-General. Such notice shall take effect one year after the date of its receipt by the Director-General. No such withdrawal shall affect the financial obligations owed to the organization at the date of withdrawal.'

"18. When submitting this draft amendment, the Legal Adviser pointed out 'that it had given rise to three proposed amendments, submitted by the Belgian, United States and Australian delegations respectively. The third of those proposals had been withdrawn . . . The Belgian delegation's draft amendment²⁹ provided for the withdrawal of a member State on 31 December of the year following that during which notice was given. The United States delegation's amendment³⁰ stipulated that the financial obligations of the State should continue throughout the financial period in which its withdrawal took effect.' The Legal Adviser concluded that those two draft amendments were in keeping with the spirit of the draft amendment to the Constitution. *He added that, in conformity with the Financial Regulations and the Constitution, member States were required to pay the contributions due for the whole financial period, and he asked the Committee to examine the Belgian and United States drafts in turn.* (Records of the fifth meeting of the Legal Committee, 26 November 1954.)

"19. This latter statement, which the working group thought it relevant to stress, was not disputed. The Belgian amendment led to a modification in the wording of the draft submitted by the Director-General, such that the date on which notice took effect was deferred until 31 December of the year following the year in which the notice was given.

"20. With regard to the financial obligations of the State concerned, however, the amendment finally adopted corresponded perfectly in spirit with the draft for which the Legal Adviser had given the above-mentioned interpretation without being contradicted. The two statements by the Belgian and American delegates, at least in the form in which they were reported, were certainly somewhat ambiguous, and the withdrawal of the American amendment may be interpreted in various ways. It seems reasonable to suppose that the General Conference and no doubt the American delegation itself were of the view that the interpretation given by the Legal Adviser made any further clarification unnecessary. In any case, the withdrawal of the American amendment, and two isolated statements—which can in any case be interpreted in two different ways—cannot be used as grounds for saying that the budgetary obligations of the State whose withdrawal might take effect on 31 December 1984 would be confined to one half of its contribution for the 1984-1985 biennium."

132. As stated above (in paragraph 4 of the quotation contained in paragraph 131), one member of the working group expressed a dissenting view, which is reproduced below:

"In support of the thesis that the financial obligations of the United States of America for the 1984-1985 budget are confined to 1984, the following arguments may be put forward:

"A. While it is true that, in conformity with paragraph 6 of article II of the Constitution, the withdrawal of the United States of America—which may take effect on 31 December 1984—'shall not affect the financial obligations owed to the organization on the date the withdrawal takes effect', this is a *general* provision which must be applied to all categories of financial obligations, namely:

- (i) *legal obligations*, the legal basis for which is:
either the Constitution (financial contribution to the budget provided for by article IX, para. 2);
or a normative instrument (such as the Convention for the Protection of the World Cultural and Natural Heritage);
- (ii) *contractual obligations*, the legal basis for which is an agreement between UNESCO and the United States of America (such as the memorandum concerning the International Programme for the Development of Communication (IPDC), dated 30 September 1983);
- (iii) *obligations contracted unilaterally*, the legal basis for which is a unilateral undertaking by the United States of America to provide a voluntary contribution (such as its commitments concerning Moenjodaro).

"The withdrawal of the United States of America will clearly not have identical effects on these various categories of financial obligations: for several of these obligations, the legal basis will not be affected by *discontinued membership of the United States of America*. This applies to all contractual obligations and all unilaterally contracted obligations, and to all legal obligations whose legal basis is not the Constitution. The United States of America will therefore have to continue to meet them *even after the date of withdrawal*.

"B. With regard to *financial contributions to the regular budget* of the organization, their legal basis is neither contractual nor unilateral, *but solely the Constitution*. Accordingly, the fact that a member State voted for or against the budget at the General Conference, or that it was absent, in no way alters its legal obligation to contribute financially to that budget, precisely because the legal basis for that obligation is not its participation in the vote on the resolution, but the Constitution itself.

"C. The Appropriation Resolution of the General Conference *therefore serves merely to give effect to the legal obligation imposed by the Constitution itself; the resolution does not give rise to the obligation*, which derives from the membership of UNESCO of the State concerned; the resolution is concerned merely with *distributing budgetary income* by apportioning 'financial responsibility among the States members of the Organization' as provided for in article IX, paragraph 2, of the Constitution.

"D. Since the legal basis of the obligation to contribute to the budget of the organization is the Constitution, it is also in the Constitution that the reason and *grounds for the legal obligation accepted by the United States of America* are to be sought. It is in fact in terms of its *membership of UNESCO* that the financial obligation requiring the United States of America to contribute to the budget is defined. This conclusion, which may be deduced both from the context and from the actual text of article II, paragraph 6, of the Constitution ('Membership'), is borne out by the provisions of article IX ('Budget'), paragraph 2 of which stipulates quite naturally that 'the General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the States members of the organization . . .' In other words, the very text of the Constitution implies that the extent of financial obligations concerning the regular budget of the organization *must be the consequence of membership, and not the consequence of the duration of the financial period of the organization*. It follows that if the grounds for the obligation cease to exist, the obligation itself cannot but lapse, unless the treaty has expressly provided for it to continue for a certain period of time — which is not the case with UNESCO. The very basis for the financial obligations binding on the United States of America in regard to its contribution to the budget thus necessarily confines such obligations to the period during which it remains a member, in other words until 31 December 1984.

"E. The preparatory work for paragraph 6 of article II of the Constitution, and more specifically the discussions of the Legal Committee at the eighth session of the General Conference (Montevideo, 1954), in any case leave little doubt as to the extent of the obligation binding on a withdrawing State. The statement made by the Legal Adviser to the Committee that is being quoted to justify the obligation for such a State to pay its full contribution cannot stand, because it was only the lead-in to a discussion in which it was very clearly contradicted by the statements of

the representatives of Belgium, the United Kingdom and the United States of America. The fact is that the Committee *did not adopt the United States draft amendment*, the effect of which would indeed have been to *dissociate* the date on which the financial obligations accepted by a State by virtue of its membership ceased to be effective—the point being that the United States amendment provided expressly that a withdrawing State should meet its financial obligations until the end of the financial period. *That amendment was withdrawn*. The preparatory work therefore confirms that it was the Committee's intention that the two dates should coincide, which means that a withdrawing State's financial participation in the budget is confined to the period during which it remains a member of the organization.

"F. It may moreover be asked what, in the last analysis, would be the practical consequences of the provision of the Constitution that clearly specifies the date on which the withdrawal takes effect, if that date were to have no effect on the amount of the contribution to the regular budget: a State would forfeit, by definition, all its *rights* as a member while nevertheless continuing to assume its *obligations* as a member in relation to the regular budget.

"G. It may be asked, finally, whether the application of the provisions of the financial regulations envisaging the possibility of supplementary estimates does not render 'manifestly . . . unreasonable' (according to the expression in the Vienna Convention on the Law of Treaties) the interpretation that would involve extending the financial obligations of the United States to include 1985, even though that country will no longer be a member of the organization, will no longer have a representative on the Executive Board and will obviously not be represented at the 1985 General Conference. Article 3.9 of the Financial Regulations provides for the possibility of supplementary estimates, with the provisional approval of the Executive Board, to a total of 7.5 per cent of the existing appropriation and subject to the final approval of the General Conference *at the end of the financial period* in question, particularly if the estimates exceed this percentage. If the financial obligations of the United States under the regular budget were also to encompass 1985, it would follow that the General Conference could, retroactively, and *in the total absence* of the State concerned, increase its financial obligations for 1985. This situation is the inevitable consequence of the rule of *budgetary unity*, which is recognized by the United Nations and UNESCO alike."

133. If one examines withdrawals from the organization in the past, one finds that all the States that have withdrawn from UNESCO, or which have considered themselves to have done so, have paid in full their assessed contribution for the financial period under way or ending on the date of their withdrawal.

134. On rejoining the organization, Poland, Hungary and Czechoslovakia had to pay their budgetary contribution for the period during which they had decided not to belong to UNESCO. By a decision of the General Conference, they were allowed to repay by instalments the amounts due by way of arrears of contributions. Repayment was made in full, although Poland and Czechoslovakia initially maintained that they had ceased to be members of the organization in 1953 and that they did not therefore intend to pay that part of their contributions for the period 1953-1954 which fell due in 1953. The Contributions Committee and the General Conference itself did not accept that point of view (cf. Resolutions 1954—Report of the Administrative Commission—Collection of Contributions).

135. With regard to South Africa, whose withdrawal became effective on 31 December 1956, all the contributions owing from that country were paid in full before the effective date of the withdrawal (rate of contribution for 1955-1956: 0.70 per cent; 1955: \$66,440, and 1956: \$73,560).

136. With regard to Portugal, whose withdrawal—notified on 18 June 1971—became effective on 31 December 1972, full payment of its contribution for the financial period 1971-1972 was made on 30 October 1974.

137. The withdrawal of the United States of America confronts the organization with a serious financial problem which has implications not only for the execution of the programme for 1984-1985 but also for future activities. The financial contribution of the United States of America amounts to \$43,087,500 *for each of the years* of the budgetary period 1984-1985.

138. It is for the Executive Board to indicate the measures that should be taken to cope with the financial situation arising from the withdrawal of the United States of America.

139. With regard to the *budget for the period 1984-1985, the divergence of views and interpretations of the constitutional texts and regulations that may occur as to whether the United States is liable or not liable to pay the second instalment of its contribution*, as fixed by the General Conference before the notification of that State's withdrawal, by 22 C/Resolution 16 and 22 C/Resolution 29.1, *raises a problem of international law that the Executive Board has the power, under the Constitution, to have elucidated.*

140. The Executive Board will doubtless also wish to know what measures were taken by the International Labour Organisation (ILO) to deal with the budgetary problems resulting from the withdrawal of the United States of America.

141. To attenuate the financial consequences of that withdrawal, the Director-General of ILO took the step of appealing for voluntary contributions. A circular letter to that end was addressed to member States on 2 December 1977, i.e., less than a month after the date on which the United States left that organization.

142. The complete list of voluntary contributions received, amounting to a total of \$6,475,038, is as follows:

<i>Governments</i> <i>(French alphabetical order)</i>	<i>\$ US</i>
Germany, Federal Republic of	700,000
Saudi Arabia	208,889
Australia	125,623
Austria	54,833
Bahrain	29,469
Bangladesh	6,963
Belgium	193,993
Benin	5,000
Brazil	25,000
Burma	2,593
Cameroon	5,114
Canada	200,000
Cyprus	1,741
Denmark	100,000
Denmark (DANIDA)	100,000
Spain	80,000
Fiji	7,977
Finland	62,565
France	200,000
Ghana	18,939
Greece	33,945
Guyana	2,000
India	125,000
Indonesia	30,463
Iran (Islamic Republic of)	50,000
Iraq	1,000,000
Ireland	12,000
Japan	1,000,000
Jordan	8,704
Kenya	2,000
Kuwait	174,000
Libyan Arab Jamahiriya	200,000
Luxembourg	7,547
Madagascar	1,949

<i>Governments</i> <i>(French alphabetical order)</i>	\$ US
Nigeria	67,285
Norway	374,777
New Zealand	20,000
Pakistan	5,230
Papua New Guinea	5,572
Netherlands	400,000
Philippines	21,759
Qatar	17,407
United Kingdom	248,230
Somalia	16,877
Sri Lanka	1,741
Sweden	109,000
Sweden (SIDA)	217,794
Switzerland	100,000
Suriname	1,710
Thailand	20,000
Trinidad and Tobago	11,400
Tunisia	10,000
Venezuela	49,949
TOTAL	6,475,038

(Document of the 212th session of ILO, February-March 1980:
GB/212/PFA/1/24)

143. Switzerland also agreed to the postponement of payment of the annuities due for 1978-1979 in respect of the new ILO building. Payment of ILO's debt to the Fondation gouvernementale suisse was thus "rescheduled", so that the final date for paying off the loan was postponed by several years. This measure reduced the ILO budget for 1978-1979 by the sum of almost \$5 million (the budget provision was \$4,786,261).

144. To meet immediate financial commitments, the Director-General had recourse to various internal funds (including the Working Capital Fund). In addition, facilities were made available to ILO by a certain number of banks. In particular, the Union de Banques Suisses offered the organization credit facilities to the sum of \$15 million.

145. These facilities permitted ILO to meet the additional costs of monetary fluctuations and inflation on the basis of the budget for 1978-1979, as adjusted as a consequence of the withdrawal of the United States of America (see below).

146. The money involved was repaid, in large measure, out of the American contribution when the United States rejoined ILO.

147. It should be mentioned, finally, that the staff of ILO itself voluntarily agreed to a salary reduction of approximately 2.2 per cent for a period of some six months. The money thereby saved was paid into a fund which made it possible to remunerate, on a temporary basis, staff members whose posts had been abolished and who could not yet be redeployed to new posts. These voluntary contributions were subsequently repaid to the staff members who had made them.

Measures to be taken to deal with the budgetary deficit resulting from the withdrawal of a member State

148. The financial consequences which would arise from the withdrawal of a member State could be dealt with in two different ways: either by finding additional resources to offset the possible financial losses, or by reducing all or part of the organization's expenditures.

149. If the solution of reducing all or part of the expenditures were chosen, three possible courses of action might be envisaged, from the theoretical point of view, with regard to the programme.

150. The first approach would consist in eliminating—or putting into abeyance—entire parts of the programme (major programme, programme or possibly subprogrammes). The effect of this course of action would be to limit the action taken to certain groups of programmes. In such a case, it would be easy to identify the posts which would need to be abolished, since they would correspond to the programmes eliminated. There would, however, be difficulties of several kinds: in the first place, there would be a danger that international cooperation would no longer extend to fields regarded as essential by certain or by several member States and, secondly, cooperation between UNESCO and sizeable sectors of the intellectual educational, scientific and cultural communities would be interrupted.

151. The second approach would consist in choosing, in each major programme or in each programme, programme elements of varying importance which would be eliminated or implementation of which would be delayed. This approach would make it possible to maintain the organization's activity in practically all the fields in which it operates—and therefore to safeguard not only the greater part of the programme, but also the links with the intellectual educational, scientific and cultural communities which cooperate with UNESCO. It would be less easy to identify those posts which it could be decided to suppress, since the activities eliminated might correspond only to part of the duties linked to any given post.

152. The third approach, which is a variant of the second, would consist in reducing the resources of each major programme by a given, identical percentage. Such a solution would respect the previous decisions of the General Conference concerning the relative distribution of resources between the programmes; it would also, like the previous solution, make it possible to safeguard the links of cooperation with outside bodies and individuals. The problem of identifying the posts to be suppressed would arise in much the same terms as in the second approach. However, the redeployment of staff might more easily be sought within each major programme sector, without excluding the possibility of seeking solutions outside each of the sectors employing what is deemed to be excess staff.

Working Capital Fund

153. With regard to the Working Capital Fund, article 6.2 of the Financial Regulations states:

“6.2 There shall be established a Working Capital Fund in an amount and for purposes to be determined from time to time by the General Conference. The source of moneys of the Working Capital Fund shall be advances from member States, and these advances made in accordance with the scale of assessments as determined by the General Conference for the apportionment of the expenses of UNESCO shall be carried to the credit of the member States which have made such advances.”

154. Since the source of moneys in the Working Capital Fund is derived from advances made by member States, these moneys remain the property of each individual member State. Consequently, the advance to the Working Capital Fund made by a member State would be repayable to the member State in the event of its withdrawal from the organization. However, in cases where there are unpaid contributions due, it is considered a normal procedure to deduct any amounts due in respect of such arrears from the advances made by the same member State to the Working Capital Fund. The same procedure would apply equally to any other amounts due to the organization by the withdrawing member State.

155. On the other hand, if the amount of the Working Capital Fund is to be maintained at the approved level (i.e., not decreased in total) an additional assessment would have to be made on the remaining member States to bring the Working Capital Fund up to its approved level.

156. *With regard to the measures taken by ILO following the withdrawal of the United States*, the following information may be found useful: the International Labour Conference had approved in June 1977 (i.e., some months before the actual withdrawal of the United States) a programme and budget for 1978-1979 based on the assumption of receiving contributions from all member States, that is to say, not taking account of the possibility of the United States' withdrawal.

157. After having received confirmation of the United States' withdrawal, in November 1977 the Director-General submitted to the 204th session of the Governing Body of ILO, which was being

held at the very time when the withdrawal became effective, a document entitled "Measures to deal with the financial situation resulting from the withdrawal of the United States".

158. In that document, after having pointed out that "the United States withdrawal already implies a loss of income in 1977, since no contribution will be received from the United States for the last two months of [that] year", and that that shortfall could be covered thanks to economies which had already been made, particularly through the freezing of some posts, the Director-General of ILO proposed, for the budgetary period 1978-1979, reductions in the programme amounting to some \$32.5 million, or 19.2 per cent of the Approved Programme and Budget for 1978-1979, which amounted to \$169,074,000. In the Director-General's words, those reductions would imply "the cancellation or postponement of a number of important meetings; a considerable slowing down of ILO's technical work; reducing the Organisation's ability to provide concrete and practical advice and assistance for its member States; reducing the administrative programmes to a level at which they will, at best, only be able to provide and maintain essential services; and the separation of a number of staff members, including, no doubt, several permanent officials, which means that ILO will have to lose the services of many competent and devoted officials".

159. These reductions were apportioned among almost all the programmes of the Organisation, some of them undergoing particularly large cuts.

160. The Governing Body, after having examined these proposals, decided on even greater programme reductions, amounting to \$36.6 million, i.e., 21.7 per cent of the Approved Programme and Budget for 1978-1979. It noted that the Director-General would seek to cover the difference between these reductions and the shortfall in income due to the departure of the United States (a difference representing \$5.7 million for the biennium), by means of voluntary contributions and further measures of rationalization.

161. At its 205th session, in February-March 1978, the Governing Body of ILO definitively approved the reductions in the programme. These reductions included a cut-back in staff resources corresponding to 263/6 work-years among the Professional staff and 342/6 work-years among the General Service staff, i.e., resources corresponding to 302 officials.

162. The Director-General of ILO informed the Governing Body at its 212th session in February-March 1980 that it had been possible, by means of the budget cuts approved by that body together with voluntary contributions, to balance the budget for the 1978-1979 financial period.

NOTES

¹A/9179/Add.1.

²For the text, see General Assembly resolution 34/180, annex; see also United Nations, *Treaty Series*, vol. 1249, p. 13.

³See *Juridical Yearbook*, 1972, p. 178.

⁴Judgement No. 273 of the United Nations Administrative Tribunal. For a summary of the judgement, see *Juridical Yearbook*, 1981, p. 115. The judgement was affirmed by the International Court of Justice in its advisory opinion of 20 July 1982, *I.C.J. Reports* 1982, p. 325; see also *Juridical Yearbook*, 1982, p. 225.

⁵For the summary of the judgement, see chapter V, p. 122 of the present *Yearbook*.

⁶United Nations, *Treaty Series*, vol. 500, p. 95.

⁷Sir Ernest Satow, *Satow's Guide to Diplomatic Practice*, edited by Lord Gore-Booth, 5th ed. (London and New York, Longman, 1979), p. 137.

⁸United Nations, *Treaty Series*, vol. 1, p. 163.

⁹*Ibid.*, vol. 1, p. 15.

¹⁰See *Juridical Yearbook*, 1968, p. 184.

¹¹"Pratique suisse en matière de droit international public, 1977", in *Annuaire suisse de droit international*, vol. XXXIV (1978), pp. 138-144.

¹²United Kingdom Treaty Series 33/185; see also Command Paper 9557.

¹³United Nations, *Treaty Series*, vol. 600, p. 93.

¹⁴*Ibid.*, vol. 33, p. 261.

¹⁵General Assembly resolution 34/96 of 13 December 1979.

¹⁶A/38/141, annex, para. 29.

¹⁷United Nations, *Treaty Series*, vol. 11, p. 11.

¹⁸*Ibid.*, vol. 1, p. 15.

¹⁹Public Law 79-291, December 1945.

²⁰United Nations, *Treaty Series*, vol. 11, p. 11.

²¹*Yearbook of the International Law Commission, 1967*, vol. II (United Nations publication, Sales No. E.68.V.2), document A/CN.4/L.118 and Add.1 and 2.

²²*Juridical Yearbook, 1969*, p. 226, and *ibid.*, 1973, p. 168.

²³Public Law 94-583, 90 STAT. 2891.

²⁴The full contents of the exchange of notes were set out in information circulars ST/IC/85/48 of 12 September 1985 and ST/IC/85/74 and Corr.1 of 17 December 1985.

²⁵United Nations, *Treaty Series*, vol. 1, p. 15.

²⁶*Ibid.*, vol. 500, p. 95.

²⁷UNESCO document 4 X/EX/2 of 28 January 1985 and Corr. 1, 2 and 4.

²⁸Decision of the San Francisco Conference meeting in plenary session on the report of its Committee 1/2. Cf. UNCTAD documents.

²⁹The text of the amendment submitted by Belgium is as follows:

"Replace the sentence: 'Such notice shall take effect one year after the date of its receipt by the Director-General', by the following:

" 'Such notice shall take effect on 31 December of the year following that during which the notice was given'."

³⁰The text of the amendment submitted by the delegation of the United States of America, to be added at the end of the first paragraph, is as follows:

"The financial obligation to the organization of a member State or associate member State which has given notice of withdrawal shall include the entire financial period in which the notice takes effect."

Part Three

JUDICIAL DECISIONS ON QUESTIONS RELATING TO THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

Chapter VII

DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS

[No decision or advisory opinion from international tribunals on questions relating to the United Nations and related intergovernmental organizations to be reported for 1985.]

Chapter VIII

DECISIONS OF NATIONAL TRIBUNALS

1. Austria

ADMINISTRATIVE COURT

APPEALS AGAINST THE DECISIONS OF THE *LAND* FINANCE ADMINISTRATION FOR VIENNA,
LOWER AUSTRIA AND BURGENLAND: JUDGEMENT OF 10 JANUARY 1985¹

Purchase of a plot of land by an official of the International Atomic Energy Agency—Joint liability of all persons involved in the acquisition process for payment of the tax—Article 17, item 4, of the Land Purchase Tax Act of 1955—If the buyer enjoys a tax exemption pursuant to the Agreement regarding the Headquarters of IAEA the sellers are held jointly liable for payment of the land purchase tax

IN THE NAME OF THE REPUBLIC

The Administrative Court, acting through Panel Chairman Karlik as presiding officer and Privy Councillors Närr and Meisl as judges, with Dr. Schöller present as secretary, has ruled as follows concerning appeal 1, dated 30 July 1984, No. GA 11-784/1/84, lodged by Mr. _____, and appeal 2, dated 30 July 1984, No. GA 11-784/84, lodged by Ms. _____, both residents of _____, both represented by _____, an attorney at _____, against the decisions of the *Land* Finance Administration for Vienna, Lower Austria and Burgenland, each relating to land purchase tax:

The appeals are denied as being without foundation.

The appellants must pay to the Federal Government costs in the amount of S 2,200 for each appeal, making a total of S 4,400, within two weeks, subject to enforcement action in the event of failure to do so.

The Federal Government's request for additional payment (S 400) is denied.

Grounds for the judgement

According to the records of the administrative proceeding, the first appellant had sold a three-quarter share and the second appellant had sold a one-quarter share of a plot of land, registration number _____, cadastral district _____, to J _____ K _____, an official of the International Atomic Energy Agency at Vienna, by means of a contract of sale dated 12/25 August 1984, for the total purchase price of 2.3 million schillings.

The *Land* Finance Administration for Vienna, Lower Austria and Burgenland, by the decisions being challenged before the Administrative Court, denied as being without foundation the protests of the two appellants against the decisions which had been taken by the _____ Finance Office on 8 August 1983 (appeal 2) and on 20 October 1983 (appeal 1) and by which an 8 per cent land purchase tax in the total amount of S 184,000 had been imposed in respect of the aforementioned purchase on the appellants, in proportion to the share owned by each. The *Land* Finance Administration, after stating the circumstances of the case, concurred in the decisions and pointed out in support thereof that the personal tax exemption of the buyer arose out of the provisions under which officials of the International Atomic Energy Agency at Vienna are entitled to exemptions pursuant to the Agreement regarding the Headquarters of the International Atomic Energy Agency, BGBI. Nr. 82/1958, in conjunction with the Vienna Convention on Diplomatic Relations, BGBI. Nr. 67/1966 (cf. the

Administrative Court's finding of 17 September 1976, Nr. 934/75, Slg. Nr. 5004/F). In this connection, the challenged authority further stated that while in the case of a contract of sale in which the buyer and seller are joint debtors it is within the discretion (art. 20, BAO) of the authority to decide from which of the joint debtors it will demand payment, there is no possibility of a discretionary decision where one of the parties to a contract of sale enjoys a personal tax exemption.

It is against these decisions of the *Land Finance Administration* for Vienna, Lower Austria and Burgenland that the present appeals, identical in tenor, have been lodged; the appeals allege illegality of substance and illegality by reason of violation of procedural regulations.

The Federal Minister of Finance submitted the documents of the administrative proceeding and the replies given by the challenged authority. The replies contain in each case the request that the appeal in question should be denied as being without foundation and that the appellants should be required to pay costs.

Because of the close substantive and personal links between the two appeals, the Administrative Court has decided that they should be considered jointly and a judgement should be rendered jointly on both, and accordingly it has taken the following into account:

In the proceeding before the Administrative Court, the appellants assert in their joint pleading in each case that they had suffered an infringement of their rights inasmuch as the disputed tax liability did not exist for them. In explanation of this interpretation of the appeal, the appellants assert, with regard to illegality of substance, in accordance with their pleading in the *administrative proceeding*, that the personal tax exemption of the buyer was assumed by the tax authorities wrongly or on the basis of insufficient examination. In view of their unfavourable income and property situation, they allege in this regard that the imposition of the land purchase tax would create all the more hardship for them because it was imposed on them solely as the result of a mistaken interpretation of the law by the challenged authority, which had altered to their detriment the decision whereby the buyer would be liable for the land purchase tax. It was stated, however, that in that legal recourse proceeding the two appellants had not been granted any legal status.

This pleading is still insufficient to justify the granting of the appeal.

According to the peremptory rule set out in article 17, item 4, of the Land Purchase Tax Act (GrESTG) of 1955, BGB1. Nr. 140, in the case of a purchase, the persons (i.e., all persons) involved in the acquisition process are liable to pay tax. According to article 6, paragraph 1, of BAO, persons liable, pursuant to the taxation regulations, for the same payment due under the tax laws are joint debtors (art. 891, ABGB).

In the disputed decision, the challenged authority rightly relied on the basic arguments in the Administrative Court's finding of 17 September 1976, Z1.934/75, Slg. Nr. 5004/F, which dealt with a set of circumstances entirely similar to those of the case now in dispute (also concerning the purchase of a plot of land by officials of the International Atomic Energy Agency at Vienna). In the aforementioned finding, the Administrative Court, citing its legal precedents, declared that the exemption from land purchase tax granted to the persons referred to in section 39 of the IAEA Headquarters Agreement, BGB1. Nr. 82/1958, was a *personal* tax exemption. The court further stated in this connection that if the buyer of a plot of land enjoys such a tax exemption, then it is not illegal for the tax authority in such a case, on the basis of the provision contained in article 17, item 4, GrESTG, to hold the seller or sellers jointly liable for payment of the tax.

The normative content of article 17, item 4, GrESTG, which has thus been recognized, has legal validity in the present appeal cases as well. The arguments advanced in the appeal on this subject do not, in view of the clear legal situation, give the Administrative Court any cause to alter its previously rendered legal opinion set out above.

But this means that in the substantive and legal circumstances, the challenged authority should not have been accused of having violated the law by requiring in the cases which are the subject of the appeal, that those joint debtors who do not enjoy any (personal) tax exemption should pay the tax.

Since the grounds alleged by the appellants have been found invalid and no relevant error of procedure could be found, it was necessary to deny the appeal as being without foundation, in accordance with article 42, paragraph 1, VwGG, and to limit the grounds for the judgement essentially to a state-

ment of the legal precedents which settle the legal question (art. 43, para. 2, VwGG); the judgement itself, however, had to be rendered by a panel established in accordance with article 12, paragraph 1, item 2, VwGG.

The prompt settlement of the appeals directly after receipt of the reply means that a formal pronouncement on the petition that the appeals should have the effect of postponing payment can be dispensed with.

The adjudication of costs is based on articles 47 et seq., VwGG, in conjunction with the Federal Chancellor's decree of 7 April 1981, BGBI. Nr. 221. The administrative documents prepared jointly in respect of the two appellants were (and could be) submitted only once.

2. Belgium

COURT OF FIRST INSTANCE OF ANTWERP

REPUBLIC OF GUINEA AND ITS PUBLIC INSTITUTIONS V. MARITIME INTERNATIONAL
NOMINEES ESTABLISHMENT: DECISION OF 27 SEPTEMBER 1985²

Attachment of assets of a party to an International Centre for Settlement of Investment Disputes—Article 26 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1965—Exclusive jurisdiction of the Centre over the dispute

The court decided to vacate attachments of assets of a party to an International Centre for Settlement of Investment Disputes proceeding on the ground that under article 26 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965³ consent to ICSID arbitration is deemed to exclude any other remedy, and accordingly domestic courts in contracting States should decline to entertain claims brought before them by one of the parties.

3. Switzerland

THE SWISS FEDERAL COURT

DECREE OF 31 JULY 1985⁴

Cantonal tax—Deductibility of interest credited to an international official—Question whether an international official can be regarded as a "taxpayer in Switzerland"

SECOND PUBLIC LAW COURT

Ruling in the public law appeal filed by

- (1) Résidence Miremont, Inc. Real Estate Corporation, Geneva,
- (2) Yvor Jackson, Geneva,

Both represented by Franco N. Croce, attorney, Geneva,

against

the decision rendered on 9 November 1983 by the Administrative Court of the Canton of Geneva in the case of the appellants versus the Canton of Geneva, represented by the Cantonal Tax Administration;

Having considered the documents of the case, which set out the following facts:

A. The Résidence Miremont Inc. Real Estate Corporation (hereinafter the Corporation) is a shareholder-tenants real estate corporation whose shareholder-tenants are at the same time unsecured lenders of large sums of money to the Corporation. While the capital of the Corporation itself amounts to about SwF102,000 (capital plus reserves), the unsecured debt exceeds SwF 7,600,000.

Among the unsecured creditors of the Corporation there were in 1979 persons not designated by name, a person of unspecified domicile and Yvor Jackson, a United Nations official of foreign nationality holding a type C accreditation card.

Under articles 66 f and 88 c of the General Act concerning Public Taxes of 9 November 1887 (hereinafter APT) of the Canton of Geneva, a real estate corporation may not deduct debts and interest on such debts unless the creditor is a "taxpayer in Switzerland".

B. On 30 November 1979 the Cantonal Tax Administration of the Republic and Canton of Geneva (hereinafter the Tax Administration) established a tax liability for 1979 for the Corporation on the basis of a profit of SwF85,175 and a capital of SwF1,624,800. The regular bill sent to the Corporation established the amount of the tax as SwF 27,160.85.

On 24 April 1980, the Tax Administration sent the Corporation an additional bill relating to the taxation of a profit of SwF42,122 and claiming a sum of SwF12,685.80. The reason for the additional bill was that a number of holders of unsecured loans did not meet the conditions specified in articles 66 f and 68 c of APT in so far as they were not taxpayers in Switzerland or were not sufficiently known. The Tax Authority had consequently classified as non-deductible interest a sum of SwF 29,808, of which SwF15,923.05 was credited to Yvor Jackson.

In an appeal of 14 May 1980, the Résidence Miremont Real Estate Corporation contested the additional tax claim. In its view, there was no doubt that Yvor Jackson must be considered a taxpayer in Switzerland. He had, furthermore, filed a tax declaration in 1979. In any case, the additional interest claimed as taxable should amount to SwF16,197 instead of SwF 29,809.

By a decision of 13 October 1980, the Tax Administration maintained its tax assessment, which was in its view in conformity with articles 68 c and 68 f of APT, which must be interpreted restrictively. Under that decision, international officials were not for tax purposes regarded as domiciled in Switzerland, in accordance with both domestic and international law (article 34 of the Vienna Convention on Diplomatic Relations of 18 April 1961⁵).

C. On 12 November 1980, the Résidence Miremont Real Estate Corporation appealed to the Cantonal Tax Appeal Commission maintaining that the interest credited to Yvor Jackson was deductible. That appeal was denied on 13 May 1982.

The Corporation then contested that decision before the Administrative Court of the Canton of Geneva by appeal of 23 June 1982.

On 9 November 1983, the Administrative Court rendered a decision rejecting the appeal essentially on the grounds that the term "taxpayer in Switzerland" employed in article 68 c of APT implied unlimited subjection to taxation in terms of both the obligation to take all the measures necessary to establish the amount of the tax and that of paying the tax. In view of the fact that Yvor Jackson, as an international official, was exempt from the taxes on income and property, he did not pay the general taxes in Switzerland and therefore could not be regarded as a "taxpayer in Switzerland". In that respect, it did not matter whether or not he was domiciled in Switzerland. The Corporation could not therefore claim deduction of the interest credited to that international official. This judgement was transmitted on 30 November 1983.

D. On 20 December 1983, the Résidence Miremont Real Estate Corporation and Yvor Jackson filed a public law appeal against the decision of the Administrative Court with the Federal Court. In addition to the annulment of the decision and the payment of costs, the appellants asked for the annulment of the Corporation's 1979 tax assessment because it disallowed the deductibility of the interest paid to Yvor Jackson by the Corporation; they also requested the Federal Court to direct "that the Cantonal Tax Administration of the Republic and Canton of Geneva submit a new tax claim for the year 1979 to the Résidence Miremont Real Estate Corporation which takes into account the deductibility of the interest credited to Mr. Yvor Jackson and the deductibility of the Real Estate Corporation's capital debt with respect to Mr. Jackson from its total taxable capital".

In support of their conclusions, the appellants maintained that the Authority referred to as well as the Cantonal Appeals Commission and the Tax Administration had interpreted the articles in question in an arbitrary and inequitable manner. That interpretation further constituted a violation of the provisions of international treaties and the principle of the overriding force of federal law. It was their view

that international officials should be regarded as taxpayers domiciled in Switzerland but enjoying exemptions in the sense that some of their income and part of their property was not subject to direct cantonal taxation. The deductibility of the interest paid to them by real estate corporations having their headquarters at Geneva should therefore be allowed.

The Council of State contested the admissibility of Yvor Jackson's legal action and concluded for the rest by rejecting the appeal.

Considering in law:

1. When a public law appeal is submitted to it, the Federal Court examines of its own motion the question of its admissibility without being bound by the conclusions of the parties or the legal arguments they have or have not utilized (ATF 109 Ia 118, 106 Ia 152, 106 Ib 126).

(a) The admissibility of a public law appeal is determined exclusively in accordance with the Federal Judicial Organization Act; the fact that the appellant has or has not been accepted as a party to the cantonal proceeding is, from this point of view, irrelevant (ATF 108 Ia 283, 105 Ia 57). Now, under article 88 OJ, individuals or groups damaged by decrees or decisions concerning them personally or of general scope are entitled to appeal. In this respect, the law requires that the appellant must show that he has a real and legal interest in the annulment of the decision attacked, a simple de facto interest or potential interest being in principle insufficient (ATF 108 Ib 124, 103 Ia 10, 101 Ia 543).

Although in the case under consideration there is no doubt as to the admissibility of the corporation's appeal, that of Yvor Jackson does not meet the requirements established under article 88 OJ. Indeed, in principle only the taxpayer directly affected by the decision has the right to appeal against his tax assessment (ATF 105 Ia 57 and references). As he is not responsible for payment of the tax under tax law, Yvor Jackson is not personally affected by the contested decision, which concerns the taxation of the corporation of which he is only one shareholder. The appellant fails to take into account the fundamental principle that the (real estate) corporation is a legal entity separate from the person of its shareholders (article 643 CO). The fact that the appellant corporation could claim an additional charge from him in order to compensate for the additional tax it must pay is not relevant and at most constitutes only a purely factual interest, not a legally protected interest.

(b) It has been consistently ruled that a public law appeal has only an annulling effect: except in the case of special circumstances—which do not exist in this case—an appellant cannot request anything but the annulment of the decision attacked (ATF 109 Ia 82 and the decrees cited). The appellant corporation's request to the Federal Court that it order the cantonal authority to prepare a new tax bill is inadmissible.

The same is true of the Résidence Miremont Real Estate Corporation's request for annulment of the tax assessment "inasmuch as it does not allow the deductibility of the interest . . ." Under Geneva tax law, the Administrative Court's authority to consider is not limited when it is ruling correctively (article 359 APT, article 9, para. 1, chap. 3, of the Act concerning the Administrative Court and the Disputes Court of 29 May 1970, article 3, para. 1 a, of the Act establishing a code of administrative procedure of 6 December 1968). The case law under which a person contesting in good time, by means of a public law appeal, a decision made by an appeals authority having limited examining authority may simultaneously contest the decision of the lower cantonal authority on points which could not be submitted to the cantonal appeals authority is inapplicable (ATF 104 Ia 204/205, 100 Ia 123).

2. The appellant argues firstly that the Administrative Court has arbitrarily interpreted or—applied—articles 66 f and 68 c of APT.

(a) Under article 90, paragraph 1 b, of OJ, an appeal, to be admissible, must contain a brief statement of the constitutional rights or legal principles violated, specifying the nature of the violation. When a public law appeal is submitted to it, it is not the function of the Federal Court itself to consider whether the contested decision violates Federal or cantonal constitutional law; it is bound by the arguments the appellant has invoked in his brief and can therefore rule only on the complaints that the appellant has not only alleged but also adequately substantiated (ATF 110 Ia 3, 107 Ia 186, 96 I 17, 451). In the case of an appeal on grounds of arbitrary action, an appellant may not simply claim such

action and oppose his own argument to that of the cantonal authority. He must demonstrate, by specific argument, that the decision made is based on a clearly untenable interpretation or application of the law (ATF 107 Ia 186). On this point, the appeal, although it was drawn up by an attorney, limited to criticisms of an appellatory nature, without attempting to demonstrate that the interpretation or application of the law is untenable; it thus obviously confuses the Federal Court, which is a court of constitutional law, with an appeals court or a corrective authority having full power of cognizance and unlimited examining authority. In these circumstances, the admissibility of this first argument is open to serious doubt; the question may, however, be left open as the allegation of arbitrary action is in any case unfounded.

(b) Under article 66 f APT, interest on debts which cannot be deducted under article 68 c is considered net taxable income. This provision, which was amended by the Act of 18 September 1989, which came into effect on 1 January 1981, formerly read as follows:

“The following is considered taxable capital:

. . .

(c) In the case of real estate corporations, that is, the legal persons enumerated in article 60 whose principal activity is the construction, possession, use, purchase and sale of buildings, the value of the buildings they possess, established pursuant to article 48, after deduction of unsecured and secured debts substantiated by certificate, excerpts from accounts or ledgers, or receipts for interest, except where the creditor is not a taxpayer in Switzerland . . .”

The question is therefore whether the cantonal judges acted arbitrarily in ruling that Yvor Jackson is not a “taxpayer in Switzerland”.

When an appeal is submitted to it alleging arbitrary interpretation of a legal provision, the Federal Court does not seek to establish the correct interpretation of the rule in question but only whether the interpretation made by the authority referred to can be objectively sustained (ATF 109 Ia 22). In the present case, on the basis of the court’s jurisprudence and case-law, the Administrative Court decided that only someone who pays all the taxes corresponding to his total financial situation in Geneva can be a “taxpayer in Switzerland” within the meaning of article 68 c, chap. 1 APT. This interpretation is justified—subject to the reservation, irrelevant here, that the legal text requires that payment be made in Switzerland and not solely in Geneva—and has moreover been confirmed by jurisprudence (unpublished decree of 24 February 1939, consid. 1 in the *Humbert* case). It is not contested that, as an international official benefiting from tax exemptions, Yvor Jackson does not pay general taxes in Switzerland; it is therefore certainly not arbitrary to consider that he does not fulfil the condition established by the disputed provision and is not consequently a “taxpayer in Switzerland”.

It may be noted, nevertheless, that the appellant does not criticize this interpretation. He does seek to allege that international officials have their tax domicile in Geneva, but, as the authority referred to has already properly pointed out, that is not the question.

(c) Although the solution adopted by the Geneva tax authorities seems in no way inequitable, that proposed by the appellant flagrantly violates the sense of justice. It should not be forgotten that the Geneva legislator authorizes real estate corporations to treat the interest they pay as deductible expenses to the extent that such interest is subject to the tax on income of the persons receiving it. The deductibility of interest paid to international officials who, benefiting from a very generous interpretation of Geneva tax law and headquarters agreements, are not subject to income tax, is not therefore allowable.

3. The other arguments invoked by the appellant are also either inadmissible or without foundation.

(a) In jurisprudence, the principle of equal treatment prohibits the making of legal distinctions between different cases which are unjustified by any important fact or applying identical treatment to factual situations which differ significantly from each other and differ in ways which make different treatment necessary; in other words, similar legal treatment should be given to similar factual situations and different legal treatment to different factual situations (ATF 110 Ia 13/14, 103 Ia 519, 100 Ia 328).

In the present case, the appellant claims to have been subjected to unequal treatment by the Tax

m., Administration because it allows the deduction of interest and capital for debts contracted by a Geneva real estate corporation with respect to the permanent missions of various States to the United Nations while disallowing them where the creditors are senior international officials.

Even if the Federal Court were to consider a letter from a real estate agency concerning the United Kingdom and Qatar missions as sufficient proof in itself of a practice extending to all the permanent missions to the United Nations in the same situation, that difference of treatment would not in itself constitute a violation of article 4 Cst. There is a fundamental difference between an official of an international organization and the diplomatic mission of a State to that organization. The distinction based on the different legal character of the foreign State, which is subject to international public law, seems sufficiently well founded to permit the canton to grant such tax privileges as are within its jurisdiction to real estate corporations whose creditors are foreign States without extending them to corporations whose creditors are private individuals.

The same is true of real estate corporations which pay interest to shareholders who, as taxpayers in Switzerland, regularly pay all their taxes in Switzerland: in that case, the interest is subject to taxation while in the case of the international officials those officials are exempt from precisely such taxation.

(b) Lastly, the appellant complains of a violation of international agreements, and in particular article 34 of the Vienna Convention on Diplomatic Relations: although they are not diplomatic agents in the meaning of that Convention, international officials have been granted the benefit of the advantages conferred on that category of persons by the Convention. In particular, they enjoy the tax exemption provided for in article 34 of the Convention. As Yvor Jackson is in fact exempt from taxation, there is obviously no question of a violation of that clause of the Convention. The fact that the real estate corporation transfers the burden of the tax by increasing the rent paid by the beneficiary of the exemption has no effect in that respect (cf. *Ménétrey, Tax Status of Diplomatic and Consular Missions and their Staff*, RDAF 1978, p. 7).

4. Inasmuch as their cases fail entirely, Yvor Jackson—whose appeal is inadmissible—and the *Résidence Miremont Real Estate Corporation*—whose appeal is denied in so far as it is admissible—must jointly bear all the legal costs. As the pecuniary interest in question refers not only to the tax for one year (about SwF5,000) but, as the appellants emphasize in their brief, the taxes for subsequent years, it is appropriate to fix the fee at SwF1,200.

For these reasons,
the Federal Court,
pursuant to article 92, paragraph 1 OJ:

1. Declares the appeal of Yvor Jackson inadmissible and denies that of the *Résidence Miremont Real Estate Corporation* to the extent that it is admissible;
2. Holds the appellants jointly liable for:
 - (a) a court fee of SwF1,200,
 - (b) shipping expenses of SwF188,
 - (c) clerical expenses of SwF22;
3. Transmits copies of this decree to the attorney for the appellants, the Cantonal Tax Administration and the Administrative Court of the Canton of Geneva.

NOTES

¹Translation prepared by the Secretariat of the United Nations on the basis of a German version of the judgment.

²The decision is published in *International Legal Materials*, vol. XXIV, p. 1639 (1985), and in *ICSID Review—Foreign Investment Law Journal*, vol. 1, No. 2 (1986).

³United Nations, *Treaty Series*, vol. 575, p. 159.

⁴Translation prepared by the Secretariat of the United Nations on the basis of a French version of the decree.

⁵United Nations, *Treaty Series*, vol. 500, p. 95.

Part Four
BIBLIOGRAPHY

LEGAL BIBLIOGRAPHY OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

- A. INTERNATIONAL ORGANIZATIONS AND PUBLIC INTERNATIONAL LAW
 - 1. General questions
 - 2. Particular questions
 - B. UNITED NATIONS
 - 1. General
 - 2. Particular organs
 - 3. Particular questions or activities
 - C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS
-

A. INTERNATIONAL ORGANIZATIONS AND PUBLIC INTERNATIONAL LAW

1. General questions

Anand, Ram Prakash. International law in a multi-cultural world. *International studies* 22(2) Apr./June 1985:95-104.

Includes bibliographical references.

Azud, Ján. Medzinárodnoprávne aspekty niektorých globálnych problémov súčasného sveta. *Právny ožor* 68(9) 1985:825-839.

Summaries in English and Russian. Includes bibliographical references.

Basave Fernández del Valle, Agustín. Filosofía del derecho internacional: jusfilosofía y politosofía de la sociedad mundial (Mexico, Universidad Nacional Autónoma México, 1985). 396 p. (Serie H: Estudios de derecho internacional público / Instituto de Investigaciones Jurídicas: 11).

Includes bibliographical references and index.

Bastid, Suzanne. Le droit international de 1955 à 1985. *Annuaire français de droit international*, vol. 30, 1984:9-18.

Boyle, Francis Anthony. World politics and international law (Durham, N.C., Duke University Press, 1985). 366 p. (Duke Press policy studies).

Includes bibliographical references and index.

Bozeman, Adda B. Does international law have a future? *New York Law School journal of international and comparative law* 6(2) winter 1985: 289-299.

Includes bibliographical references.

Braillard, Philippe et Mohammad-Reza Djalili. Les organisations internationales du Tiers monde : vers l'élaboration d'un nouveau cadre d'analyse. Philippe Braillard et Mohammad-Reza Djalili *Etudes internationales* (Centre québécois de relations internationales) 16(3) sept. 1985:493-504.

Summary in English. Includes bibliographical references.

Diez de Velasco Vallejo, Manuel. Instituciones de derecho internacional público. 7a. ed. (Madrid, Tecnos, 1985). 2 vols.

Includes bibliographies and indexes.

Iklé, Fred Charles. *How nations negotiate* (New York, Harper and Row, 1964; Millwood, N.Y., Kraus Reprint, 1985). 274 p.

Includes bibliographical references and index.

Jennings, Robert Y. Universal international law in a multicultural world. In *International law and the Grotian Heritage* (The Hague, T. M. C. Asser Instituut, 1985). p. 187-197.

Includes bibliographical references.

Jiménez de Aréchaga, Eduardo. El derecho y la justicia, resguardo de la libertad. *Anuario jurídico interamericano*, 1984:3-17.

Lacharrière, Guy de. The controversy surrounding the consistency of the position adopted by Grotius. In *International law and the Grotian Heritage* (The Hague, T. M. C. Asser Instituut, 1985). p. 207-213.

Lachs, Manfred. The Grotian heritage, the international community and changing dimensions of international law. In *International law and the Grotian Heritage*. (The Hague, T. M. C. Asser Instituut, 1985). p. 198-206.

_____. International law, mediation, and negotiation. In *Multilateral negotiation and mediation: instruments and methods* (New York, Pergamon Press, 1985). p. 183-195.

Includes bibliographical references.

Lukashuk, Igor Ivanovich, and G.K. Dimitrieva. Mezhdunarodnoe pravo v mezhdunarodnoi normativnoi sisteme. In Graefrath, Bernhard. *Probleme des Völkerrechts* (Berlin, Akademie-Verlag, 1985) p. 159-183.

Includes bibliographical references.

McWhinney, Edward. Contemporary international law and law-making. *International journal* 40(3) summer 1985:397-422.

Includes bibliographical references.

Mitrovic, Tomislav. Legal status of international organizations. *Review of international affairs* 37(879) 25 Nov. 1986:18-20.

Nastase, Adrian. The notion of principle in international law. *Revue roumaine d'études internationales* 19(5) sept./oct. 1985:417-426.

Includes bibliographical references.

Oeser, Edith. Verhandlungen im Völkerrecht. In *Probleme des Völkerrechts* 1985. (Berlin, Akademie-Verlag, 1985). p. 189-220.

Summaries in English and Russian. Includes bibliographical references.

Les organisations internationales entre l'innovation et la stagnation. Gérard Blanc et al.; textes rassemblés par Nicolas Jéquier et préfacés par Franz Muheim (Lausanne, Switzerland: Presses polytechniques romandes, 1985). 271 p. Papers presented at a colloquium held in Lausanne, 22-23 Nov. 1984, organized by Institut de hautes études en administration publique and Commission nationale suisse pour l'UNESCO.

Includes bibliographical references.

Riggs, Robert Edwon. The United Nations and the development of international law. *Brigham Young University law review* 1985:411-452.

Schachter, Oscar. International law in theory and practice: general course in public international law. *Recueil des cours* (Hague Academy of International Law) 178(5) 1982:9-396.

Bibliography: p. 384-395.

Solari Tudela, Luis. Las Naciones Unidas y el derecho internacional. *Revista peruana de derecho internacional* 37(93) oct. 1985:25-33.

Sur, Serge. Quelques observations sur les normes juridiques internationales. *Revue générale de droit international public* 89(4) 1985:901-928.

Trindade, Antônio Augusto Cançado. A evolução das competências dos órgãos políticos internacionais: os casos da Organização das Nações Unidas e da Organização dos Estados Americanos. *Revista brasileira de política internacional* 28(109/110) 1985:121-142.

Includes bibliographical references.

Tunkin, Grigori Ivanovich. A new dimension of international law: normative model of global international system. In *Probleme des Völkerrechts-1985* (Berlin, Akademie-Verlag, 1985) p. 267-283.

Summaries in German and Russian. Includes bibliographical references.

Zoller, Elisabeth. Enforcing international law through U.S. legislation. Dobbs Ferry, N.Y., Transnational Publishers, 1985). 189 p.

Bibliography: p. 173-183. Includes index.

2. Particular questions

Dominicé, Christian. L'immunité de juridiction et d'exécution des organisations internationales. *Recueil des cours* (Hague Academy of International Law) 187(4) 1984:145-238.

Includes bibliographical references.

Gallozzi, Marialuisa. Applying the Foreign Missions Act of 1982 to international organizations: reciprocity in the multilateral context. *New York University journal of international law and politics* 18(1) fall 1985:229-266.

Includes bibliographical references.

Griffith, John C. Restricting the immunity of international organizations in labor disputes: reforming an obsolete shibboleth. *Virginia journal of international law* 25(4) summer 1985:1007-1033.

Concerns organizations in the United States. Includes bibliographical references.

Macalister-Smith, Peter. *International humanitarian assistance: disaster relief actions in international law and organization* (Dordrecht, Netherlands; Boston, Mass., Nijhoff, 1985). 244 p. (Scientific collection of the Henry Dunant Institute)

Bibliography: p. 231-240. Includes index.

Martínez Sanseroni, Luis. Consentimiento del Estado y organización internacional. *Revista española de derecho internacional* 37(1) 1985:41-65.

Includes bibliographical references.

Meng, Werner P. Internationale Organisationen im völkerrechtlichen Deliktsrecht. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(2) 1985:324-371.

Summary and annex in English.

Michalek, Jan J. and Piotr Mroczkowski. Erozja zasad działania międzynarodowych organizacji gospodarczych. *Sprawy międzynarodowe* 38(3) mar. 1985:73-86.

Morawiecki, Wojciech. L'Etat dans le systeme de l'organisation internationale. *Polish yearbook of international law*, No. 13, 1984:47-68.

Includes bibliographical references.

Serio, Manlio. Aperçu historique du développement des systèmes de vote dans les organisations internationales. *Revue de droit international, de sciences diplomatiques et politiques* 63(3) juil./sept. 1985:215-221.

B. UNITED NATIONS

I. General

Azud. Ján. 40. Vyrocie Organizácie Spojených národov: k Roku OSN a medzinárodnému roku mieru. *Právny obzor* 68 (10) 1985:897-904.

Summaries in English and Russian.

Bayard, Thomas. L'attitude des états d'Europe de l'Est à l'égard des secrétariats des Nations Unies. *Revue belge de droit international* 18(2) 1984/1985:672-694.

Includes bibliographical references.

Beigbeder, Yves. Le rôle politique, administratif et opérationnel du Secrétaire général de l'Organisation des Nations Unies. *International review of administrative sciences* 51(4) 1985:279-292.

Summary in English. Includes bibliographical references.

Cetredeset godina Ujedinjenih nacija (Beograd, Radnicka stampa, 1985). 196 p.

Includes bibliographical references.

La charte des Nations Unies : commentaire article par article (sous la direction de Jean-Pierre Cot et Alain Pellet; secrétaire de la rédaction Paul Tavernier; préface de Javier Pérez de Cuéllar) (Paris, Economica; Bruxelles, Bruylant, 1985). 1553 p.

Bibliography: p. 1457-1463. Includes index.

Chebeleu, Traian. L'Organisation des Nations Unies à son 40e anniversaire. *Revue roumaine d'études internationales* 19(4) juil./août 1985:321-331.

Includes bibliographical references.

Cooper, Mary H. United Nations at forty. *Editorial research reports* 2(13) 4 Oct. 1985:737-756.

Bibliography: p. 756

Czempiel, Ernst-Otto. Möglichkeiten und Grenzen der Internationalen Organisation. *Vereinte Nationen* 33(5/6) 24 Okt. 1985:154-157.

Includes bibliographical references.

Degan, Vladimir-Duro. Pravo Ujedinjenih naroda. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:114-133.

Summary in French. Includes bibliographical references.

Effectiveness of the United Nations. *Proceedings* (American Society of International Law. Annual Meeting) 77th, 1983:191-212.

Fedorov, V.N. OON: instrument mira (K 40-letiiu sozdaniia) Sovetskoe gosudarstvo i pravo, vol. 55, 1985:81-89.

Summary in English.

Fleischhauer, Carl-August. The United Nations and the rule of law. *Aussenpolitik: German foreign affairs review* 36(3) 1985:225-231.

Hévey, Guy. L'avenir de l'organisation mondiale. *Etudes internationales* (Centre québécois de relations internationales) 16(4) déc. 1985:813-838.

Summary in English. Includes bibliographical references.

Jazic, Zivojin. Ujedinjene nacije i nesvrstanost. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:83-102.

Summary in French. Includes bibliographical references.

Kaufmann, Johan. Kan de besluitvorming in de Verenigde Naties verbeterd worden? *Internationale spectator* 39(12) dec. 1985:773-774.

Summary in English.

Koh, Tommy T.B. The United Nations: Is there life after forty? *Stanford journal of international law* 21(1) spring 1985:1–17.

The first Jackson H. Ralston lecture.

Kotevski, Slobodan. Ujedinjene nacije u petoj deceniji postojanja: za efikasnije delovanje u odbrani mira. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:27–52.

Summary in French. Includes bibliographical references.

Lewin, André. Le Groupe de Genève et les budgets de la famille des Nations Unies : vingt années d'efforts pour aboutir à la croissance zéro. *Annuaire français de droit international*, vol. 30, 1984:637–648.

Macalister-Smith, Peter. Disaster relief: reflections on the role of international law. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(1) 1985:25–43.

Includes bibliographical references.

Miga Besteliiu, Raluca. The role of consensus in promoting international cooperation for peace and development. *Revue roumaine d'études internationales* 19(6) nov./déc. 1985:529–538.

Includes bibliographical references.

Mosler, Hermann. Zur Entwicklung des Völkerrechts durch die Vereinten Nationen. *Vereinte Nationen* 33(5/6) 24 Okt. 1985:174–179.

Includes bibliographical references.

Movchan, Anatolii Petrovich. Vklad OON u ukreplenie mezhdunarodnogo pravoporiadka (k 40-letiiu OON). *Pravovedenie*, vol. 29, Nov./Dec. 1985:21–31.

Summary in English.

Olszowski, Stefan. Czterdziestci lat Organizacji Narodów Zjednoczonych *Sprawy miedzynarodowe* 38(10) pazdz. 1985:7–16.

Perisic, Zvonko. Nove tendencije u procesu odlucivanja u Ujedinjenim nacijama. *Jugoslovenska revija za međunarodno pravo*. 32(1/2) 1985:134–152. (With some emphasis on the Third United Nations Conference on the Law of the Sea).

Summary in English. Includes bibliographical references.

Petrovskii, Vladimir Fedorovich. *An effective instrument of peace : 40th anniversary of the United Nations* (Moscow : Novosti Press Agency Publishing House, 1985). 76 p.

Ritchie, Charles. At the San Francisco Conference, 1945. *International perspectives* Sept./Oct. 1985:7–14.

Romulo, Carlos Peña. Der unvollendete Entwurf zum Frieden: die UN-Charta zwischen San Franzisko und den Erfordernissen des 21. Jahrhunderts. *Vereinte Nationen* 33(5/6) 24 Okt. 1985:137–142.

Sahovic, Milan. Povelja Ujedinjenih nacija i mogucnosti njene transformacije. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:103–113.

Summary in French.

Saksena, K.P. Forty years of the United Nations: a perspective. *International studies* 22(4) Oct./Dec. 1985: 289–317.

Includes bibliographical references.

Stassen, Harold E. Die nächsten 40 Jahre: das Werk von San Franzisko in der Sicht eines Mitglieds der Delegation der Vereinigten Staaten. *Vereinte Nationen* 33(5/6) 24 Okt. 1985:146–149.

Tavernier, Paul. L'année des Nations Unies, 21 décembre 1983–18 décembre 1984 : questions juridiques. *Annuaire français de droit international*, vol. 30, 1984:567–592.

Urquhart, Brian E. The role of the Secretary-General. *Aussenpolitik: German foreign affairs review* 36(3) 1985:257–263.

Virally, Michel. Quarante ans avec les Nations Unies. *Etudes internationales* (Centre québécois de relations internationales) 16(4) déc. 1985:729–739.

Summary in English.

Vukas, Budislav. Progressive development of international law and maintenance of peace and security. *Review of international affairs* 36(853) 20 Oct. 1985:5–8.

XL aniversario de la ONU. *Revista peruana de derecho internacional* 37(93) oct. 1985. 80 p.

Special issue.

Yachi, Shotaro. Election of the members of the International Court of Justice and filling of casual vacancies in the International Law Commission. *Journal of international law and diplomacy*. 84(4) Oct. 1985:39–43.

In Japanese.

40 ans de la fondation de l'ONU. *Revue roumaine d'études internationales* 19(4) juil./août 1985: 313-372.
Series of articles.

2. Particular organs

General Assembly

Bailey, Sydney Dawson. *The making of resolution 242* (Dordrecht, Netherlands; Boston, Mass., Nijhoff. 1985). 225 p. map.

Bibliography: p. 212-215. Includes index.

The elaboration of general multilateral conventions and of non-contractual instruments having a normative function or objective: resolutions of the General Assembly of the United Nations. *Institute of International Law. Yearbook*. 61(pt. 1) 1985:29-358.

Milenkovic, Slobodan. Neprihvatanje punomocja i njegove posledice u praksi Generaine skupstine Ujedinjenih nacija. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:153-179.

Summary in French. Includes bibliographical references.

Potocny, Miroslav. Mezinárodní právní otázky na 39. zasedání Valného shromáždění OSN. *Právník* 124(10) 1985:915-922.

Includes bibliographical references.

Tomlin, Brian William. Measurement validation: lessons from the use and misuse of UN General Assembly roll-call votes. *International organization* 39(1) winter 1985:189-206.

Ziccardo Capaldo, Giuliana. Il disconoscimento delle credenziali del Sud Africa come sanzione contro l'apartheid. *Rivista di diritto internazionale* 68(2) 1985:299-325.

Includes bibliographical references.

International Court of Justice

Benvenuti, Paolo. *L'accertamento del diritto mediati i pareri consultivi della Corte Internazionale de Giustizia*. 420 p.

Includes bibliographical references.

Briggs, Herbert W. Nicaragua v. United States: jurisdiction and admissibility. *American journal of international law* 79(2) Apr. 1985:373-378.

Case concerning the continental shelf (Libyan Arab Jamahiriya/Malta). *Indian journal of international law* 25(2) Apr./June 1985:270-308.

Cellamare, Giovanni. In tema di intervento ai sensi dell'art. 63 dello Statuto della Corte internazionale di giustizia. *Rivista di diritto internazionale* 68(4) 1985:817-823.

Concerns the Nicaragua situation. Includes bibliographical references.

Chayes, Abram. Nicaragua, the United States, and the World Court. *Columbia law review* 85(7) Nov. 1985:1445-1482.

Includes bibliographical references.

Conn, Ilene R. Nicaragua v. United States. *Ohio State law journal*, vol. 46, 1985:699-727.

Clain, Levi E. Gulf of Maine: a disappointing first in the delimitation of a single maritime boundary. *Virginia journal of international law* 25(3) spring 1985:521-620.

Includes maps.

Costi, Alberto. L'arret de la Cour internationale de justice dans l'affaire du Golfe du Maine. *Revue québécoise de droit international*, vol. 2, 1985:323-370.

Cutler, Lloyd N. Some reflections on the adjudication of the Iranian and Nicaraguan cases. *Virginia journal of international law* 25(2) winter 1985:437-447.

D'Amato, Anthony A. Modifying U.S. acceptance of the compulsory jurisdiction of the World Court. *American journal of international law* 79(2) Apr. 1985:385-405.

Includes bibliographical references.

_____. Nicaragua and international law: the "academic" and the "real". *American journal of international law* 79(3) July 1985:657-664.

Danilowicz, Witold. The relation between international law and domestic law in the jurisprudence of the International Court of Justice. *Polish yearbook of international law*, vol. 12, 1983:153-164.

Includes bibliographical references.

- Deatherage, Scott Dean. Interim decision in the case concerning military and paramilitary activities in and against Nicaragua (Nicaragua v. United States). *Harvard international law journal* 26(1) winter 1985:280-286.
- Decaux, Emmanuel. L'arrêt de la Chambre de la Cour internationale de Justice sur l'affaire de la délimitation de la frontière maritime dans le Golfe du Maine (Canada/Etats-Unis): arrêt du 12 octobre 1984. *Annuaire français de droit international*, vol. 30, 1984:304-339.
- _____. L'arrêt de la Cour internationale de Justice sur la requête de l'Italie à fin d'intervention dans l'affaire du plateau continental entre la Libye et Malte: arrêt du 21 mars 1984. *Annuaire français de droit international*, vol. 30, 1984:282-390.
- Dicke, Klaus. Die Rechtsprechung des Internationalen Gerichtshofes in den Jahren 1983 und 1984. *German yearbook of international law*, vol. 27, 1984:459-482.
- Eisemann, Pierre-Michel. L'arrêt de la C.I.J. du 26 novembre 1984 (compétence et recevabilité) dans l'affaire des activités militaires et paramilitaires au Nicaragua et contre celui-ci. *Annuaire français de droit international*, vol. 30, 1984:372-390.
- Fentress, Marvin A. Maritime boundary dispute settlement: the nonemergence of guiding principles. *Georgia journal of international and comparative law* 15(3) fall 1985:591-625.
- Includes bibliographical references.
- Franck, Thomas M. Icy day at the ICJ. *American journal of international law* 79(2) Apr. 1985:379-384.
- Galindo Pohl, Reynaldo. Comentarios sobre el caso relativo a la plataforma continental entre Libia y Túnez. *Anuario jurídico interamericano*, 1984:95-162.
- Includes bibliographical references.
- Giustini, A. Compulsory adjudication in international law: the past, the present, and prospects for the future. *Fordham international law journal*, vol. 9, 1985/1986:213-256.
- Hassan, F. A legal analysis of the United States' attempted withdrawal from the jurisdiction of the World Court in the proceedings initiated by Nicaragua. *University of Dayton law review*, vol. 10, winter 1985:295-318.
- Higgins, Rosalyn. The abuse of diplomatic privileges and immunities: recent United Kingdom experience. *American journal of international law* 79(3) July 1985:641-651.
- Hight, Keith. Litigation implications of the U.S. withdrawal from the Nicaragua case. *American journal of international law* 79(4) Oct. 1985:992-1005.
- Includes bibliographical references.
- Houtte, Hans van, and H. Ogawa. International arbitration and the courts. *Jurisuto (The Jurist)*, No. 830, 1985:110-124.
- In Japanese.
- Jaenicke, Günther. The role of the International Court of Justice in the UN peace-keeping system. *Aussenpolitik: German foreign affairs review* 36(3) 1985:345-353.
- Jones, George F. Termination of declarations under the optional clause: military and paramilitary activities in and against Nicaragua. *Texas international law journal* 20(3) summer 1985:557-581.
- Includes bibliographical references.
- Kirgis, Frederic L. Nicaragua v. United States as a precedent. *American journal of international law* 79(3) July 1985:652-657.
- Labouz, Marie-Françoise. Affaire des activités militaires et paramilitaires au Nicaragua et contre celui-ci (Nicaragua c. Etats-Unis d'Amérique): ordonnance de la Cour internationale de Justice du 10 mai 1984 en indication de mesures conservatoires. *Annuaire français de droit international*, vol. 30, 1984:340-371.
- Legault, Leonard H.J., and Blair Hankey. From sea to seabed: the single maritime boundary in the Gulf of Maine case. *American journal of international law* 79(4) Oct. 1985:961-991.
- Includes bibliographical references.
- _____. A line for all uses: the Gulf of Maine boundary revisited. *International journal* 40(3) summer 1985:461-477.
- Includes bibliographical references.
- _____. and D. M. McRae. The Gulf of Maine case. *Canadian yearbook of international law*, vol. 22, 1984:267-290.
- Summary in French. Includes bibliographical references.
- Lloyd, Lorna. A springboard for the future: a historical examination of Britain's role in shaping the optional clause of the Permanent Court of International Justice. *American journal of international law* 79(1) Jan. 1985:28-51.

- Malloy, M.P. An analysis of the jurisprudence of the International Court of Justice in cases concerning boundaries. *Thesaurus acroasium* vol. 14, 1985:271-393.
- Martínez, Carlos E. International Court of Justice: case concerning military and paramilitary activities in and against Nicaragua (Nicaragua v. United States). *Harvard international law journal* 26(2) spring 1985:622-629.
- McGinley, Gerald P. Intervention in the International Court: the Libya/Malta continental shelf case. *International and comparative law quarterly* 34(4) Oct. 1985:671-694.
Includes bibliographical references.
- McWhinney, Edward. Acceptance, and withdrawal or denial, of World Court jurisdiction: some recent trends as to jurisdiction. *Israel law review* 20(2/3) spring/summer 1985:148-166.
Includes bibliographical references.
- _____. Special chambers within the International Court of Justice: the preliminary procedural aspect of the Gulf of Maine case. *Syracuse journal of international law and commerce* 12(1) fall 1985:1-13.
- Morelli, Gaetano. Su un preteso trasferimento alla Corte internazionale di giustizia della giurisdizione della Corte permanente. *Rivista di diritto internazionale* 68(1) 1985:54-63.
- Mosler, Hermann. To what extent does the variety of legal systems of the world influence the application of the general principles of law within the meaning of Article 38(1)(c) of the Statute of the International Court of Justice. In *International law and the Grotian Heritage* (The Hague, T.M.C. Asser Instituut, 1985). p. 173-185.
Includes bibliographical references.
- Nicaragua vs. the United States before the International Court of Justice (guest editor Allan Gerson). *World affairs* 148(1) summer 1985. 71 p.
Special issue.
- Oda, Shigeru. Intervention in the International Court of Justice. *Journal of international law and diplomacy* 84(1) Apr. 1985:1-38.
In Japanese.
- O'Meara, Richard L. Applying the critical jurisprudence of international law to the case concerning military and paramilitary activities in and against Nicaragua. *Virginia law review* 71(7) Oct. 1985:1183-1210.
Includes bibliographical references.
- Pax, Thomas J. Nicaragua v. United States in the International Court of Justice: compulsory jurisdiction or just compulsion? *Boston College international and comparative law review* 8(2) summer 1985:471-515.
- Poulantzas, Nicholas M. The chambers of the International Court of Justice and the judicial settlement of disputes: the delimitation of the maritime boundary in the Gulf of Maine area case. *Revue de droit international, de sciences diplomatiques et politiques* 63(4) oct./déc. 1985:323-328.
Includes bibliographical references.
- Ress, G. The delimitation and demarcation of frontiers in international treaties and maps. *Thesaurus acroasium*, vol. 14, 1985:395-458.
- Robinson, Davis R. et al. Some perspectives on adjudicating before the World Court: the Gulf of Maine case. *American journal of international law* 79(3) July 1985:578-597.
- Rosenne, Shabtai. The changing role of the International Court. *Israel law review* 20(2/3) spring/summer 1985:182-205.
Includes bibliographical references.
- _____. The law and practice of the International Court. 2nd rev. ed. (Dordrecht, Netherlands; Boston, Mass., Nijhoff, 1985). 811 p.
Includes bibliographical references and index.
- Rucz, Claude. L'indication de mesures conservatoires par la Cour internationale de justice dans l'affaire des activités militaires et paramilitaires au Nicaragua et contre celui-ci. *Revue générale de droit international public* 89(1) 1985:83-111.
Includes bibliographical references.
- Schneider, Jan. The Gulf of Maine case: the nature of an equitable result. *American journal of international law* 79(3) July 1985:539-577.
- Separation of powers within the United Nations: a revised role for the International Court of Justice. *Stanford law review*, vol. 38, Nov. 1985:165-194.

Shelley, Anthony F. Law of the sea: delimitation of the Gulf of Maine: case concerning delimitation of the maritime boundary in the Gulf of Maine area (Canada v. United States). *Harvard international law journal* 26(2) spring 1985:646–654.

Starke, J.G. Judgment of the International Court of Justice in the Libya/Malta continental shelf case. *The Australian law journal*, vol. 59, 1985:633–635.

Sztucki, Jerzy. Intervention under Article 63 of the ICJ Statute in the phase of preliminary proceedings: the “Salvadorian incident”. *American journal of international law* 79(4) Oct. 1985:1005–1036.

Includes bibliographical references.

Thirlway, H.W.A. Non-appearance before the International Court of Justice (Cambridge, England; New York, Cambridge University Press, 1985). 184 p. (Cambridge studies in international and comparative law.)

Includes bibliographical references and index.

Wier, Keith. The International Court of Justice: is it time for a change? *Houston journal of international law*, vol. 8, 1985:171–191.

The World Court: coping with political realism and the sovereign tribe in international adjudication. *Ottawa law review*, vol. 17, 1985:553–588.

Secretariat

Pérez de Cuéllar, Javier. Le rôle du Secrétaire général des Nations Unies. *Revue générale de droit international public* 89(2) 1985:233–242.

Useros, Juan Carlos. Algunas consideraciones sobre el estatuto privilegiado de los funcionarios internacionales. *International review of administrative sciences* 51(4) 1985:293–310.

Summary in English. Includes bibliographical references.

Security Council

Caradon, Hugh. The Security Council as an instrument for peace. In *Multilateral negotiation and mediation: instruments and methods* (New York, Pergamon Press, 1985). p. 3–13.

Includes bibliographical references.

Feuerle, Loie. Informal consultation: a mechanism in Security Council decision-making. *New York University journal of international law and politics* 18(1) fall 1985:267–308.

Includes bibliographical references.

Teja, J.S. Decision-making through negotiations. *International studies* 22(3) July/Sept. 1985:239–264.

Includes bibliographical references.

Wechmar, Rüdiger von. The Security Council of the United Nations. *Aussenpolitik: German foreign affairs review* 36(3) 1985:250–256.

Journal also available in German.

3. Particular questions or activities

Collective security

García-Amador, Francisco V. The Rio de Janeiro Treaty: genesis, development, and decline of a regional system of collective security. *University of Miami inter-American law review* 17(1) fall 1985:1–42.

Includes bibliographical references. Translated from Spanish.

Petkovic, Ranko. Bezbednost u politickom i pravnom poretku Ujedinjenih nacija. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:5–26.

Summary in English.

Van Houtte, Hans. Treaty protection against economic sanctions. *Revue belge de droit international* 18(1) 1984/1985:34–56.

Includes bibliographical references.

Commercial arbitration

Brody, Kevin Jeffrey. An argument for pre-award attachment in international arbitration under the New York convention. *Cornell international law journal* 18(1) winter 1985:99–124.

Everard Goodman, Rosabel E. Choosing a place for international arbitration: the New York option. *Journal of international arbitration* 2(2) June 1985:39–52.

Hoellering, Michael F. International commercial arbitration: a peaceful method of dispute settlement. *Arbitration journal*. 40(4) Dec. 1985:19–26.

Concerns the United States. Includes bibliographical references.

Lowenfeld, Andreas F. The two-way mirror: international arbitration as comparative procedure. *Michigan yearbook of international legal studies*, vol. 7, 1985:163–185.

Includes bibliographical references.

Matray, L. La déontologie de l'arbitrage commercial international. *Revue de droit international et de droit comparé* 62(2)1985:97–129.

Remiro Brotons, Antonio. La reconnaissance et l'exécution des sentences arbitrales étrangères. *Recueil des cours* (Hague Academy of International Law) 184(1) 1984:169–354.

Includes bibliographical references.

Straus, Michael. The practice of the Iran-U.S. Claims Tribunal in receiving evidence from parties and from experts. *Journal of international arbitration* 3(3) Sept. 1986:57–69.

Includes bibliographical references

Thieffry, Jean. The finality of awards in international arbitration. *Journal of international arbitration* 2(3) Sept. 1985:27–47.

Includes bibliographical references.

Wetter, J. Gillis. The conduct of the arbitration. *Journal of international arbitration* 2(2) June 1985:7–38.

Consular relations

Consular immunity from service of process under the Vienna Convention on Consular Relations. *Fordham international law journal*, vol. 8 1984/1985:96–116.

Jarvis, Robert M. The honorary consul in modern international practice: why article 68 of the Final Act of the United Nations Conference on Consular Relations should be amended to provide a uniform regime for the sending and receiving of honorary consuls. *Duquesne law review*, vol. 23, summer 1985:905–938.

Diplomatic relations

Geck, Wilhelm Karl. Diplomatic protection and the extension of individual rights through treaties. *Law and state*, vol. 31, 1985:42–63.

Gramlich, Ludwig. Diplomatic protection against acts of intergovernmental organs. *German yearbook of international law*, vol. 27, 1984:386–428.

With some emphasis on the Federal Republic of Germany.

Henderson, Frances Wright. How much immunity for international organizations?: *Mendano v. World Bank*. *North Carolina journal of international law and commercial regulation* 10(2) spring 1985:487–497.

Concerns organizations headquartered in the United States.

International law in international diplomacy. *Proceedings (American Society of International Law. Annual Meeting)*, 77th, 1983:99–105.

Linares, Antonio. La cuestión del cumplimiento por los Estados de las disposiciones de la Convención sobre Relaciones Diplomáticas. *Anuario de derecho internacional*, vol. 8, 1985:101–157.

Includes bibliographical references.

Odell, Andrew L. Enforcing reciprocity in U.S. diplomatic relations: the Foreign Missions Act of 1982. *New York University journal of international law and politics* 17(4) summer 1985:817–850.

Includes bibliographical references.

Rey Caro, Ernesto J. El tratado argentino-chileno sobre la cuestión del *Beagle*. *Anuario de derecho internacional*, vol. 8, 1985:83–100.

Includes bibliographical references.

Disarmament

Armes nucléaires et droit international. Actes du colloque préparés par Zidane Meriboute; avant-propos du professeur Alexandre Bernstein (Turin, Italy, Albert Meynier, 1985). 189 p.

Almond, Harry H. Demilitarization and arms control: Antarctica. *Case western reserve journal of international law* 17(2) spring 1985:229–284.

Calderón, Félix C. Las Naciones Unidas y la no proliferación nuclear. *Revista peruana de derecho internacional* 37(93) oct. 1985:45–58.

Carbonelli, Matteo. Il divieto dell'uso delle armi nucleari alla luce del diritto internazionale convenzionale. *Comunità internazionale* 40(1) 1985:80-96.

Finkelstein, Mark Anderson. Star Wars meets the ABM Treaty: the treaty termination controversy. *North Carolina journal of international law and commercial regulation* 10(3) summer 1985:701-727.

Fried, John H.E. The nuclear collision course: can international law be of help? *Denver journal of international law and policy* 14(1) spring/summer 1985:97-120.

Includes bibliographical references.

Green, Leslie Claude. Lawful and unlawful weapons and activities. In Green, Leslie C. *Essays on the modern law of war* (Dobbs Ferry, N.Y., Transnational Publishers, 1985). p. 151-173.

Includes bibliographical references.

MacDermot, Niall. An examination of the arguments for the legality of nuclear weapons. Colloque sur "Les armes nucléaires et le droit international" (1984, Genève). *Armes nucléaires et droit international/Nuclear weapons and international law*. (Turin, Italy, Albért Meynier, 1985) p. 23-30.

Miatello, Angelo M. La mise en cause de l'arme nucléaire sur la base du droit international. Colloque sur "Les armes nucléaires et le droit international" (1984, Genève). *Armes nucléaires et droit international/Nuclear weapons and international law*. (Turin, Italy, Albért Meynier, 1985). p. 117-139.

Multan, Wojciech. Rozbrojenie w Karcie i działalności ONZ. *Sprawy międzynarodowe* 38(10) paźdz. 1985:41-62.

Includes bibliographical references.

Palma V., Hugo. Las Naciones Unidas y el desarme. *Revista peruana de derecho internacional* 37(93) oct. 1985:35-43.

Perrot, Michel de. Le surgénérateur et l'option franco-européenne de dissuasion: les implications pour le traité sur la non-prolifération des armes nucléaires. Colloque sur "Les armes nucléaires et le droit international" (1984, Genève). *Armes nucléaires et droit international/Nuclear weapons and international law*. (Turin, Italy, Albért Meynier, 1985), p. 41-54.

Ruzek, Miloslav. K tretí kontroini konferenci o pínení smlouvy o nesírení jaderných zbraní. *Mezinárodní vztahy* 20(3) 1985:31-39.

Summaries in English and Russian.

Schear, James A. Arms control treaty compliance: buildup to a breakdown? *International security* 10(2) fall 1985:141-182.

Scribner, Richard A. et al. The verification challenge: problems and promise of strategic nuclear arms control verification (Boston, Mass., Birkhauser, 1985).

Bibliography: p. 231-239. Includes index.

Sukovic, Olga. Napori Ujedinjenih nacija na polju razoruzanja. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:282-308.

Summary in English. Includes bibliographical references.

Sur, Serge. La résolution A/37/98 du 13 décembre 1982 et les procédures d'enquête en cas d'usage allégué d'armes chimiques et bactériologiques (biologiques). *Annuaire français de droit international*, vol. 30, 1984:93-109.

Annex contains texts of resolutions.

Toth, Tibor. No first use of nuclear weapons: some legal aspects. Colloque sur "Les armes nucléaires et le droit international" (1984, Genève). *Armes nucléaires et droit international/Nuclear weapons and international law* (Turin, Italy, Albért Meynier, 1985). p. 13-21.

Wegener, Henning. Disarmament and the United Nations. *Aussenpolitik: German foreign affairs review* 36(3) 1985:288-297.

Environmental questions

Bonn Convention: first meeting of the Conference of the Parties. *Environmental policy and law* 15(3/4) Dec. 1985:74-80.

Committee on Legal Aspects of Long-Distance Air Pollution: first (preliminary) report of the Committee. *International Law Association: report of the Conference*, 61st, 1984:377-413.

Dicke, Klaus. Mensch, Umwelt und Natur: zur Prinzipienbildung des Umweltschutzes im Rahmen der Vereinten Nationen. *Vereinte Nationen* 33(2) Apr. 1985:59-62.

Du Pontavice, Emmanuel. Affaire "droit de l'environnement 'versus' droit maritime" ou la décision rendue le 18 avril 1984 concernant "l'Amoco-Cadiz". *Annuaire de droit maritime et aérien*, vol. 8, 1985:9-60.

Includes bibliographical references.

Essen, Alfred van der. La protection de l'environnement dans l'Antarctique. *Revue belge de droit international* 18(2) 1984/1985:617-622.

Golberg, Karen A. Efforts to prevent misuse of pesticides exported to developing countries: progressing beyond regulation and notification. *Ecology law quarterly* 12(4) 1985: 1025-105.

Concerns mainly the United States. Includes bibliographical references.

Goldie, L.F.E. Transfrontier pollution: from concepts of liability to administrative conciliation. *Syracuse journal of international law and commerce* 12(2) winter 1985:185-219.

Includes bibliographical references.

Gündling, Lothar. Verantwortlichkeit der Staaten für grenzüberschreitende Umweltbeeinträchtigungen. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(2) 1985:265-292.

Summary in English.

Horberry, John. The accountability of development assistance agencies: the case of environmental policy. *Ecology law quarterly* 12(4) 1985:817-869.

Includes bibliographical references.

Johnson, Douglas M. Systemic environmental damage: the challenge to international law and organization. *Syracuse journal of international law and commerce*. 12(2) winter 1985:255-282.

Includes bibliographical references.

Kelly, Mary Elizabeth. International regulation of transfrontier hazardous waste shipments: a new EEC environmental directive. *Texas international law journal* 21(1) winter 1985:85-128.

Includes bibliographical references.

Klemm, Cyrille de. Migratory species: a review of existing international instruments. *Environmental policy and law* 15(3/4) Dec. 1985:81-91.

Leonard, H. Jeffrey. Confronting industrial pollution in rapidly industrializing countries: myths, pitfalls, and opportunities. *Ecology law quarterly*. 12(4) 1985:779-816.

Includes bibliographical references.

Mayda, Jaro. Environmental legislation in developing countries: some parameters and constraints. *Ecology law quarterly* 12(4) 1985:997-1024.

Includes bibliographical references.

Schonfeld, Alan H. International trade in wildlife: how effective is the endangered species treaty? *California Western international law journal*. 15(1) winter 1985:111-160.

Stein, Robert E. The settlement of environmental disputes: towards a system of flexible dispute settlement. *Syracuse journal of international law and commerce* 12(2) winter 1985:283-298.

Includes bibliographical references.

Ten years after Stockholm: international environment law. *Proceedings (American Society of International Law. Annual Meeting)* 77th, 1983:411-435.

Tollan, Arne. The Convention on Long-Range Transboundary Air Pollution. *Journal of world trade law* 19(6) Nov./Dec. 1985:615-621.

Includes bibliographical references.

United Nations activities: UNEP. *Environmental policy and law* 14(4) June 1985:85-120.

Weiner, Richard L. Limited armed conflict causing physical damage to neutral countries: questions of liability. *California Western international law journal* 15(1) winter 1985:161-191.

Concerns the Iran-Iraq war and oil spills in the Persian Gulf.

Wood, Harold W. The United Nations World Charter for Nature: the developing nations' initiative to establish protection for the environment. *Ecology law quarterly* 12(4) 1985:977-996.

Includes bibliographical references.

Financing

Abraszewski, Andrzej. Polityczne i ekonomiczne aspekty finansowania ONZ. *Sprawy międzynarodowe* 38(10) paźdz. 1985:107-118.

Includes bibliographical references.

Friendly relations and cooperation among States

Mitrovic, Tomislav. Koegzistencija i Ujedinjene nacije Jugoslovenska revija za međunarodno pravo 32(1/2) 1985:180–196.

Summary in French. Includes bibliographical references.

Vitzthum, Wolfgang. Frieden und Krieg im Völkerrecht. *Verfassung und Recht in Übersee* 18(4) 1985:421–439.

Summary in English. Includes bibliographical references.

Wei, Min. Significance of the five principles of peaceful coexistence in contemporary international law. *Chinese yearbook of international law* 1985:237–252.

In Chinese.

Human rights

Agyemang, Kwasi. Human rights, an introductory philosophical perspective (Toronto, E.C.W. Press, 1985). 115 p.

Includes bibliographical references and index.

Bakken, Timothy. International law and human rights for defendants in criminal trials. *Indian journal of international law* 25(3/4) July/Dec. 1985:411–423.

Bercis, Pierre. *Pour de nouveaux droits de l'homme* (Paris J.C. Lattès, 1985). 235 p.

Bibliography: p. 231–234. Includes index.

Bizzozero, Lincoln J. The Convention against Torture and other Cruel, Inhuman or Degrading Practices. *International review of contemporary law*, No. 2, 1985:21–27.

Includes bibliographical references.

Bossuyt, Marc J. Human rights and non-intervention in domestic matters. *Review* (International Commission of Jurists), No. 35, Dec. 1985:45–52.

Concerns Europe.

Brar, Parminder. The practice and procedures of the Human Rights Committee under the Optional Protocol of the International Covenant on Civil and Political Rights. *Indian journal of international law* 25(3/4) July/Dec. 1985:506–543.

Includes bibliographical references.

Buergenthal, Thomas. The advisory practice of the inter-American human rights court. *American journal of international law* 79(1) Jan. 1985:1–27.

Buirette-Maurau, Patricia. Les difficultés de l'internationalisation des droits de l'homme à propos de la Convention de Lomé. *Revue trimestrielle de droit européen* 21(3) juil./sept. 1985:463–486.

Includes bibliographical references.

Buquicchio-de Boer, Maud. Sexual discrimination and the European convention on human rights. *Human rights law journal* 6(1) 1985:1–16.

Includes bibliographical references.

Chanet, C. La Convention des Nations Unies contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. *Annuaire français de droit international*, vol. 30, 1985:625–636.

Chehab, Mofid. La Charte africaine des droits de l'homme et des peuples. *Revue égyptienne de droit international*, vol. 41, 1985:149–156.

Committee of the Enforcement of Human Rights Law: report of the Committee. *International Law Association: Report of the Conference*, 61st, 1984:56–97.

Desch, Thomas. The concept and dimensions of the right to life, as defined in international standards and in international and comparative jurisprudence. *Österreichische Zeitschrift für öffentliches Recht und Völkerrecht* 36(1/2) 1985:77–118.

Includes bibliographical references.

Dinstein, Yoram. Discrimination and international human rights. *Israel yearbook on human rights*, vol. 15, 1985:11–27.

Includes bibliographical references.

Drzemczewski, Andrew, and Colin Warbrick. The European Convention on Human Rights. *Yearbook of European law*, vol. 4, 1984:423–443.

Includes bibliographical references.

- Drzewicki, Krzysztof. Koncepcja prawa do środowiska jako prawa człowieka. *Panstwo i prawo* 40(10) paźdz. 1985:52–62.
Includes bibliographical references.
- Essays on human rights in the Helsinki process, edited by A. Bloed and P. van Dijk (Dordrecht, Netherlands; Boston, Mass., Nijhoff. 1985) 266 p.
Includes bibliographical references.
- Forsythe, David P. Human rights and humanitarian affairs, 1945–1985. *International Geneva yearbook*. 1985:52–63.
_____. The United Nations and human rights, 1945–1985. *Political science quarterly* 100(2) summer 1985:249–269.
Includes bibliographical references.
- Garber, Larry, and Courtney M. O'Connor. The 1984 UN Sub-Commission on Prevention of Discrimination and Protection of Minorities. *American journal of international law* 79(1) Jan. 1985:168–180.
- Goldberg, Arthur J. The status of apartheid under international law. *Hastings constitutional law quarterly*, vol. 13 fall 1985:1–8.
- Green, Leslie Claude. Human rights and the law of armed conflict. In Green, Leslie C. *Essays on the modern law of war* (Dobbs Ferry, N.Y., Transnational Publishers, 1985). p. 83–102.
Includes bibliographical references.
- Hoffman, Paul L., and Linda Willett Brackins. The elimination of torture: international and domestic developments. *International lawyer*. 19(4) fall 1985:1351–1364.
Includes bibliographical references.
- Human rights: effective remedies. *Proceedings (American Society of International Law. Annual Meeting)* 77th, 1983:377–409.
- Human rights and Third World development*, edited by George W. Shepherd, Jr., and Ved P. Nanda (Westport, Conn., Greenwood Press, 1985). 330 p.
Bibliography: p. 309–321. Includes index.
- Human Rights Committee. *Review* (International Commission of Jurists), No. 35, Dec. 1985:18–27.
- Jhabrala, Farokh. Domestic implementation of the Covenant on Civil and Political Rights. *Netherlands international law review*. 32(3) 1985:461–486.
Includes bibliographical references.
- _____. The International Covenant on Civil and Political Rights as a vehicle for the global promotion and protection of human rights. *Israel yearbook on human rights*, vol. 15, 1985:184–203.
Includes bibliographical references.
- Leach, Richard A. Effective enforcement of the law of nations: a proposed international human rights organization. *California Western international law journal*, 15(3) summer 1985:705–733.
- Liñán Noguera, Diego. Los efectos de las sentencias del Tribunal Europeo de Derechos Humanos y derecho español. *Revista española de derecho internacional* 37(2) 1985:355–376.
Includes bibliographical references.
- Lippman, Matthew. The drafting of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. *Boston University international law journal*, vol. 3 winter 1985:1–65.
- Maier, Irene. Wichtiger Schritt zur Abschaffung der Folter: Generalversammlung verabschiedet UN-Konvention. *Vereinte Nationen*, 33(1) Feb. 1985:1–6.
- Meeting on the Legal Protection of Human Rights (1984, Helsinki). Papers presented at the Meeting on the Legal Protection of Human Rights, 11 April 1984, Helsinki (Helsinki, Juridiska Föreningen i Finland, 1985). 38 p.
Includes bibliographical references.
- Meron, Theodor. The meaning and reach of the International Convention on the Elimination of All Forms of Racial Discrimination. *American journal of international law* 79(2) Apr. 1985:283–318.
Includes bibliographical references.
- _____. Reform of lawmaking in the United Nations: the human rights instance. *American journal of international law* 79(3) July 1985:664–681.
- Mrázek, Josef. Mezinárodní ochrana lidských práv. Mezinárodní vztahy 20(7) 1985:27–42.
Summaries in English and Russian. Includes bibliographical references.

Nawaz, M.K. Law, human rights and computers. *Indian journal of international law* 25(3/4) July/Dec. 1985:612-620.

Includes bibliographical references.

Nikolaiko, I.V. Nekotorye pravovye i prakticheskie aspekty koordinatsii v sisteme DON v oblasti prav cheloveka. *Sovetskii ezhegodnik mezhdunarodnogo prava* 1984:264-269.

Includes bibliographical references.

Nowak, M. Die UNO-Konvention gegen die Folter vom 10. Dezember 1984. *Europäische Grundrechte Zeitschrift*, vol. 12, 1985:109-116.

Obradovic, Konstantin. Razmisljanja o jednoj mogucnosti za jaccanje unapredenja i zastite ljudskih prava u UN. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:216-241.

Summary in French. Includes bibliographical references.

Przetacznik, Franciszek. The philosophical concept of freedom as a basic human right. *Revue de droit international, de sciences diplomatiques et politiques* 63(2) avril/juin 1985:93-175.

The right to life in international law, edited by B.G. Ramcharan (Dordrecht, Netherlands; Boston, Mass., Nijhoff, 1985). 371 p.

Includes bibliographical references and index.

Symonides, Janusz. Wklad ONZ w stanowanie i miedzynarodowa ochronie praw czlowieka. *Sprawy miedzynarodowe* 38(10) pazdz. 1985:63-76.

Téson, Fernando R. International human rights and cultural relativism. *Virginia journal of international law* 25(4) summer 1985:869-898.

Includes bibliographical references.

Tomuschat, Christian. Human rights in a world-wide framework: some current issues. *Zeitschrift für ausländisches öffentliches Recht und völkerrecht* 45(3) 1985:547-584.

Includes bibliographical references.

_____. Recht auf Frieden: ein neues Menschenrecht der dritten Generation? *Europa Archiv* 40(9) 10 Mai 1985:271-278.

Includes bibliographical references.

Türk, Danilo. Cetrdeset godina aktivnosti OUN na unapredjenju prava coveka i pravo na razvoj. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:197-215.

Summary in English.

UN Commission on Human Rights. *Review* (International Commission of Jurists), No. 34 June 1985:28-36.

UN Sub-Commission on Discrimination and Minorities. *Review* (International Commission of Jurists), No. 35, Dec. 1985:12-18.

Concerns the 38th session, (1985).

Vincensini, Jean-Jacques. *Le livre des droits de l'homme : histoire et textes de la Grande Charte (1215) aux plus récents pactes internationaux* (Paris, Laffont, 1985). 347 p.

Uribe Vargas, Diego. La troisième génération des droits de l'homme. *Recueil des cours* (Hague Academy of International Law) 184(1) 1984:355-375.

Vijapur, A.P. The UN mechanisms and procedures for the promotion and implementation of human rights. *Indian journal of international law* 25(3/4) July/Dec. 1985:576-611.

Includes bibliographical references.

Villán Durán, Carlos. La convención contra la tortura y su contribución a la definición del derecho a la integridad física y moral en el derecho internacional. *Revista española de derecho internacional* 37(2) 1985:377-402.

Includes bibliographical references.

Weissbrodt, David. Ethical problems of an international human rights law practice. *Michigan yearbook of international legal studies*, vol. 7, 1985:217-251.

Concerns the United States. Includes bibliographical references.

Wellbaum, Leslie Raissman. International human rights claims after Tel-Oren v. Libyan Arab Republic: swan song for the legal Lohengrin? *Hastings international and comparative law review* 9(1) fall 1985: 107-147.

Includes bibliographical references.

Zagajac, Milivoje. Ujedinjene nacije i dekolonizacija. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:53-82.

Summary in English.

International administrative law

Bayard, Thomas. L'attitude des états d'Europe de l'Est à l'égard des secrétariats des Nations Unies. *Revue belge de droit international* 18(2) 1984/1985:672-694.

Includes bibliographical references.

Index of decisions of international administrative tribunals including League of Nations Administrative Tribunal (Washington, World Bank Administrative Tribunal, Office of the Executive Secretary, 1985). 2nd ed.

Reymond, Henri, and Sydney Mailick. *International personnel policies and practices* (New York, Praeger, 1985). 243 p. Bibliography: p. 223-224.

Includes index.

Société française pour le droit international. Colloque (18th 1984, Aix-en-Provence, France). *Les agents internationaux* (Paris Pedone, 1985). 435 p.

Tribunal administratif des Nations Unies. *Annuaire français de droit international*, vol. 30, 1984:501-529.

Useros, Juan Carlos. Algunas consideraciones sobre el estatuto privilegiado de los funcionarios internacionales. *International review of administrative sciences* 51(4) 1985:293-310.

Summary in English. Includes bibliographical references.

International criminal law

Bassiouni, Cherif. *International crimes: digest/index of international instruments, 1815-1985*. (Dobbs Ferry, N.Y., Oceana, 1986). 2 vols.

Includes indexes.

_____. The XIII International Congress on Penal Law. *American journal of international law* 79(1) Jan. 1985:180-181.

Cardona Lloréns, Jorge. La responsabilidad internacional por violación grave de obligaciones esenciales para la salva de intereses fundamentales de la comunidad internacional (el "crimen internacional"). *Anuario de derecho internacional*, vol. 8, 1985:265-336.

Includes bibliographical references.

Derby, Daniel H. An analytical framework for international criminal law: realism and interest alignment. *Touro law review*, vol. 1, spring 1985:57-100.

Dinstein, Yoram. International criminal law. *Israel law review* 20(2/3) spring/summer 1985:206-242.

Includes bibliographical references.

Etinski, Rodoljub. Međunarodni zločin kao izvor odgovornosti države u sistemu Ujedinjenih nacija. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:309-332.

Summary in French. Includes bibliographical references.

Friedlander, Robert A. The enforcement of international criminal law: fact or friction? *Case Western Reserve journal of international law* 17(1) winter 1985:79-90.

Graefrath, Bernhard Völkerrechtliche Verantwortlichkeit für internationale Verbrechen. In *Probleme des Völkerrechts* 1985 (Berlin, Akademie-Verlag, 1985). p. 89-114.

Summaries in English and Russian. Includes bibliographical references.

Green, Leslie Claude. The law of armed conflict and the enforcement of international criminal law. In Green, Leslie C. *Essays on the modern law of war* (Dobbs Ferry, N.Y., Transnational Publishers, 1985). p. 239-252.

Includes bibliographical references.

_____. The law of armed conflict and the enforcement of international criminal law. *Canadian yearbook of international law*, vol. 22, 1984:3-25.

Summary in French. Includes bibliographical references.

Gross, Leo. Some observations on the United Nations Draft Code of Offences against the Peace and Security of Mankind. *Israel yearbook on human rights*, vol. 15, 1985:224-273.

Includes bibliographical references.

Hino, M. Recent United Nations activities in the field of crime prevention and the treatment of criminals. *Jurisuto (The Jurist)*, No. 836, 1985:64-77.

In Japanese.

International Criminal Law Committee: sixth interim report of the International Committee. *International Law Association: report of the Conference*, 61st, 1984:252-312.

Vieira, Manuel Adolfo. L'évolution récente de l'extradition dans le continent américain. *Recueil des cours* (Hague Academy of International Law). 185(2) 1984:151–380.

Annex contains source material. Bibliography: p. 337–380.

International economic law

Carreau, Dominique et al. Chronique de droit international économique / Dominique Carreau, *Annuaire français de droit international*, vol. 30, 1984:744–802.

Draghici, M., and G. Draghici. Principiile dreptului international aplicabile in relatiile economice dintre state. *Revista Româna de drept*, vol. 41, 1985:3–13.

Ellis, Mark Ewell. The new international economic order and General Assembly resolutions: the debate over the legal effects of General Assembly resolutions revisited. *California Western international law journal* 15(3) summer 1985:647–704.

L'Europe et le N.O.E.I. : bilan et perspectives d'une décennie de négociations Nord-Sud et de la participation de la Communauté européenne. *Studia diplomatica* 38(2/3) 1985:121–280.

Special issue. Articles in French or English. Includes bibliographical references.

Gilas, Janusz. Problems of methodology in international economic law. *Polish yearbook of international law*, No. 13, 1984:77–94.

Includes bibliographical references.

Legal aspects of a new international economic order: report of the Committee. *International Law Association: report of the Conference*, 61st, 1984:107–153.

Tarullo, Daniel K. Logic, myth, and the international economic order. *Harvard international law journal*, 26(2) spring 1985:533–552.

Voicu, Ioan. The United Nations and the social dimension of the new international order. *Revue roumaine d'études internationales*. 19(4) juil./août 1985:363–372.

Weeramantry, C.G. The right to development. *Indian journal of international law* 25(3/4) July/Dec. 1985:482–505.

Includes bibliographical references.

White, G.M. Legal consequences of wrongful acts in international economic law. *Netherlands yearbook of international law*, vol. 16, 1985:137–173.

Includes bibliographical references.

International terrorism

Committee on International Terrorism: Report of the Committee. *International Law Association: report of the Conference*, 61st, 1984:313–324.

Gilbert, Geoffrey S. Terrorism and the political offence exemption reappraised. *International and comparative law quarterly* 34(4) Oct. 1985:695–723.

Includes bibliographical references.

Gol, Jean. Aspects internationaux du terrorisme et de sa repression. *Studia diplomatica*, 38(4) 1985:379–389.

McGinley, Gerald P. The Achille Lauro affair: implications for international law. *Tennessee law review*, vol. 52, summer 1985:691–738.

Patnogić, Jovica, and Z. Meriboute. *Terrorism and international law* (San Remo, Italy, 1985). 43 p.

Includes bibliographical references.

Plantey, Alain. Le terrorisme contre les droits de l'homme. *Revue du droit public et de la science politique en France et à l'étranger* 101(1) 1985:5–13.

International trade law

Abbott, Kenneth W. The trading nation's dilemma: the functions of the law of international trade. *Harvard international law journal* 26(2) spring 1985:501–532.

Barton, G.A. The United Nations Convention on Contracts for the International Sale of Goods. *Comparative and international law journal of Southern Africa* 18(1) Mar. 1985:21–35.

Béguin, Jacques. Le développement de la *lex mercatoria* menace-t-il l'ordre juridique international? *McGill law journal* 30(3) July 1985:478–538.

Summary in English. Includes bibliographical references.

Disclaimers of implied warranties: the 1980 United Nations Convention on Contracts for the International Sale of Goods. *Fordham law review*, vol. 53, Mar. 1985:863–887.

Florescu, Constantin. Proiectul UNCITRAL de conventie cu privire la cambiile internationale si la biletele la ordin internationale. *Studii si cercetari juridice* 30(2) Apr./Iunie 1985:142-153.

Summary in French. Includes bibliographical references.

Herrmann, Gerold. La conciliation, nouvelle méthode de règlement des différends. *Revue de l'arbitrage*, No. 3 juil./sept. 1985:343-372.

Includes bibliographical references.

_____. Introductory note on the UNCITRAL Model Law on International Commercial Arbitration. *Revue de droit uniforme*, No. 1, 1985:285-296.

Includes bibliographical references.

_____. The UNCITRAL Model Law: its background, salient features and purposes. *Arbitration international* 1(1) Apr. 1985:6-39, 81.

Hunter, J. Martin H. The UNCITRAL model law. *International business lawyer*, Oct. 1985:399-402.

Concerns commercial arbitration. Includes bibliographical references.

Kerr, Michael. Arbitration and the courts: the UNCITRAL model law. *International and comparative law quarterly* 34(1) Jan. 1985:1-24.

Krapp, Thea. The limitation convention for international sale of goods. *Journal of world trade law* 19(4) July/Aug. 1985:343-372.

Includes the text of the Convention.

Lochner, Scott J. Guide to countertrade and international barter. *International lawyer* 19(3) summer 1985:725-759.

Includes bibliographical references. Bibliography: p. 1013-1017.

Malik, Shahdeen. Offer: revocable or irrevocable: will Article 16 of the Convention on Contracts for the international Sale ensure uniformity? *Indian journal of international law* 25(1) Jan./Mar. 1985:26-49.

Includes bibliographical references.

Michida, S. UNCITRAL draft model arbitration law and critical comments from the west. *JCA journal* 60(6) June 1985:13-19.

First part of article appeared in *JCA journal* 60(5) May 1985:2-9.

Mokrysz-Olszynska, Anna. W prowadzajaca w blad reklama w systemach prawnych krajów EWG. *Handel zagraniczny* 30(7) 1985:27-31.

Includes bibliographical references.

Sawada, T. UNCITRAL arbitration rules: ICC, LCA, AAA and JCAA rules compared. *International business law materials* 11(1) May 1985:1-44.

Schmitthoff, Clive M. The codification of the law of international trade. *Journal of business law*, Jan. 1985:34-44.

Sono, Kazuaki. A query into the supremacy of the traditional treaty approach: experience of UNCITRAL with new techniques. *Japanese annual of international law*, No. 28, 1985:47-58.

Includes bibliographical references.

Vergne, François. The battle of the forms under the 1980 United Nations Convention on Contracts for the International Sale of Goods. *American journal of comparative law* 33(2) spring 1985:233-258.

Vilus, Jelena. Unifikacija privrednog prava u okviru Komisije Ujedinjenih nacija za međunarodno trgovinsko pravo. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:359-388.

Summary in English. Includes bibliographical references.

Winship, Peter. Aircraft and international sales conventions. *Journal of air law and commerce* 50(3/4) 1985:1053-1066.

Includes bibliographical references.

_____. Export-import sales under the 1980 United Nations sales convention. *Hastings international and comparative law review* 8(2) winter 1985:197-211.

International waterways

Dipla, H., Les règles de droit international en matière de délimitation fluviale: remise en question? *Revue générale de droit international public*, vol. 89, 1985:589-624.

Milosavljevic, Bogoljub. Aktivnosti UN na resavanju problema nestasice voda, zagadivanja voda i vanplovid-benog koriscenja medunarodnih vodenih tokova. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:416–431.

Summary in French. Includes bibliographical references.

Müller A., The delimitation of boundary river waters. *Thesaurus acroasium*, vol. 14, 1985:661–672.

Sette-Camara, José. Pollution of international rivers. *Recueil des cours* (Hague Academy of International Law) 186(3) 1984:117–218.

Bibliography: p. 214–217.

Intervention

Joyner, Christopher C., and Michael Grimaldi. The United States and Nicaragua: reflections on the lawfulness of contemporary intervention. *Virginia journal of international law* 25(3) spring 1985:621–689.

Shaw, Malcolm Nathan. International law and intervention in Africa. *International relations: the journal of the Davies Institute of International Studies* 8(4) Nov. 1985:341–367.

Includes bibliographical references.

Sperduti, Giuseppe. Notes sur l'intervention dans le procès international. *Annuaire français de droit international*, vol. 30, 1984:273–281,

Verwey, Wil D. Humanitarian intervention under international law. *Netherlands international law review* 32(3) 1985:357–418.

Includes bibliographical references.

Law of the sea

Allott, Philip. Making the new international law: law of the sea as law of the future. *International journal* 40(3) summer 1985:442–460.

Includes bibliographical references.

Barberis, Julio A. La utilización de las aguas subterráneas y el derecho internacional. *Anuario de derecho internacional*, vol. 8, 1985:39–82.

Includes bibliographical references.

Belsky, Martin H. Management of large marine ecosystems: developing a new rule of customary, international law. *San Diego law review* (No.3, Law of the Sea). 22(4) 1985:733–763.

Includes bibliographical references.

Bennouna, Mohamed. *Le caractère pluridimensionnel du nouveau droit de la mer*. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 3–25.

Includes bibliographical references.

Booth, Ken. *Law, force and diplomacy at sea*. (London; Boston, Mass., Allen and Unwin, 1985). 231 p. maps. Bibliography: p. 221–227.

Includes index.

Bosco, Giorgio. Ancora sul progetto di regolamento interno del Tribunale internazionale del mare. *Diritto marittimo* 1985(4):921–926.

Boyle, Alan E. Marine pollution under the law of the sea convention. *American journal of international law* 79(2) Apr. 1985:347–372.

Includes bibliographical references.

Brewer, William C. The prospect for deep seabed mining in a divided world. *Ocean development and international law* 14(4) 1985:363–381.

Buhl, Johannes Fons. Développement et transfert des techniques marines. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 975–978.

Includes bibliographical references.

Burke, W.T. *La Convention des Nations Unies sur le droit de la mer et la réglementation de la pêche du thon* (Rome, FAO, 1985). 21 p.

Cafisch, Lucius. La délimitation des espaces marins entre états dont les côtes se font face ou sont adjacentes. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 375–440.

Includes bibliographical references.

Caminos, Hugo. Les sources du droit de la mer. In *Traité du nouveau droit de la mer*. (Paris, Economica; Bruxelles, Bruylant, 1985). p. 27–121.

Includes bibliographical references.

Castañeda, Jorge C. La Conferencia de las Naciones Unidas sobre el Derecho del Mar y el futuro de la diplomacia multilateral. *Foro internacional* 25(4) abril/junio 1985:311–317.

Charney, Jonathan I. The exclusive economic zone and public international law. *Ocean development and international law* 15(3/4) 1985:233–288.

Includes bibliographical references.

Chiu, Hungdah. Some problems concerning the application of the maritime boundary delimitation provisions of the 1982 United Nations Convention on the Law of the Sea between adjacent or opposite states. *Maryland journal of international law and trade* 9(1) spring 1985:1–17.

Clemons, John A. Recent developments in the law of the sea 1983–1984. *San Diego law review* (No. 3, Law of the Sea). 22(4) 1985:801–838.

Includes bibliographical references.

Coll, Alberto R. Functionalism and the balance of interests in the law of the sea: Cuba's role. *American journal of international law* 79(4) Oct. 1985:891–911.

Includes bibliographical references.

Colloque sur le nouveau droit de la mer et l'utilisation des espaces marins (1983, Paris) (Paris, Pédone, 1985).

Includes bibliographical references.

Coquia, Jorge R. Settlement of disputes in the UN Convention on the Law of the Sea: new directions in the settlement of international disputes. *Indian journal of international law* 25(2) Apr./June 1985:171–190.

Includes bibliographical references.

Daillier, Patrick. Le droit de la mer en chiffres : vingt ans d'activité conventionnelle : exploitation d'un fichier informatisé. *Annuaire de droit maritime et aérien*, vol. 8, 1985:103–125.

Dube, Bharat. The deep seabed and North-South politics: cooperation or confrontation? *Indian journal of international law* 25(2) Apr./June 1985:245–261.

Includes bibliographical references.

Duisberg, Claus J. Perspektiven der Seerechtsentwicklung. *Europa Archiv* 40(12) 25 Juni 1985:373–380.

Includes bibliographical references.

Dupuy, Pierre-Marie, et M. Rémond-Gouilloud. La préservation du milieu marin. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 979–1045.

Includes bibliographical references.

Dupuy, René-Jean. La mer sous compétence nationale. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 219–273.

Includes bibliographical references.

_____. La Zone, patrimoine commun de l'humanité. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 499–505.

Includes bibliographical references.

Essen, Alfred van der. Les régions arctiques et antarctiques. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 463–496.

Includes bibliographical references.

Essien, Victor L.K. Marine scientific research: problems and prospects under the new Convention on the Law of the Sea. *Indian journal of international law* 25(2) Apr./June 1985:210–225.

Includes bibliographical references.

Fleischer, Carl August. La pêche. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 819–956.

Includes bibliographical references.

Gamble, John King. Assessing the reality of the deep seabed regime. *San Diego law review* (No. 3, Law of the Sea). 22(4) 1985:779–792.

Includes bibliographical references.

- _____. The 1982 United Nations Convention on the Law of the Sea as soft law. *Houston journal of international law* 8(1) autumn 1985:37–47.
- Includes bibliographical references.
- Game de Fontbrune, Valérie. *L'exploitation des ressources minérales des fonds marins : législations nationales et droit international* (Paris, Pédone, 1985). 248 p. ill.
- Bibliography: p. 227–241.
- Gattini, Andrea. Il Common Heritage of Mankind : una rivoluzione in diritto internazionale? *Comunicazioni e studi*, vol. 17/18, 1985:649–731.
- Includes bibliographical references.
- Gherari, Habib. Les états-archipels à la Troisième Conférence des Nations-Unies sur le Droit de la Mer ou l'émergence d'un nouveau concept en droit public. *Revue algérienne des sciences juridiques, économiques et politiques*, vol. 22, 1985:73–102.
- Goldwin, R.A. Le droit de la mer : sens commun contre "patrimoine commun". *Revue générale de droit international public*, vol. 89, 1985:719–739.
- Hofer, Erwin H. The future of the law of the sea convention. *Swiss review of world affairs* 34(10) Jan. 1985:12–14.
- Hoffmeyer, Mary-Lynne. Ocean dumping provisions of the Convention on the Law of the Sea. *Brooklyn journal of international law* 11(2) spring 1985:355–377.
- Includes bibliographical references.
- Huang, Jiefang. Impact of the Convention on the Law of the Sea on the legal regime of air space above the sea. *Chinese yearbook of international law* 1985:121–151.
- In Chinese.
- Hutchinson, D.N. The concept of natural prolongation in the jurisprudence concerning delimitation of continental shelf areas. *British year book of international law*, vol. 55, 1984:133–187.
- Includes bibliographical references.
- International Committee on the Exclusive Economic Zone: report of the International Committee. *International Law Association: report of the Conference*, 61st, 1984:183–251.
- Jagota, S.P. *Maritime boundary* (Dordrecht, Netherlands; Boston, Mass., Nijhoff, 1985). 388 p.
- Bibliography: p. 383–388.
- Jewett, Marcus. The evolution of the legal regime of the continental shelf. *Canadian yearbook of international law*, vol. 22, 1984:153–193.
- With emphasis on Canada. Summary in French.
- Johnson Theutenberg, Bo. The development of the law of the sea with particular reference to the autonomous territories. *Nordisk tidsskrift for international ret* 54(1/2) 1985:65–78.
- Concerns the Nordic-Arctic region.
- Khan, Makhdoom Ali. The juridical concept of the continental shelf. *Pakistan horizon* 38(2) 1985:19–40.
- Includes bibliographical references.
- Kindt, John Warren. The claim for limiting marine research: compliance with international environmental standards. *Ocean development and international law* 15(1) 1985:13–35.
- _____. Particulate pollution and the law of the sea. *Boston College environmental affairs law review* 12(2) winter 1985:273–311.
- Kiss, Alexandre Charles. The common heritage of mankind: utopia or reality? *International journal* 40(3) summer 1985:423–441.
- Includes bibliographical references.
- Koers, Albert W. Some observations on the 1982 United Nations Convention on the Law of the Sea and its implementation. In *Essays on the new law of the sea* (Zagreb, Yugoslavia, Sveucilisna naklada Liber, 1985). p. 33–46.
- Includes bibliographical references.
- Larson, David L. The Reagan rejection of the U.N. Convention. *Ocean development and international law* 14(4) 1985:337–361.
- Concerns the UN Convention on the Law of the Sea.
- Laveissiere, J. Les îles et la détermination des frontières maritimes. *Thesaurus acroasium*, vol. 14, 1985:79–99.
- Law of the sea. *Proceedings (American Society of International Law. Annual Meeting)*, 77th, 1983:150–168.

Law of the Sea Institute (Honolulu, Hawaii). The developing order of the oceans: proceedings, Law of the Sea Institute, Eighteenth Annual Conference, October 24–27th, 1984, San Francisco, Calif., edited by Robert B. Krueger, Stefan A. Riesenfeld (Honolulu, Hawaii, The Law of the Sea Institute, Williams S. Richardson School of Law, University of Hawaii, 1985). 749 p. ill., maps.

Includes bibliographical references.

Lay, S.H. An analysis of the deep seabed mining provisions on the Law of the Sea Convention. *University of Dayton law review*, vol. 10, winter 1985:319–337.

Lefebvre, Robert S. Le concept de la zone économique exclusive et la Conférence Diplomatique de l'Organisation maritime internationale de 1984 : les péripéties d'une négociation. *Canadian yearbook of international law*, vol. 22, 1984:225–266.

Summary in English. Includes bibliographical references.

Lévy, Jean-Pierre. Le cadre de l'exploitation. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 507–550.

Includes bibliographical references.

Logue, John J. A stubborn Dutchman: the attempt to revive Grotius' common property doctrine in and after the Third United Nations Conference on the Law of the Sea. In *International law and the Grotian Heritage* (The Hague T.M.C. Asser Instituut, 1985). p. 99–108.

Includes bibliographical references.

Magdelénat, Jean-Louis. Les implications de la nouvelle convention sur le droit de la mer en droit aérien. *Annuaire de droit maritime et aérien*, vol. 8, 1985:323–338.

Includes bibliographical references.

Managing the ocean: resources, research, law. Jacques G. Richardson. (Mt. Airy, Md., Lomond Publications, 1985). 407 p. ill., map.

Bibliography: p. 401–402. Includes index.

Marffy, Annick de. La déclaration Pardo et les six années de Comité des fonds marins. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 123–142.

Includes bibliographical references.

_____. La recherche scientifique marine. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 957–973.

Includes bibliographical references.

Marsh, J.E. The boundary provisions of the United Nations Convention on the Law of the Sea. *Thesaurus acroasium*, vol. 14, 1985:229–269.

Mashayekhi, Mina. The present legal status of deep sea-bed mining. *Journal of world trade law* 19(3) May/June 1985:229–250.

McHugh, Paul D. International law: delimitation of maritime boundaries. *Natural resources journal* 25(4) Oct. 1985:1025–1038.

Includes bibliographical references.

Mengozzi, Paolo. Fishing and international cooperation in the light of new developments in the law of the sea. In *Essays on the new law of the sea* (Zagreb, Yugoslavia, Sveucilisna naklada Liber, 1985). p. 261–275.

Migliorino, Luigi. The recovery of sunken warships in international law. In *Essays on the new law of the sea* (Zagreb, Yugoslavia, Sveucilisna naklada Liber, 1985). p. 244–258.

Includes bibliographical references.

Momtaz, Djamchid. La Commission préparatoire de l'autorité internationale des fonds marins et du Tribunal international du droit de la mer. *Annuaire français de droit international*, vol. 30, 1984:864–886.

_____. La haute mer. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 337–374.

Includes bibliographical references.

Monnier, Jean. Le droit d'accès à la mer et la liberté de transit terrestre. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 441–462.

Includes bibliographical references.

Moore, P. Condiciones que los Estados ribereños imponen a la pesca por extranjeros (Rome, FAO, 1985). 315 p.

Muralt, P.W.G. de. The military aspects of the UN Law of the Sea Convention. *Netherlands international law review* 32(1) 1985:78–99.

- Nakamura, K. Unilateral declarations to the United Nations Convention on the Law of the Sea. *Kokusaiho Gaiko Zasshi (Journal of international law and diplomacy)*, vol. 83, 1985:1–32.
In Japanese.
- . The United Nations Convention on the Law of the Sea and third states, (1). *Journal of international law and diplomacy* 84(5) Dec. 1985:1–28.
In Japanese.
- Nelson, L.D.M. Cables et pipelines sous-marins. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 809–818.
Includes bibliographical references.
- Novakovic, Stojan. Kodifikacija i progresivni razvoj prava mora u okviru Ujedinjenih nacija. *Jugoslavenska revija za međunarodno pravo* 32(1/2) 1985:389–402.
Summary in French. Includes bibliographical references.
- Olafsson, Arni. Some aspects of the new law of the sea of special significance for the small nations of the North: the Faroese case. *Nordisk tidsskrift for international ret* 54(1/2) 1985:59–64.
- Orrego Vicuña, Francisco. Le régime de l'exploitation et de l'exploration. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 551–601.
Includes bibliographical references.
- Oxman, Bernard H. La troisième conférence des Nations Unies sur le droit de la mer. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 143–216.
Includes bibliographical references.
- Paolillo, Felipe H. Les structures institutionnelles. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 603–684.
Includes bibliographical references.
- Park, Choon-ho. East Asia and the law of the sea (Seoul, Seoul National University Press, 1983 (1985 printing)). 445 p. maps.
Bibliography: p. 425–445. Includes bibliographical references.
- Pazarci, Hüseyin. Le concept de zone contiguë dans la Convention sur le droit de la mer de 1982. *Revue belge de droit international* 18(1) 1984/1985:249–271.
Includes bibliographical references.
- Peeters, Anne Marie. Het nieuwe zeevisserijrecht in de praktijk: kanttekeningen bij recente ontwikkelingen. *Revue belge de droit international* 18(2) 1984/1985:623–648.
Includes bibliographical references.
- Penick, F.V.W. The legal character of the right to explore and exploit the natural resources of the continental shelf. *San Diego law review* (No. 3, Law of the Sea). 22(4) 1985:765–778.
Includes bibliographical references.
- Prescott, John Robert Victor. *The maritime political boundaries of the world* (London, New York: Methuen, 1985). 377 p. maps.
Includes bibliographical indexes.
- Pueyo Losa, Jorge. La indeterminación del nuevo orden jurídico-marítimo internacional: reflexiones sobre el carácter consuetudinario de la zona económica exclusiva y el valor de la nueva Convención sobre el Derecho del Mar. *Revista española de derecho internacional* 37(2) 1985:323–354.
Includes bibliographical references.
- Pulvenis, Jean-François. Le plateau continental, définition et régime des ressources. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 275–336.
Includes bibliographical references.
- Rahman, M. Habibur. The impact or the law of the sea convention on the regime for islands: problems for the coastal state in asserting claims to "new-born" islands in maritime zones. *International and comparative law quarterly* 34(2) Apr. 1985:368–376.
- Ramakrishna, K. Environmental concerns and the new law of the sea. *Journal of maritime law and commerce* 16(1) Jan. 1985:1–19.
- Ranjeva, Raymond. Règlement des différends. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 1105–1167.

Rao, Bhimsen. Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. *Indian journal of international law* 25(2) Apr./June 1985:226-244.

Includes bibliographical references.

Riquelme Cortado, Rosa María. Reflexiones sobre la firma y la ratificación de la Convención de las Naciones Unidas sobre el Derecho del Mar (1982): a propósito de la firma por España. *Anuario de derecho internacional*, vol. 8, 1985:185-210.

Includes bibliographical references.

Ronzitti, Natalino. Il passaggio inoffensivo nel mare territoriale e la Convenzione delle Nazioni Unite sul diritto del mare. *Rivista di diritto internazionale* 68(1) 1985:32-53.

Ross, David A. A changing ocean policy horizon for marine science. *Ocean development and international law* 15(3/4) 1985:221-232.

Rudolf, Davorin. Some remarks about the provisions concerning the continental shelf in the UN Convention on the Law of the Sea. In *Essays on the new law of the sea* (Zagreb, Yugoslavia, Sveucilisna naklada Liber, 1985), p. 141-146.

Includes bibliographical references.

Shao, Jin. Legal problems concerning military use of exclusive economic zones and continental shelves. *Chinese yearbook of international law* 1985:183-217.

In Chinese.

Simmonds, K.R. The status of the United Nations Convention on the Law of the Sea, 1982. *International and comparative law quarterly* 34(2) Apr. 1984:359-368.

Slot, Piet Jan. The international legal regime for navigation. *Ocean development and international law* 15(1) 1985:89-98.

Sohn, Louis B. The law of the sea: customary international law developments. *American University law review*, vol. 34, winter 1985:271-280.

Soni, Ramanlal. *Control of marine pollution in international law* (Cape Town, South Africa, Juta & Co., Ltd., 1985). 301 p.

Bibliography: p. 277-293. Includes index.

Symonides, Janusz. Definicja, istota prawna i wolności morza otwartego w konwencji z 1982 r. *Prawo i prawo* 40(1) stycz. 1985:40-53.

Includes bibliographical references.

_____. Delimitation of maritime areas between the states with opposite or adjacent coasts. *Polish yearbook of international law*, No. 13, 1984:19-46.

Includes bibliographical references.

_____. The legal status of the enclosed and semi-enclosed seas. *German yearbook of international law*, vol. 27, 1984:315-333.

Tetley, William. L'ONU et la Convention sur le droit de la mer de 1982. *Etudes internationales* (Centre québécois de relations internationales) 16(4) déc. 1985:795-811.

Summary in English. Includes bibliographical references.

Treves, Tullio. La navigation. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 687-808.

Includes bibliographical references.

_____. Observers signatory of the Final Act in the International Seabed Authority's Preparatory Commission. *German yearbook of international law*, vol. 27, 1984:303-314.

Truver, Scott C. The law of the sea and the military use of the oceans in 2010. *Louisiana law review*, vol. 45, July 1985:1221-1247.

Tyagi, Yogesh K. The system of settlement of disputes under the law of the sea convention: an overview. *Indian journal of international law* 25(2) Apr./June 1985:191-209.

Includes bibliographical references.

UNCLOS: Preparatory Commission meets. *Environmental policy and law*, 15(3/4), Dec. 1985:80.

United Nations Convention on the Law of the Sea 1982: a commentary (Dordrecht, Netherlands; Boston, Mass., Nijhoff, 1985). 467 p.

Includes bibliographical references.

Vanin, I., and V. Golubkov. Vazhnye voprosy Konventsii OON po morskomu pravu, Sovetskoe gosudarstvo i pravo, vol. 55, 1985:79–87.

Summary in English.

Villani, Ugo. La delimitazione della piattaforma continentale e della zona economica esclusiva ai sensi della Convenzione delle Nazioni Unite sul diritto del mare. *Rivista di diritto internazionale* 68(2) 1985:261–298.

Includes bibliographical references.

Vratusa, Anton. Convention on the Law of the Sea in the light of the struggle for the new international economic order. In *Essays on the new law of the sea* (Zagreb, Yugoslavia, Sveucilisna naklada Liber, 1985). p. 17–30.

Vukas, Budislav. L'utilisation pacifique de la mer, dénucléarisation et désarmement. In *Traité du nouveau droit de la mer* (Paris, Economica; Bruxelles, Bruylant, 1985). p. 1047–1093.

Includes bibliographical references.

Wassermann, Ursula. LOS Preparatory Commission. *Journal of world trade law* 19(6) Nov./Dec. 1985:675–677.

Wünsche-Petzka, Harry. Die neue Konvention über das Seerecht und das "gemeinsame Erbe der Menschheit". In *Probleme des Völkerrechts 1985* (Berlin, Akademie-Verlag, 1985). p. 303–328.

Summaries in English and Russian. Includes bibliographical references.

Law of treaties

Aleksidze, L.A. Mesto i rol imperativnykh norm v sisteme mezhdunarodnogo prava. In Graefrath, Bernhard. *Probleme des Völkerrechts* (Berlin, Akademie-Verlag, 1985). p. 13–44.

Includes bibliographical references.

Andrés Sáenz de Santa María, María Paz. La incorporación por referencia en el derecho de los tratados. *Revista española de derecho internacional* 37(1) 1985:7–39.

Includes bibliographical references.

Barberis, Julio A. Le concept de "traité international" et ses limites. *Annuaire français de droit international*, vol. 30, 1984:239–270.

Includes bibliographical references.

Bastid, Suzanne. Les traités dans la vie internationale : conclusion et effets (Paris, Economica, 1985). 303 p.

Includes bibliographical references and indexes.

Carnegie, A. Ralph. The Vienna Convention on the Law of Treaties and the law of the sea lawmaking. *Anuario juridico interamericano* 1984:53–94.

Bibliography: p. 89–94.

Coccia, Massimo. Reservations to multilateral treaties on human rights. *California Western international law journal* 15(1) winter 1985:1–51.

Concerns the United States.

The effects of armed conflicts on treaties. *Institute of International Law. Yearbook* 61(pt. 1) 1985:1–27.

Hussain, Ijaz. The Durand Agreement in the light of certain recent international conventions. *Verfassung und Recht in Übersee* 18(3) 1985:255–281.

Concerns Afghanistan and Pakistan. Includes bibliographical references.

Klein, Eckart, and Matthias Pechstein. Das Vertragsrecht internationaler Organisationen: der Konventionsentwurf über Verträge zwischen Staaten und Internationalen Organisationen oder zwischen Internationalen Organisationen im Vergleich zur Wiener Vertragsrechtskonvention von 1969. (Berlin, Duncker and Humblot, 1985). 107 p.

Summary in English: p. 100–102. Bibliography: p. 103–104.

McDade, Paul V. The interim obligation between signature and ratification of a treaty: issues raised by the recent actions of signatories to the Law of the Sea Convention with respect to the mining of the deep seabed. *Netherlands international law review* 32(1) 1985:5–47.

Moyano Bonilla, César. La interpretación de los tratados internacionales según la Convención de Viena de 1969. *Integración latinoamericana* 10(106), oct. 1985:32–49.

Includes bibliographical references.

Rehman, Anis-ur. Succession of newly independent States to multilateral and bilateral treaties. *Indian journal of international law* 25(1) Jan./Mar. 1985:67–72.

Reuter, Paul. Introduction au droit des traités. 2. éd., rev. et augm. (Paris, Presses universitaires de France, 1985).

Includes bibliographical references.

_____. The operational and normative aspects of treaties. *Israel law review* 20(2/3) spring/summer 1985: 123–136.

Includes bibliographical references.

Rosenne, Shabtai. *Breach of treaty* (Cambridge, England, Grotius, 1985). 142 p.

Includes bibliographical references and index.

Schröder, Meinhard. Die Kodifikation des Vertragsrechts internationaler Organisationen. *Archiv des Völkerrechts* 23(4) 1985:385–408.

Includes bibliographical references.

Schweisfurth, Theodor. International treaties and third states. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(4) 1985:653–674.

Includes bibliographical references.

Sybesma-Knol, Neri. The new law of treaties: the codification of the law of treaties concluded between states and international organizations or between two or more international organizations. *Georgia journal of international and comparative law* 15(3) fall 1985:425–452.

Includes bibliographical references.

Vierdag, E.W. Some problems regarding the scope of international instruments on the law of treaties. *Archiv des Völkerrechts* 23(4) 1985:409–449.

Includes bibliographical references.

Villiger, Mark E. Customary international law and treaties: a study of their interactions and interrelations with special consideration of the 1969 Vienna Convention on the Law of Treaties (Dordrecht, Netherlands, Boston, Mass., Nijhoff, 1985). 432 p.

Bibliography: p. 409–420. Includes index.

Wyrozumska, Anna. O skutku erga omnes traktatów Państwo i prawo 40(11/12) listop./grudz. 1985:109–118.

Includes bibliographical references.

_____. Traktaty nierównoprawne. *Sprawy międzynarodowe* 38(3) mar. 1985:87–96.

Zuleeg, Manfred. Vertragskonkurrenz im Völkerrecht, (2): Verträge zwischen beliebigen Völkerrechtssubjekten. *German yearbook of international law*, vol. 27, 1984:367–385.

Summary in English. First part of article appeared in *German yearbook of international law*, vol. 20, 1977.

Law of war

Barile, Giuseppe. Interazione fra norme di diritto umanitario nei conflitti armati non internazionali. *Comunicazioni e studi*, vol. 17/18, 1985:1–22.

Includes bibliographical references.

_____. Obligationes erga omnes e individui nel diritto internazionale umanitario. *Rivista di diritto internazionale* 68(1) 1985:5–31.

Bar-Yaacov, Nissim. Some aspects of prisoner-of-war status according to the Geneva Protocol I of 1977. *Israel law review* 20(2/3) spring/summer 1985:243–281.

Includes bibliographical references.

Bassiouni, C. The U.N. procedures for the effective implementation of the standard minimum rules for the treatment of prisoners. *Dehler collection* 1985:525–539.

Bierzanek, Remigiusz. Stosowanie międzynarodowego prawa humanitarnego w umiędzynarodowionych wewnętrznych konfliktach zbrojnych. *Państwo i prawo* 40(4) kwiec. 1985:45–55.

Includes bibliographical references.

Cameron, P.J. The limitations on methods and means of warfare. *Australian year book of international law*, vol. 9, 1985:247–275.

Commentaries: p. 262–275.

Draper, Gerald I.A.D. Humanitarianism in the modern law of armed conflicts. *International relations: the journal of the David Davies Institute of International Studies* 8(4) Nov. 1985:380–396.

Includes bibliographical references.

Durand, André. The International Committee of the Red Cross in the international community. *International Geneva yearbook* 1985:64–73.

Translated from French. Includes bibliographical references.

- Feliciano, F.P. International humanitarian law and coerced movements of peoples across state boundaries. *Australian year book of international law*, vol. 9, 1985:113–139.
 Commentaries: p. 130–139.
- Fenrick, W.J. Legal aspects of the Falklands naval conflict. *Revue de droit pénal militaire et de droit de la guerre* 24(3/4) 1985:241–268.
 Summaries in French, Dutch, German, Italian and Spanish. Includes bibliographical references.
- Fleiner-Gerster, Thomas, and Michael A. Meyer. New developments in humanitarian law: a challenge to the concept of sovereignty. *International and comparative law quarterly* 34(2) Apr. 1985:267–283.
- Gargiulo, Pietro. Il diritto internazionale e il problema dei mercenari. *Comunità internazionale* 40(1) 1985:38–79.
- Gasser, Hans-Peter. Scrutiny. *Australian year book of international law*, vol. 9, 1985:345–363.
- Gilliland, Jane. Submarines and targets: suggestions for new codified rules of submarine warfare. *Georgetown law journal* 73(3) Feb. 1985:975–1005.
- Green, Leslie Claude. Aerial considerations in the law of armed conflict. In Green, Leslie C. *Essays on the modern law of war* (Dobbs Ferry, N.Y., Transnational Publishers, 1985). p. 135–150.
 Includes bibliographical references.
- _____. The new law of armed conflict. In Green, Leslie C. *Essays on the modern law of war* (Dobbs Ferry, N.Y., Transnational Publishers, 1985). p. 1–26.
 Includes bibliographical references.
- _____. The status of mercenaries in international law. In Green, Leslie C. *Essays on the modern law of war* (Dobbs Ferry, N.Y., Transnational Publishers, 1985). p. 175–213.
 Includes bibliographical references.
- Greig, D.W. The underlying principles of international humanitarian law. *Australian year book of international law*, vol. 9, 1985:46–93.
 Commentaries: p. 86–93.
- Herczegh, Géza. Die neuere Entwicklung des humanitären Völkerrechts. In *Probleme des Völkerrechts 1985* (Berlin, Akademie-Verlag, 1985). p. 115–132.
 Summaries in English and Russian. Includes bibliographical references.
- Hingorani, R.C. Who are the prisoners of war? *Australian year book of international law*, vol. 9, 1985:276–290.
 Commentary: p. 287–290.
- Humanitarian law. *Proceedings (American Society of International Law. Annual Meeting)*, 77th, 1983:212–241.
- International medical and humanitarian law: report of the Committee. *International Law Association: report of the Conference*, 61st, 1984:98–106.
- Isabirye, David Mugadu. Mercenaries and international criminal law. *Revue de droit international, de sciences diplomatiques et politiques* 63(3) juil./sept. 1985:223–256.
 Includes bibliographical references.
- Jäckli, R. What does the future hold for international humanitarian law? *Australian year book of international law*, vol. 9, 1985:384–389.
- Jenkins, Maxwell. Air attacks on neutral shipping in the Persian Gulf: the legality of the Iraqi exclusion zone and Iranian reprisals. *Boston College international and comparative law review* 8(2) summer 1985:517–549.
- Johnson, D.H.N. The defence of superior orders. *Australian year book of international law*, vol. 9, 1985:291–321.
- Keith, K.J. The present state of international humanitarian law. *Australian year book of international law*, vol. 9, 1985:13–45.
 Commentaries: p. 36–45.
- Kocel, Krzysztof. Charakter wojen narodowowyzwolenczych w miedzynarodowym prawie humanitarnym. *Sprawy miedzynarodowe* 38(9) wrzes. 1985:127–138.
 Includes bibliographical references.
- Melander, Göran. International humanitarian law and human rights. *Scandinavian studies in law*, vol. 29, 1985:137–148.
 Includes bibliographical references.
- Mencer, Gejza. Postaveni partyzánů v mezinárodním právu. *Právník* 124(10) 1985:876–891.
 Summaries in English and Russian. Includes bibliographical references.
- Meurant, J. Dissemination and education. *Australian year book of international law*, vol. 9, 1985:364–383.

Meyrowitz, Henri. De quelques idées fausses sur la nature et la fonction du droit de la guerre. *Revue de droit pénal militaire et de droit de la guerre* 24(3/4) 1985:373–407.

Summaries in English, Dutch, German, Italian and Spanish.

_____. Le protocole additionnel I aux conventions de Genève de 1949 et le droit de la guerre maritime. *Revue générale de droit international public* 89(2) 1985:243–298.

Plattner, Denise. La portée juridique des déclarations de respect du droit international humanitaire qui émanent de mouvements en lutte dans un conflit armé. *Revue belge de droit international* 18(1) 1984/1985:298–320.

Includes bibliographical references.

Protection of war victims: Protocol I to the 1949 Geneva Conventions (Dobbs Ferry, N.Y., Oceana, 1979–1985). 4 vols. + suppl. (44 p.).

Record of certain of the proceedings of the 1974–1977 Geneva Diplomatic Conference.

Quentin-Baxter, Robert Q. Human rights and humanitarian law: confluence or conflict? *Australian year book of international law*, vol. 9, 1985:94–112.

Commentaries: p. 106–112.

Rauch, Elmar. Le droit contemporain de la guerre maritime : quelques problèmes créés par le Protocole additionnel I de 1977. *Revue générale de droit international public* 89(4) 1985:958–976.

Includes bibliographical references.

Roberts, Adam. What is military occupation? *British year book of international law*, vol. 55, 1984:249–305.

Includes bibliographical references.

Roberts, Guy B. The new rules for waging war: the case against ratification of additional Protocol I. *Virginia journal of international law* 26(1) fall 1985:109–170.

Includes bibliographical references.

Rumpf, Helmut. The concepts of peace and war in international law. *German yearbook of international law*, vol. 27, 1984:429–443.

Ruud, M. The term combatant: an analysis. *Revue de droit pénal militaire et de droit de la guerre*, vol. 24, 1985:425–448.

Summaries in French, Dutch, German, Italian and Spanish.

Saxena, Jagdish Narain. Guerrilla warfare and international humanitarian law. *Indian journal of international law* 25(3/4) July/Dec. 1985:621–633.

Includes bibliographical references.

Taulbee, James Larry. Myths, mercenaries and contemporary international law. *California western international law journal* 15(2) spring 1985:339–363.

Tavernier, Paul. La guerre du Golfe : quelques aspects de l'application du droit des conflits armés et du droit humanitaire. *Annuaire français de droit international*, vol. 30, 1984:43–64.

Includes bibliographical references.

Thomson, J.F. Repression of violations. *Australian year book of international law*, vol. 9, 1985:325–344.

Verri, Pietro. Cenni sul diritto della guerra. *Revue de droit pénal militaire et de droit de la guerre* 24(1/2) 1985:121–168.

Summaries in English, French, German and Spanish.

Maintenance of peace

Gonnot, Pierre-Charles. L'ONU et le maintien de la paix. *Défense nationale*, vol. 41, juil. 1985:59–74.

Grandi, Bruno. Le operazioni di mantenimento della pace delle Nazioni Unite: considerazioni introduttive. *Comunicazioni e studi*, vol. 17/18, 1985:397–417.

Includes bibliographical references.

Lehmann, Tyge. Some legal aspects of the United Nations of peace-keeping operations. *Nordisk tidsskrift for international ret* 54(3/4) 1985:11–18.

Radzaj, Aleksander. Zasady powoływania i użycia doraznych sił zbrojnych ONZ. *Sprawy międzynarodowe* 38(10) paźdz. 1985:119–128.

Includes bibliographical references.

Randelzhofer, Albrecht. Peace preservation in the UN Charter. *Aussenpolitik: German foreign affairs review* 36(3) 1985:232–240.

Smith, G. Davidson. UN peacekeeping and the role of force: a view from below. *R.U.S.I.: Journal of the Royal United Services Institute for Defence Studies* 130(3) Sept. 1985:37–41.

Sohn, L.B. How to attain peace, security and justice. *International lawyer*, vol. 19, 1985:599–605.

Sun, Lin, Wang Houli and Liu Zhemmin. The United Nations Charter and prevention of international conflicts. *Chinese yearbook of international law* 1985:37–58.

In Chinese.

Most-favoured-nation clause

Nowakowski, Marcin. The most favoured nation clause in the light of the draft of the International Law Commission. *Polish yearbook of international law*, No. 13, 1984:95–116.

Includes bibliographical references.

Namibia

Dore, Isaak Ismail. *The international mandate system and Namibia* (Boulder, Colo., Westview Press, 1985). 230 p. maps.

Includes bibliographical references and index.

Hilmy, Nabil A. Namibian racial discrimination in Namibia and international law of human rights. *Revue égyptienne de droit international*, vol. 41, 1985:157–177.

Includes bibliographical references.

Huaraka, Tunguru. *Namibia by resolutions: a legal analysis of international organisations' attempts at decolonisation* (microform) (Genève, Université de Genève. Institut universitaire de hautes études internationales, 1985). Thèse no 323.

Bibliography: p. 409–430.

Landis, Elizabeth S. Security legislation in Namibia: memorandum of the South West Africa (Namibian) Bar Council. *Vale journal of international law* 11(1) fall 1985:48–103.

Includes bibliographical references.

Narcotic drugs

Barnett, J. Richard. Extradition treaty improvements to combat drug trafficking. *Georgia journal of international and comparative law* 15(2) summer 1985:285–315.

Concerns the United States. Includes bibliographical references.

Bernholz, Steven A., Martin J. Bernholz and G. Nicholas Berman. International extradition in drug cases. *North Carolina journal of international law and commercial regulation* 10(2) spring 1985:353–382.

Natural resources

Birnie, Patricia. The role of developing countries in nudging the International Whaling Commission from regulating whaling to encouraging nonconsumptive uses of whales. *Ecology law quarterly* 12(4) 1985:937–975.

Includes bibliographical references.

Bockslaff, Klaus. Zwischen Nutzung und Konservierung zum Wohle der Menschheit: die Frage der Antarktis vor der Generalversammlung der Vereinten Nationen. *Vereinte Nationen* 33(2) Apr. 1985:49–53.

Boyd, Susan B. The legal status of the Arctic sea ice: a comparative study and a proposal. *Canadian yearbook of international law*, vol. 22, 1984:98–152.

Summary in French. Includes bibliographical references.

De Wit, Maarten J. Reshaping the Antarctic Treaty, with implications for South Africa. *International affairs bulletin* 9(2) 1985:44–58.

Eilers, Stephan. Antarctica adjourned?: the U.N. deliberations on Antarctica. *International lawyer* 19(4) fall 1985:1309–1318.

Includes bibliographical references.

Godana, Bonaya Adhi. *Africa's shared water resources: legal and institutional aspects of the Nile, Niger and Senegal river systems* (London, F. Pinter; Boulder, Colo., L. Rienner, 1985). 370 p.

Bibliography: p. 347–358. Includes index.

Hamzah, B.A. Antarctica and the new international regime. *Asia Pacific community*, No. 30, fall 1985:108–118.

Includes bibliographical references.

Hayashi, Moritaka. The question of Antarctica at the United Nations. *Journal of international law and diplomacy* 84(4), Oct. 1985:13–38.

In Japanese.

Jiménez de Aréchaga, Eduardo. The Grotian heritage and the concept of a just world order. In *International law and the Grotian Heritage* (The Hague, T. M. C. Asser Instituut, 1985). p. 5–24.

Includes bibliographical references.

Kouassi, Kanga. Le concept du patrimoine commun de l'humanité et l'évolution du droit international public. *Revue juridique et politique, indépendance et coopération* 39(3/4) juil./déc. 1985:949–968.

Includes bibliographical references.

Mangone, G.J. Unrecognized boundaries: the Antarctica case. *Thesaurus acroasium*, vol. 14, 1985:145–198.

Rajski, Jerzy. Potrzeba stopniowej kodyfikacji międzynarodowego prawa handlowego w skali światowej. *Panstwo i prawo* 40(9) wrzes. 1985:46–54.

Includes bibliographical references.

Shapley, Deborah. *The seventh continent: Antarctica in a resource age* (Washington: Resources for the Future, 1985). 315 p. ill., maps.

Includes bibliographical references and index.

Sollie, Finn. Prinsipper, problemer og praksis i Antarktis-utviklingen. *Internasjonal politikk*, No. 1, 1985:63–81.

Summary in English.

Triggs, Gillian. The Antarctic Treaty regime: a workable compromise or a “purgatory of ambiguity”? *Case Western Reserve journal of international law* 17(2) spring 1985:195–228.

Tsutsui, W. The present legal status of the Antarctic. *Jurisuto (The Jurist)*, No. 839, 1985:90–95.

In Japanese.

Wassenbergh, Henry A. Parallels and differences in the development of air, sea and space law in the light of Grotius' heritage. In *International law and the Grotian Heritage* (The Hague, T. M. C. Asser Instituut, 1985). p. 273–284.

Includes bibliographical references.

Young, Allan. Antarctic resource jurisdiction and the law of the sea: a question of compromise. *Brooklyn journal of international law* 11(1) winter 1985:45–78.

Outer space

Agrawala, S.K. An approach to arms control in outer space. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(3) 1985:497–526.

Includes bibliographical references.

Arbess, Daniel. Star wars and outer space law. *Bulletin of the atomic scientists* 41(9) Oct. 1985:19–22.

Bedout, M.V. Goenaga de. The situation of the synchronic geostationary orbit in the problem of demarcation of airspace and outerspace. *Thesaurus acroasium*, vol. 14, 1985:689–695.

Benkó, Marietta, und Gerhard Gruber. Weltraumrecht in den Vereinten Nationen: die Arbeit des UN-Weltraumausschusses in den Jahren 1984 und 1985. *Zeitschrift für Luft- und Weltraumrech* 34(4) Dez. 1985:282–298.

Includes bibliographical references.

Bourély, Michel G. La protection de l'environnement dans l'espace extra-atmosphérique. *Annals of air and space law*, vol. 10, 1985:277–295.

Summary in English. Includes bibliographical references.

Christol, Carl Quimby. The common interest in the exploration, use and exploitation of outer space for peaceful purposes: the Soviet-American dilemma. *Annuaire de droit maritime et aérien*, vol. 8, 1985:235–265.

Includes bibliographical references.

The moon treaty enters into force. *American journal of international law* 79(1) Jan. 1985:163–168.

_____. Prospects for an international legal regime for direct television broadcasting. *International and comparative law quarterly* 34(1) Jan. 1985:142–158.

Convention on International Liability for Damage Caused by Space Objects: definition and determination of damages after the Cosmos 954 incident. *Fordham international law journal*, vol. 8, 1984/85:255–285.

- Dolzer, Rudolf. International co-operation in outer space. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(3) 1985:527-546.
- Includes bibliographical references.
- Dula, Art. Private sector activities in outer space. *International lawyer* 19(1) winter 1985:159-187.
- Dutheil de la Rochère, Jacqueline. Aspects récents du droit de l'espace. *Revue roumaine d'études internationales* 19(4) juil./août 1985:373-384.
- Georgakarakos, E.N. The necessity to set boundaries between airspace and outer space *Thesaurus acroasium*, vol. 14, 1985:681-687.
- Gorove, Stephen. International direct television broadcasting by satellite: "prior consent" revisited. *Columbia journal of transnational law* 24(1) 1985:1-11.
- Includes bibliographical references.
- Harndt, Raimund. Die Militärische Nutzung des Weltraums und ihre Völkerrechtlichen Grenzen. *Revue de droit pénal militaire et de droit de la guerre* 24(1/2) 1985:69-119.
- Summaries in Dutch, English, French, Italian and Spanish.
- He, Qizhi. Observations on the main issues of space law in the United Nations. *Annals of air and space law*, vol. 10, 1985:353-365.
- Summary in French. Includes bibliographical references.
- Heijden, M. van der. Ceiling of sovereignty: matters relating to the definition and/or delimitation of outer space and outer space activities. *Thesaurus acroasium*, vol. 14, 1985:783-791.
- Joyner, Christopher C., and Douglas R. Miller. Selling satellites: the commercialization of LANDSAT. *Harvard international law journal* 26(1) winter 1985:63-102.
- Lafferranderie, Gabriel. La notion d'utilisation pacifique dans le droit de l'espace. *Revue française de droit aérien* 156(4) oct./déc. 1985:427-438.
- Includes bibliographical references.
- Luxenberg, Barbara, and Gerald J. Mossinghoff. Intellectual property and space activities. *Journal of space law* 13(1) 1985:8-21.
- With emphasis on the United States.
- Mann, Klaus. Das Völkerrecht im Kampf gegen die Militarisierung des Weltraumes. *Staat und Recht*, vol. 34, 1985:707-711.
- Mateesco-Matte, Mircea. De Genève à Genève : quelle "prévention" de la militarisation de l'espace? *Annals of air and space law*, vol. 10, 1985:389-416.
- Summary in English. Includes bibliographical references.
- _____. La militarisation de l'espace et la loi spatiale à l'heure de la coexistence non pacifique. *Annuaire de droit maritime et aérien*, vol. 8, 1985:199-231.
- Includes bibliographical references.
- Matte, Nicolas Mateesco. Military uses of outer space and the 1967 outer space treaty. In *Air worthy* (Deventer, Netherlands; Boston, Mass., Kluwer, 1985). p. 117-134.
- Includes bibliographical references.
- _____. Space stations: a peaceful use for humanity? *Annals of air and space law*, vol. 10, 1985:417-451.
- Summary in French. Includes bibliographical references.
- Mezhdunarodnoe kosmicheskoe pravo. tv. red., A.S. Piradov, (Moskva, Mezhdunarodnye otnoshenlia, 1985. 204 p.
- Includes bibliographical references.
- Pirola, Nicolás de. Las Naciones Unidas y la formación del derecho del espacio ultraterrestre. *Revista peruana de derecho internacional* 37(93) oct. 1985:59-80.
- Proceedings of the twenty-seventh Colloquium on the Law of Outer Space. 7-13 October 1984, Lausanne, Switzerland. International Institute of Space Law of the International Astronautical Federation. 413 p.
- Ramírez Sineiro, José Manuel. La dimensión estelar de la carrera de armamentos y la crisis de los principios normativos de la actividad espacial. *Revista de estudios internacionales* 6(3) jul./sept. 1985:601-654.
- Includes bibliographical references.
- Seidl-Hohenveldern, Ignaz. The Third World and geo-stationary satellites. *Law and state*, vol. 31, 1985:117-133.
- Smith, Milton L. Legal implications of a space-based ballistic missile defense. *California Western international law journal* 15(1) winter 1985:52-75.

Space Law Committee: report of the Committee. *International Law Association: report of the Conference*, 61st 1984:325–376.

Space telecommunications: issues and policies. *Proceedings (American Society of International Law. Annual Meeting)*, 77th. 1983:346–370.

Stojak, M. Lucie. Current proposals for the future control of outer space weaponization. *Annals of air and space law*, vol. 10, 1985:453–475.

Summary in French. Includes bibliographical references.

Urueña Alvarez, M. Rafaela La O.N.U. y el derecho del espacio extraatmosférico. *Anuario de derecho internacional*, vol. 8, 1985:251–263.

Includes bibliographical references.

Vajic, Nina. Ujedinjeni narodi i razvoj svemirskog prava. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:403–415.

Summary in English. Includes bibliographical references.

Vereshchetin, Vladlen Stepanovich, and Gennady M. Danilenko. Custom as a source of international law of outer space. *Journal of space law* 13(1) 1985:22–35.

Vries, Walter W.C. De. Boundaries in space?: some theories and problems regarding the definition, delimitation and/or demarcation of outer space. *Thesaurus acroasium*, vol. 14, 1985:769–782.

Wolter, Detlev. The peaceful purpose standard of the common heritage of mankind principle in outer space law. *ASILS international law journal*, vol. 9, 1985:117–146.

Peaceful settlement of disputes

Alhérière, Dominique. Settlement of public international disputes on shared resources: elements of a comparative study of international instruments. *Natural resources journal* 25(3) July 1985: 701–711.

Includes bibliographical references.

Armed force, peaceful settlement, and the United Nations Charter: are there alternatives to “a new international anarchy”? *Proceedings (American Society of International Law. Annual Meeting)*, 77th, 1983:31–51.

Audit, Bernard. Le Tribunal des différends irano-américains (1981–1984). *Journal du droit international* 112(4) oct./déc. 1985:791–863.

Includes bibliographical references.

Berglin, R. Hakan. Treaty interpretation and the impact of contractual choice of forum clauses on the jurisdiction of international tribunals: the Iranian forum clause decisions of the Iran-United States Claims Tribunal. *Texas international law journal* 21(1) winter 1985:39–65.

Includes bibliographical references.

Iran-United States litigation. *Proceedings (American Society of International Law. Annual Meeting)*, 77th, 1983: 3–31.

Lukov, Vadim. International negotiations of the 1980s: features, problems and prospects. *Negotiation journal: on the process of dispute settlement* 1(2) Apr. 1985:139–148.

Malitz, Mircea. Small states and the peaceful settlement of disputes. In *Multilateral negotiation and mediation: instruments and methods* (New York, Pergamon Press, 1985) p. 77–88.

Includes bibliographical references.

Mariño Menéndez, Fernando M. La mediación de la Santa Sede en el asunto del Canal de Beagle. *Revista española de derecho internacional* 37(2) 1985:423–448.

Includes bibliographical references.

Marotta Rangel, Vicente. Solução pacífica de controvérsias: o impacto das organizações internacionais. *Anuario jurídico interamericana* 1984:19–51.

Bibliography: p. 48–51.

Multilateral negotiation and mediation: instruments and methods. Edited by Arthur S. Lall. (New York, Pergamon Press, for the International Peace Academy, 1985). 206 p.

Includes bibliographical references and index.

Paffrath, H. Important aspects of law on the settlement of boundary and territorial disputes by peaceful means. *Thesaurus acroasium*, vol. 14, 1985: 741–753.

Racic, Obrad. Putevi daljeg razvoja mirnog resavanja sporova. *Jugoslovenska revija za međunarodno pravo* 32(1/2) 1985:263–281.

Summary in French. Includes bibliographical references.

Redfern, Alan. The arbitration between the Government of Kuwait and Aminoil. *British yearbook of international law*, vol. 55, 1984:65–110.

Includes bibliographical references.

Umbricht, Victor. Une expérience de médiation: le cas de l'ancienne Communauté africaine orientale. *Annuaire français de droit international*, vol. 30, 1984:29–159.

_____. Principles of international mediation: the case of the East African Community. *Recueil des cours* (Hague Academy of International Law) 187(4) 1984: 307–390.

Zartman, I. William. Negotiating from asymmetry: the North-South stalemate. *Negotiating journal: on the process of dispute settlement* 1(2) Apr. 1985:121–138.

Political and security questions

Ivanashchenko, L. A. Pravo mezhdunarodnoi bezopasnosti-novalia otrasl sovremennogo mezhdunarodnogo prava. *Sovetskoe gosudarstvo i pravo*, No. 6, 1985:99–106.

Boyle, Francis Anthony. The Iranian hostages crisis. *Revue de droit international, de sciences diplomatiques et politiques* 63(1) janv./mars 1985:1–31.

Cadoux, Charles. L'Accord de Nkomati et les nouvelles perspectives de relations entre la République d'Afrique du Sud et ses voisins d'Afrique australe. *Annuaire français de droit international*, vol. 30, 1984:65–92.

Includes bibliographical references.

The Falklands war: lessons for strategy, diplomacy, and international law. Edited by Alberto R. Coll and Anthony C. Arend, (Boston, Mass., George Allen and Unwin, 1985). 252 p. maps.

Includes bibliographical references and index.

Faramiñán Gilbert, Juan Manuel. Situación actual del contencioso Malvinas (Falkland). *Revista española de derecho internacional* 37(1) 1985:135–151.

Includes bibliographical references.

Flory, Maurice. La partition de Chypre. *Annuaire français de droit international*, vol. 30, 1984:177–186.

Includes bibliographical references.

Friedlander, Robert A. Confusing victims and victimizers: Nicaragua and the reinterpretation of international law. *Denver journal of international law and policy* 14(1) spring summer 1985:87–96.

Includes bibliographical references.

Gravelle, James Francis. The Falkland (Malvinas) Islands: an international law analysis of the dispute between Argentina and Great Britain. *Military law review*, vol. 107, winter 1985:5–69.

Includes bibliographical references.

Nastase, Adrian. Military alliances and threat perception: an international law approach. *Revue roumaine des sciences sociales. Série des sciences juridiques*, 29(1) janv./juin 1985:65–76.

Includes bibliographical references.

Riggs, Ronald M. The Grenada intervention: a legal analysis. *Military law review*, vol. 109, summer 1985:1–81.

Schröder, Meinhard. Der Kampf um die Falkland-Inseln: völkerrechtliche und europarechtliche Aspekte. *German yearbook of international law*, vol. 27, 1984: 334–366.

Summary in English.

Sehimi, Mustapha. L'Union d'Etats maroco-libyenne. *Annuaire français de droit international*, vol. 30, 1984: 111–127.

Includes bibliographical references.

Tünnermann Bernheim, Carlos. United States armed intervention in Nicaragua and Article 2(4) of the United Nations Charter. *Yale journal of international law*, 11(1) fall 1985:104–138.

Includes bibliographical references.

Vallarta, José Luis. El conflicto de las Malvinas frente al derecho internacional. *Anuario jurídico interamericano* 1984:193–221.

Includes bibliographical references.

Wheeler, Laura K. The Grenada invasion: expanding the scope of humanitarian intervention. *Boston College international and comparative law review* 8(2) summer 1985:413–430.

Wünsche, H., Völkerrecht: eine Waffe im Kampf um den Frieden und die Festigung der internationalen Sicherheit. *Staat und Recht*, vol. 34, 1985:358–366.

Progressive development and codification of international law (in general)

Caminos, Hugo, and Michael R. Molitor. Progressive development of international law and the package deal. *American journal of international law* 79(4) Oct. 1985:871-890.

Concerns the United Nations Convention on the Law of the Sea. Includes bibliographical references.

Codification of state responsibility in international law: a review and assessment. *ASILS international law journal*, vol. 9, winter 1985:1-36.

Dauchy, Jacqueline. Travaux de la Commission juridique de l'Assemblée générale des Nations Unies (39e session). *Annuaire français de droit international*, vol. 30, 1984:593-606.

Dehaussy, Jacques. Travaux de la Commission du droit international. *Annuaire français de droit international*, vol. 30, 1984:607-624.

Fleischhauer, Carl-August. The United Nations and the progressive development and codification of international law. *Indian journal of international law* 25(1) Jan./Mar. 1985:1-7.

Kotera, Akira. Report of the work of the thirty-sixth session of the International Law Commission. *Journal of international law and diplomacy* 84(1) Apr. 1985:76-94.

In Japanese.

Kowalski, Andrzej. Rola Komisji Prawa Międzynarodowego w procesie legislacyjnym. *Panstwo i prawo* 40(7/8) lip./sierp. 1985:98-107.

Includes bibliographical references.

Nawaz, M.K. On ways and methods for improving the work of the International Law Commission. *Indian journal of international law* 25(3/4) July/Dec. 1985:634-643.

Includes bibliographical references.

Scott, Sterling. Codification of state responsibility in international law: a review and assessment. *ASILS international law journal*, vol. 9, 1985:1-56.

Simma, Bruno. Self-contained regimes. *Netherlands yearbook of international law*, vol. 16, 1985:111-136.

Includes bibliographical references.

Tomka, Peter. K formám kodifikácie medzinárodného práva. *Acta universitatis carolinae: juridica*, vol. 31, 1985:221-235.

Summary in Russian.

Recognition of States

Ando, Nisuke. The recognition of governments reconsidered. *Japanese annual of international law*, No. 28, 1985:29-46.

Includes bibliographical references.

Nkala, Jericho. *The United Nations, international law, and the Rhodesian independence crisis* (Oxford, Clarendon Press, 1985). 288 p.

Bibliography: p. 275-283. Includes index.

Quintin, Yves P. La reconnaissance et l'exécution des jugements étrangers en droit américain. *Revue critique de droit international privé* 74(3) juil./sept. 1985:433-475.

Includes bibliographical references.

Remiro Brotons, Antonio. La reconnaissance et l'exécution des sentences arbitrales étrangères. *Recueil des cours* (Hague Academy of International Law) 184(1) 1984:169-354.

Includes bibliographical references.

Wallace-Bruce, Nil Lante. Africa and international law: the emergence to statehood. *Journal of modern African studies* 23(4) Dec. 1985:575-602.

Includes bibliographical references.

Refugees

Bakhashab, Omar. The legal concept of political refugees. *Etudes internationales* (Association des études internationales (Tunis)), No 15, juil, 1985:41-45.

Includes bibliographical references.

Doehring, Karl. Die Rechtsnatur der Massenausweisung unter besonderer Berücksichtigung der indirekten Ausweisung. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(2) 1985:372-389.

Summary in English.

- Garvey, Jack I. Rethinking refugee aid: a path to Middle East peace. *Texas international law journal* 20(2) spring 1985:247–265.
- _____. Toward a reformulation of international refugee law. *Harvard international law journal* 26(2) spring 1985:483–500.
- Grahl-Madsen, Atle. Refugees and displaced persons: meeting the challenge. *Nordisk tidsskrift for international ret* 54(3/4) 1985:3–10.
- _____. *The status of refugees in international law: past, present future* (Bergen, Norway, Universitetet i Bergen, 1985). 121 p.
- Greiper, Ellen H. Stateless persons and their lack of access to judicial forums. *Brooklyn journal of international law* 11(2) spring 1985:439–457.
- Includes bibliographical references.
- Hailbronner, Kay. Refugees and asylum: the West German case. *Washington quarterly* 8(4) fall 1985:183–195.
- Includes bibliographical references.
- Lentini, Elizabeth J. The definition of refugee in international law: proposals for the future. *Boston College Third World law journal* 5(2) June 1985:183–198.
- Includes bibliographical references.
- Macalister-Smith, Peter. International humanitarian assistance for refugees: law and practice. *Indian journal of international law* 25(3/4) July/Dec. 1985:365–385.
- Includes bibliographical references.
- Rizvi, Hasan-Askari. United Nations and the refugee problem. *Pakistan horizon* 38(1) 1985:46–59.
- Seidenberg, Marc. Withholding of deportation: burdening the refugee in contravention of international standards. *Brooklyn journal of international law* 11(2) spring 1985:379–410.
- Concerns the United States. Includes bibliographical references.

Right of asylum

- Jeffery, A.J. Diplomatic asylum: its problems and potential as a means of protecting human rights. *South African journal on human rights*, vol. 1, 1985:10–30.
- Kimminich, Otto. The present international law of asylum. *Law and state*, vol. 32, 1985:25–46.
- Includes bibliographical references.
- Symonides, Janusz. Azył terytorialny. *Sprawy międzynarodowe* 38(9) wrzes. 1985:40–53.
- Includes biographical references.

Self-determination

- Amberg, Eric M. Self-determination in Hong Kong: a new challenge to an old doctrine. *San Diego law review*. (No. 3, Law of the Sea) 22(4) 1985:839–858.
- Includes bibliographical references.
- Blay, Samuel Kwaw Nyameke. Self-determination versus territorial integrity in decolonization revisited. *Indian journal of international law* 25(3/4) July/Dec. 1985:386–410.
- Includes bibliographical references.
- Connelly, A.M. The right of self-determination and international boundaries. *Thesaurus acroasium*, vol. 14, 1985:541–573.
- Díaz Barrado, Cástor Miguel. Condición jurídico-política del pueblo palestino en la sociedad internacional *Revista española de derecho internacional* 37(2) 1985:449–464.
- Includes bibliographical references.
- Islam, M. Rafiqul. Use of force in self-determination claims. *Indian journal of international law* 25(3/4) July/Dec. 1985:424–447.
- Includes bibliographical references.
- Kimminich, Otto. Die Renaissance des Selbstbestimmungsrechts nach dem Ende des Kolonialismus. *Meissner collection* 1985:601–615.
- Krys, Roman. The right of peoples to self-determination. *Revue de droit international, de sciences diplomatiques et politiques* 63(4) oct./dec. 1985:289–307.
- Includes bibliographical references.

Pazzanita, Anthony G. Legal aspects of membership in the Organization of African Unity: the case of the Western Sahara. *Case Western Reserve journal of international law* 17(1) winter 1985: 123–158.

State responsibility

Akehurst, M.B. International liability for injurious consequences arising out of acts not prohibited by international law. *Netherlands yearbook of international law*, vol. 16, 1985:3–16.

Includes bibliographical references.

Combacau, Jean, and D. Alland. Primary and “secondary” rules in the law of state responsibility: categorizing international obligations. *Netherlands yearbook of international law*, vol. 16, 1985:81–109.

Includes bibliographical references.

Gayim, Eyassu. Reflections on the draft articles of the International Law Commission on state responsibility: articles 14; 15; and 19 in the context of the contemporary international law of self-determination. *Nordisk tidskrift for international ret* 54(1/2) 1985:85–110.

Goldie, L.F.E. Concepts of strict and absolute liability and the ranking of liability in terms of relative exposure to risk. *Netherlands yearbook of international law*, vol. 16, 1985:175–248.

Includes bibliographical references.

Graefrath, Bernhard. Responsibility and damages caused: relationship between responsibility and damages. *Recueil des cours* (Hague Academy of International Law) 185(2) 1984: 9–149.

Bibliography: p. 145–149.

Handl, Günther. Liability as an obligation established by a primary rule of international law: some basic reflections on the International Law Commission's work. *Netherlands yearbook of international law*, vol., 16 1985: 49–79.

Includes bibliographical references.

Hofmann, Rainer. Refugee-generating policies and the law of state responsibility. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(4) 1985: 694–713.

Includes bibliographical references.

_____. Zur Unterscheidung Verbrechen und Delikt im Bereich der Staatenverantwortlichkeit. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(2) 1985:195–231.

Summary in English.

Jagota, S.P. State responsibility: circumstances precluding wrongfulness. *Netherlands yearbook of international law*, vol. 16, 1985:249–277.

Includes bibliographical references.

Malanczuk, Peter. Zur Repräsentation im Entwurf der International Law Commission zur Staatenverantwortlichkeit. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 45(2) 1985:293–323.

Summary in English.

Malekian, Farhad. International criminal responsibility of States: a study on the evolution of state responsibility with particular emphasis on the concept of crime and criminal responsibility. (Thesis (doctoral) Stockholms universitet, 1985).

Bibliography: p. 198–208. Includes index.

Pinto, M.O.W. Reflections on international liability for injurious consequences arising out of acts not prohibited by international law. *Netherlands yearbook of international law*, vol. 16, 1985:17–48.

Includes bibliographical references.

The responsibility of states for private acts of international terrorism. *Temple international and comparative law journal*, vol. 1, fall 1985:69–97.

Vargès, Gabe Shawn. Defining a sovereign for immunity purposes: proposals to amend the International Law Association draft convention. *Harvard international law journal* 26(1) winter 1985:103–154.

State sovereignty

Bleckmann, Albert. Das Souveränitätsprinzip im Völkerrecht. *Archiv des Völkerrechts* 23(4) 1985:450–477.

Includes bibliographical references.

Damian, Helmut. *Staatenimmunität und Gerichtszwang: Grundlagen und Grenzen der völkerrechtlichen Freiheit fremder Staaten von inländischer Gerichtsbarkeit in Verfahren der Zwangsvollstreckung oder Anspruchssicherung/State immunity and judicial coercion: fundamentals and limits of state immunity from attachment and execution under public international law* (Berlin; New York, Springer Verlag, 1985). 261 p.

English summary. Bibliography: p. 235–244. Includes index.

Delaume, Georges R. Economic development and sovereign immunity. *American journal of international law* 79(2) Apr. 1985:319–346.

Includes bibliographical references.

Emanuelli, Claude. L'immunité souveraine et la coutume internationale: de l'immunité absolue à l'immunité relative? *Canadian yearbook of international law*, vol. 22, 1984:26–97

Includes bibliographical references.

Fardella, F. Il dogma della sovranità dello stato: un consuntivo. *Rivista trimestrale di diritto pubblico*, vol. 35, 1985: 1064–1087.

Kotora, Miroslav. Nekteré soucasné vyvojené tendence mezinárodné právní imunity státu. *Právník* 124(1) 1985:62–80.

Summaries in English and Russian. Includes bibliographical references.

Lewis, Charles J. *State and diplomatic immunity*. 2nd ed. (London; New York, Lloyd's of London Press, 1985). 247 p.

Includes bibliographical references and index.

Lowe, Alan Vaughan. The problems of extraterritorial jurisdiction: economic sovereignty and the search for a solution. *International and comparative law quarterly*, vol. 34, 1985:724–746.

Singer, Michael. Abandoning restrictive sovereign immunity: an analysis in terms of jurisdiction to prescribe. *Harvard international law journal* 26(1) winter 1985:1–61.

Sperduti, G. The heritage of Grotius and a modern concept of law and state. In *International law and the Grotian heritage* (The Hague, T. M. C. Asser Instituut, 1985). p. 32–45.

State sovereignty and the effective management of a shared universal resource: observations drawn from examining developments in the international regulation of radiocommunication, by Donald J. Fleming et al. *Annals of air and space law*, vol. 10, 1985:327–352.

Summary in French. Includes bibliographical references.

Synvet, Hervé. Quelques réflexions sur l'immunité d'exécution de l'Etat étranger. *Journal du droit international* 112(4) oct./déc. 1985:865–887.

Includes bibliographical references.

Wetter, J. Gillis. Pleas of sovereign immunity and act of sovereignty before international arbitral tribunals. *Journal of international arbitration* 2(1) Mar. 1985:7–20.

Includes bibliographical references.

State succession

Cowger, Alfred R. Rights and obligations of successor states: an alternative theory. *Case Western Reserve journal of international law* 17(2) spring 1985:285–314.

Magdelénat, Jean-Louis, et Jiefang Huang. Les accords de transport aérien dans les successions d'états : le cas particulier de Hong-Kong. *Annals of air and space law*, vol. 10, 1985:103–132.

Summary in English. Includes bibliographical references.

Monnier, Jean. La Convention de Vienne sur la succession d'Etats en matière de biens, archives et dettes d'Etat. *Annuaire français de droit international*, vol. 30, 1984:221–229.

Includes bibliographical references.

Poeggel, Walter et al. Zur Theorie der Staatennachfolge im Ergebnis der Kodifikationsarbeiten der Vereinten Nationen. In *Probleme des Völkerrechts* 1985 (Berlin, Akademie-Verlag, 1985), p. 221–238.

Summaries in English and Russian. Includes bibliographical references.

Tyranowski, J. Boundaries and boundary treaties in the law of state succession. *Thesaurus acroasium*, vol. 14, 1985:459–540.

Technical cooperation

Nascimento e Silva, Geraldo Eulalio do. The influence of science and technology on international law. *German yearbook of international law*, vol. 27, 1984:196–211.

Trade and development

Ago, Shinichi. Legal framework to avoid international economic conflicts between the North and the South. *Journal of international law and diplomacy* 84(2) June 1985:30–66.

In Japanese. Summary in English. Includes bibliographical references.

Ashford, Nicholas A., and Christine Ayers. Policy issues for consideration in transferring technology to developing countries. *Ecology law quarterly* 12(4) 1985:871–905.

Includes bibliographical references.

Bermejo Garcia, Romualdo, and J.D. Dougan Beaca. El derecho al desarrollo: un derecho complejo con contenido variable. *Anuario de derecho internacional*, vol. 8, 1985:211–249.

Includes text of the Declaration on the Right to Development, in Spanish. Includes bibliographical references.

Bruning, E.R. Code of Conduct for Liner Conferences: its significance for developing nations. *Transportation practitioners journal*, vol. 52, spring 1985:340–358.

Bulajic, Milan. Ujedinjene nacije: nacela medunarodnog prava (ekonomskog) razvoja. *Jugoslovenska revija za medunarodno pravo* 32(1/2) 1985:333–358.

Summary in English. Includes bibliographical references.

Carbone, Sergio M. Modelli organizzativi del traffico marittimo, ruolo delle imprese e diritto internazionale dell'economia. *Diritto marittimo* 87(3) luglio/sett. 1985:479–500.

Includes bibliographical references.

Comanescu, Lazar. La contribution de l'Organisation des Nations Unies au renforcement de la coopération économique internationale. *Revue roumaine d'études internationales* 19(4) juil./août 1985: 353–361.

Includes bibliographical references.

Daianu, Daniel. Some thoughts on the external debt and the financial times of the developing countries. *Revue roumaine d'études internationales* 19(5) sept./oct. 1985:453–465.

Bibliography: p. 464–465.

Ewing, Arthur F. Why freer trade in services is in the interest of developing countries. *Journal of world trade law* 19(2) Mar./Apr. 1985:147–169.

The international law of compensation for expropriation and international debt: a dangerous uncertainty. *Hastings international and comparative law review*, vol. 8, winter 1985: 223–247.

Jasinski, Boguslaw. Przemysł w rozwoju "trzeciego świata". *Sprawy międzynarodowe* 38(3) mar. 1985:43–56.

Jehl, Joseph. *Le commerce international de la technologie : approche juridique* (Paris, Librairies techniques, 1985). 502 p.

Includes bibliographical references.

Juda, Lawrence. The UNCTAD Liner code: a preliminary examination of the implementation of the Code of Conduct for Liner Conferences, *Journal of maritime law and commerce* 16(2) Apr. 1985:181–217.

Kassahun, Y. The food questions within the prism of international law of development. *Oklahoma law review*, vol. 38, 1985:863–891.

Khan, Rahmatullah. Transfer of marine technology. *Indian journal of international law* 25(2) Apr./June 1985:262–269.

Lando, Ole. The *lex mercatoria* in international commercial arbitration. *International and comparative law quarterly* 34(4) Oct. 1985:747–768.

Roffe, Pedro. Transfer of technology: UNCTAD's draft international code of conduct. *International lawyer* 19(2) spring 1985:689–707.

_____. UNCTAD: code of conduct on transfer of technology: sixth session of the U.N. Conference. *Journal of world trade law* 19(6) Nov./Dec. 1985:669–672.

Smith, Ian. UNCTAD: failure of the UN Sugar Conference. *Journal of world trade law* 19(3) May/June 1985:296–301.

Stockhausen, Joachim von. Die Verschuldung der Entwicklungsländer und ihre Konsequenzen für die Vergabe von öffentlicher Entwicklungshilfe. *Verfassung und Recht in Übersee* 18(4) 1985:441–462.

Summary in English. Includes bibliographical references.

Troyer, Thomas A., et al. Divestment of South Africa investments: the legal implications for foundations, other charitable institutions, and pension funds. *Georgetown law journal* 74(1) Oct. 1985:127–161.

Concerns the United States. Includes bibliographical references.

Walsh, James I. The effect on third countries of mandated countertrade. *Journal of world trade law* 19(6) Nov./Dec. 1985:592-603.

Includes bibliographical references.

Weiss, Thomas George. UNCTAD: what next? *Journal of world trade law* 19(3) May/June 1985:251-268.

Woroniecki, Jan. Działalność systemu ONZ w sferze gospodarczej. *Sprawy międzynarodowe* 38(10) paźdz. 1985:77-90.

Includes bibliographical references.

Use of force

Beirlaen, André. Economic coercion and justifying circumstances. *Revue belge de droit international* 18(1) 1984/1985:57-78.

Includes bibliographical references.

Farer, Tom J. Political and economic coercion in contemporary international law. *American journal of international law* 79(2) Apr. 1985:405-413.

Francioni, Francesco. Peacetime use of force, military activities, and the new law of the sea. *Cornell international law journal* 18(2) summer 1985:203-226.

Includes bibliographical references.

Restraints on the unilateral use of force: a colloquy. *Yale journal of international law* 10(2) spring 1985:261-294. Special issue. Includes bibliographical references.

Seidl-Hohenveldern, Ignaz. The United Nations and economic coercion. *Revue belge de droit international* 18(1) 1984/1985:9-19.

Includes bibliographical references.

Wallace, Don. International law and the use of force: reflections on the need for reform. *International lawyer* 19(1) winter 1985:259-275.

C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

Food and Agriculture Organization of the United Nations

Alheritiere, D. Introducción al estudio de los plaguicidas en el derecho interno e internacional: ambiente e recursos naturales. *Revista de derecho, política y administración* 11(1) 1985: 48-54.

Bordwin, Harold J. The legal and political implications of the international undertaking on plant genetic resources. *Ecology law quarterly* 12(4) 1985:1053-1069.

Legislation controlling the international beef and veal trade (Rome, FAO, 1985). 131 p.

Moore, G. *The impact of non-forestry legislation on the forestry sector* (Mexico City, World Forestry Congress, 1985). 11 p.

Wilkinson, G.K. *The role of legislation in land use planning for developing countries* (Rome, FAO, 1985). 160 p.

General Agreement on Tariffs and Trade

Borgsmidt, Kirsten. The generalized system of preferences in favour of developing countries: against the historical background in the light of public international trade law and the new international economic order. *Nordisk tidskrift for international ret* 54(3/4) 1985:33-61.

Includes bibliographical references.

Can the GATT resolve international trade disputes? *Proceedings (American Society of International Law. Annual Meeting)*, 77th, 1983:287-292.

Das, Dilip K. Dismantling the multifibre arrangement? *Journal of world trade law* 19(1) Jan./Feb. 1985:67-80.

Gavin, Brigid. A GATT for international banking? *Journal of world trade law* 19(2) Mar./Apr. 1985:121-135.

Leutwiler, Fritz. GATT: trade policies for a better future. *Journal of world trade law* 19(3) May/June 1985:301-304.

Menegas, Dean N. GATT as a framework for multilateral negotiations on trade in legal services. *Michigan year-book of international legal studies*, vol. 7, 1985:277-290.

Includes bibliographical references.

Roessler, Frieder. Countertrade and the GATT legal system. *Journal of world trade law* 19(6) Nov./Dec. 1985:604-614.

Includes bibliographical references.

_____ The provisional application of the GATT. *Journal of world trade law* 19(3) May/June 1985:289–295.
Trade policies for a better future: proposals for action (Geneva, GATT, 1985). 60 p.

Verdun, Vincene. Are governmentally imposed countertrade requirements violations of the GATT? *Yale journal of international law* 11(1) fall 1985:191–216.

Includes bibliographical references.

International Atomic Energy Agency

Hasselmann, Cord-Georg. Do we need new IAEA safeguards? *German yearbook of international law*, vol. 27, 1984:259–302.

International Civil Aviation Organization

Avruch, Steven N. The 1983 Korean Air Lines incident: highlighting the law of international carrier liability. *Boston College international and comparative law review* 8(1) winter 1985: 75–126.

Cheng, Bin. The destruction of KAL flight KE007, and article 3 bis of the Chicago Convention. In *Air worthy* (Deventer, Netherlands; Boston, Mass., Kluwer, 1985). p. 47–74.

Includes bibliographical references.

FitzGerald, Gerald F. The use of force against civil aircraft: the aftermath of the KAL Flight 007 incident. *Canadian yearbook of international law*, vol. 22, 1984:291–311.

Summary in French. Includes bibliographical references.

Jahn, Ingrid L. Applying international law to the downing of Korean Air Lines Flight 007 on September 1, 1983. *German yearbook of international law*, vol. 27, 1984:444–458.

Laveson, Jeffrey D. Korean Airline flight 007: stalemate in international aviation law: a proposal for enforcement. *San Diego law review* (No. 3, Law of the Sea). 22(4) 1985:859–893.

Includes bibliographical references.

Majid, A.A. Jural aspects of unauthorized entry into foreign airspace. *Netherlands international law review* 32(2):251–287.

Matte, Nicolas Mateesco. La Convention de Chicago quarante ans après. *Annuaire de droit maritime et aérien*, vol. 8, 1985:187–197.

Includes bibliographical references.

Morgan, Craig A. The downing of Korean Air Lines flight 007. *Yale journal of international law* 11(1) fall 1985:231–257.

Includes bibliographical references.

Pépin, Eugène. Les origines du Comité juridique et du Bureau juridique de l'Organisation de l'aviation civile internationale. *Annals of air and space law*, vol. 10, 1985:177–190.

Summary in English.

Phelps, John T. Aerial intrusions by civil and military aircraft in time of peace. *Military law review*, vol. 107, winter 1985:255–303.

Concerns mainly the Korean Air Lines incident. Includes bibliographical references.

Piris, Jean-Claude. L'interdiction du recours à la force contre les aéronefs civils : l'amendement de 1984 à la Convention de Chicago. *Annuaire français de droit international*, vol. 30, 1984:711–732.

Reukema, Barbara. Article 17 of the Warsaw Convention: an accident is required for recovery. *Annals of air and space law*, vol. 10, 1985:191–208.

Summary in French. Includes bibliographical references.

Sundberg, Jacob W. F. Legitimate responses to aerial intruders: the view from a neutral state. *Annals of air and space law*, vol. 10, 1985:251–274.

Summary in French. Includes bibliographical references.

Van Wijk, Aart A. Visual and oral signals between aircraft in flight as a means to convey instructions issued by a State: the development by ICAO of the corresponding provisions in Annex 2 to the Chicago Convention and the problem of applicability of Annex 2 to State aircraft. In *Air worthy* (Deventer, Netherlands; Boston, Mass., Kluwer, 1985). p. 235–285.

Includes bibliographical references.

Videla Escalada, Federico. The international regulation of liability in the field of air traffic control services. In *Air worthy* (Deventer, Netherlands; Boston, Mass., Kluwer, 1985). p. 195–213.

Includes bibliographical references.

Wassenbergh, H.A. The "right to fly" and the "right to carry traffic by air", in international air transportation, after 40 years. In *Air worthy* (Deventer, Netherlands; Boston, Mass., Kluwer, 1985). p. 215-233.
Includes bibliographical references.

International Labour Organisation

Carreau, Dominique. Les moyens de pression économique au regard du F.M.I., du G.A.T.T. et de l'O.C.D.E. *Revue belge de droit international* 18(1) 1984/1985:20-33.

Includes bibliographical references.

Ghebali, Victor-Yves. Vers la réforme de l'Organisation internationale du Travail. *Annuaire français de droit international*, vol. 30, 1984:649-671.

Manin, A. Quelques réflexions sur la fonction de contrôle de l'O.I.T. (à propos du Rapport sur la liberté syndicale en Pologne). *Annuaire français de droit international*, vol. 30, 1985:672-691.

Osieke, Ebere. *Constitutional law and practice in the International Labour Organisation* (Dordrecht, Netherlands; Boston, Mass., Nijhoff, 1985). 266 p.

Bibliography: p. 243-258. Includes index.

International Maritime Organization

Committee on Collisions at Sea: final report of the Committee. *International Law Association: Report of the Conference*, 61st, 1984:414-424.

Curtis, Clifton E. Legality of seabed disposal of high-level radioactive wastes under the London Dumping Convention. *Ocean development and international law* 14(4) 1985:383-415.

Popescu, Dumitra. The role of legal norms in the fight against pollution and in the development of marine environment. *Revue roumaine d'études internationales* 19(5) sept./oct. 1985:467-479.

Concerns Romania. Includes bibliographical references.

Wassermann, Ursula. Uncontrolled transport of nuclear materials. *Journal of world trade law* 19(2) Mar./Apr. 1985:178-181.

International Monetary Fund

Carreau, Dominique. Le rééchelonnement de la dette extérieure des états. *Journal du droit international* 112(1) janv./mars 1985:5-48.

Committee on International Monetary Law: report of the Committee. *International Law Association: report of the Conference*, 61st, 1984:154-182.

Edwards, Richard W. *International monetary collaboration* (Dobbs Ferry, N.Y., Transnational Publishers, 1985). 822 p.

Bibliography: p. 659-660. Includes index.

_____. Is an IMF stand-by arrangement a "seal of approval" on which other creditors can rely? *New York University journal of international law and politics* 17(3), spring 1985:573-612.

Focsaneanu, Lazar. Endettement extérieur, renégociation des dettes, contrôle du crédit transnational. *Revue générale de droit international public* 89(2) 1985:299-352.

Bibliography: p. 299-303.

Gold, Joseph. The Iran-United States Claims Tribunal and the Articles of Agreement of the International Monetary Fund. *George Washington journal of international law and economics* 18(3) 1985:537-579.

Includes bibliographical references.

Krasnostein, David M. The use of multi-currency and multi-international jurisdiction stability agreements under Article VII(2)(b) of the International Monetary Fund Articles of Agreement. *Syracuse journal of international law and commerce* 12(1) fall 1985:15-58.

Includes bibliographical references.

Martha, R.S.J. The debate on profound changes of circumstances and interpretation of the gold clauses in international transport treaties. *Netherlands international law review* 32(1) 1985:48-77.

Obeyesekere, Stanley C.A. International economic co-operation through international law: the IMF agreement and the recognition of foreign exchange control regulations. *German yearbook of international law*, vol. 27, 1984:142-195.

The role and function of the International Monetary Fund (Washington, The Fund, 1985). 99 p. ill.

Includes bibliographical references.

Santucci, Ettore A. Sovereign debt resolution through the International Monetary Fund: an alternative to the Allied Bank decision. *Denver journal of international law and policy* 14(1) spring/summer 1985:1-34.

Concerns the United States and Costa Rica. Includes bibliographical references.

Schwab, George B. The unenforceability of international contracts violating foreign exchange regulations: article VIII, section 2(b) of the International Monetary Fund agreement. *Virginia journal of international law* 25(4) summer 1985:967-1005.

Includes bibliographical references.

International Telecommunication Union

Colino, Richard R. The possible introduction of separate satellite systems: international satellite communications at the crossroad. *Columbia journal of transnational law* 24(1) 1985:13-35.

Includes bibliographical references.

Dutu, Mircea. Principes et normes juridiques concernant la collaboration internationale dans le domaine de la télé-détection terrestre par les satellites artificiels de la terre. *Revue roumaine d'études internationales* 19(5) sept./oct. 1985:437-446.

Rothblatt, Martin A. New satellite technology, allocation of global resources, and the International Telecommunication Union. *Columbia journal of transnational law* 24(1) 1985:37-50.

Includes bibliographical references.

Rutkowski, Anthony M. The World Administrative Radio Conference on Use of the Geostationary-Satellite Orbit: airing the views of U.S. regulators and users. *Columbia journal of transnational law* 24(1) 1985:51-71.

Includes bibliographical references.

United Nations Educational, Scientific and Cultural Organization

Cuevas Cancino, Francisco. UNESCO: la otra alternativa. *Foro internacional* 25(4) abril/jun. 1985:318-332.

Delon, Francis. Le Bureau intergouvernemental pour l'Informatique. *Annuaire français de droit international*, vol. 30, 1984:704-710.

Ghebali, Victor-Yves. L'UNESCO à l'heure des réformes. *Défense nationale*, vol. 41, août/sept. 1985:47-64.

Holly, Daniel A. Bureaucratie internationale et détermination de la ligne générale des organisations internationales: le cas de l'UNESCO. *Etudes internationales* (Centre québécois de relations internationales), 16(4) déc. 1985:757-770.

Summary in English. Includes bibliographical references.

Nowak, Jerzy M. Postulat nowego ładu informacyjnego w świecie. *Sprawy międzynarodowe* 38(11) listop. 1985:23-44.

Includes bibliographical references.

Radu, Simon. Réflexions sur le nouvel ordre mondial de l'information. *Revue roumaine d'études internationales* 19(5) sept./oct. 1985:447-452.

Scialpi, Guido. Il conflitto per l'Assetto mondiale dell'informazione. *Comunità internazionale* 40(1) 1985:30-37.

World Bank

Biron, Gisele, et al. Le DTS. *Revue de la banque*, vol. 49:31-35.

Gold, Joseph. Control de cambios: acto de Estado, interés público, los artículos de del Convenio con el Fondo Monetario Internacional y otras complicaciones. *Revista del Tribunal Fiscal de la Federación* 6(66) 1985:1053-1058.

Miga Besteliiu, Raluca. On certain characteristics of the international loan agreements concluded by the World Bank for Reconstruction and Development (BIRD) with the member states. *Revue roumaine des sciences sociales. Série des sciences juridiques* 29(2) juil./déc. 1985:165-170.

Petersmann, Hans Gerhard. The development loans and cofinancing operations of the World Bank. *Law and state*, vol. 32, 1985:74-95.

Includes bibliographical references.

_____ The World Bank's contribution to the law of international finance and development (1944-1984). *Archiv des Völkerrechts* 23(3) 1985:241-269.

International Centre for Settlement of Investment Disputes

Delorme, G.R. ICSID arbitration proceedings: practical aspects. *Pace law review*, vol. 5, spring 1985:563-589.

Leahy, Edward R., and Diane F. Orentlicher. Enforcement of arbitral awards issued by the Additional Facility of the International Centre of Settlement of Investment Disputes (ICSID). *Journal of international arbitration* 2(3) Sept. 1985:15–26.

Includes bibliographical references.

Ramnaud, Patrick. Deux arbitrages C.I.R.D.I. *Annuaire français de droit international*, vol. 30, 1984:391–408.

Soley, David A. ICSID implementation: an effective alternative to international conflict. *International lawyer* 19(2) spring 1985:521–544.

Stern, Brigitte. Les questions de nationalité des personnes physiques et de nationalité et de contrôle des personnes morales devant le Tribunal des différends irano-américains. *Annuaire français de droit international*, vol. 30, 1984:425–445.

World Intellectual Property Organization

Bloch, Marla R. The expansion of the Berne convention and the universal copyright convention to protect computer software and future intellectual property. *Brooklyn journal of international law* 11(2) spring 1985:283–323.

Includes bibliographical references.

Lehmann, Michael. The theory of property rights and the protection of intellectual and industrial property. *International review of industrial property and copyright law* 16(5) 1985:525–540.

Includes bibliographical references.

Reichelt, Gerte. International protection of cultural property. *Revue de droit uniforme*, No. 1, 1985:42–153. Text in English and French. Bibliography: p. 149–153.

