

ST/LEG/SER.C/51

UNITED NATIONS
JURIDICAL YEARBOOK
2013



UNITED NATIONS • NEW YORK, 2017

ST/LEG/SER.C/51

UNITED NATIONS PUBLICATION

Sales No. E.17.V.3

ISBN 978-92-1-133858-4

eISBN 978-92-1-361714-4

Copyright © 2017 United Nations
All rights reserved

CONTENTS

	<i>Page</i>
FOREWORD	xxiii
ABBREVIATIONS	xxv

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.	3
--	---

CHAPTER II. TREATIES CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
---	--

A. TREATIES CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS

1. Status of the Convention on the Privileges and Immunities of the United Nations. Approved by the General Assembly of the United Nations on 13 February 1946	5
2. Agreements relating to missions, offices and meetings	5
(a) Exchange of letters constituting an agreement between the United Nations and the Government of the People's Republic of China on the holding of the United Nations International Meeting in support of Israeli-Palestinian Peace in Beijing from 18 to 19 June 2013 Geneva on 7 June 2013 and New York on 17 June 2013	5
(b) Agreement between the Government of the Federal Democratic Republic of Ethiopia and the United Nations regarding the establishment of the United Nations Office to the African Union Addis Ababa, 13 June 2013	9
(c) Agreement between the United Nations and the Government of the Kingdom of Bahrain regarding arrangements for the 2013 United Nations Public Service Forum New York, 19 June 2013.	16
(d) Exchange of letters constituting an agreement between the United Nations and the Government of the Federal Republic of Germany concerning the applicability, <i>mutatis mutandis</i> , of the Agreement of 10 November 1995 between the Federal Republic of Germany and the United Nations concerning the Headquarters of the United Nations Volunteers and the Exchange of Notes of the same date between the Administrator of the United Nations Development Programme and the Permanent Representative of Germany to the United Nations concerning the interpretation of certain provisions of the Agreement (hereinafter referred to as the "UNV Headquarters Agreement") to the Office of the United Nations Platform for Space-based Information for Disaster Management and Emergency Response (UN-SPIDER) in the Federal Republic of Germany—Vienna, 18 January 2013 and 8 May 2013.	21

	<i>Page</i>
3. Other agreements	24
(a) Memorandum of understanding between the United Nations and the International Criminal Court concerning cooperation between the United Nations Operation in Côte d'Ivoire (UNOCI) and the International Criminal Court New York, 4–5 June 2013 and The Hague, 12 June 2013	24
(b) Agreement between the United Nations and the Government of the Republic of Iraq on the transfer of funds for compensation of the Iraqi private citizens whose assets remained on Kuwaiti territory following the demarcation of the international boundary between Iraq and Kuwait Baghdad, 26 May 2013.	44
(c) Memorandum of understanding between the United Nations and the Government of the Republic of Estonia concerning contributions to the United Nations Standby Arrangements System New York, 16 May 2013	47
(d) Exchange of letters constituting an agreement between the United Nations and the Government of Norway concerning the website for the United Nations Regular Process New York, 26 November 2012 and 17 January 2013	50
4. United Nations Development Programme	52
Standard Basic Assistance Agreement between the Government of the Kingdom of Tonga and the United Nations Development Programme Nuku'alofa, 28 January 2013	52
B. TREATIES CONCERNING THE LEGAL STATUS OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	62
1. Convention on the Privileges and Immunities of the Specialized Agencies. Approved by the General Assembly of the United Nations on 21 November 1947	62
2. International Labour Organization	62
3. United Nations Educational, Scientific and Cultural Organization	63
Privileges and immunities	63
Damage and accidents.	63
4. Food and Agriculture Organization of the United Nations.	64
(a) Agreements regarding the establishment of FAO representations and offices.	64
(b) Agreements for hosting meetings of FAO bodies.	64
(c) Framework Agreement for providing premises, logistic and administrative support	64
5. United Nations Industrial Development Organization	65
(a) Implementation Agreement between the United Nations Industrial Development Organization, the United Nations Environment Programme and the Ministry of Environment and Sanitation of Mali regarding the implementation of a project in Mali entitled "Reducing mercury risks from artisanal and small scale gold mining (ASGM) in Mali", signed on 26 July, 2 and 20 September 2013	65

	<i>Page</i>
(b) Agreement between the United Nations Industrial Development Organization and the Government of Peru relating to the arrangements for the fifteenth session of the General Conference of UNIDO, signed on 23 September 2013	66
(c) Framework programme on cooperation between the United Nations Industrial Development Organization and the Government of the Republic of Belarus for 2013–2017, signed on 1 October 2013	70
(d) Agreement between the United Nations Industrial Development Organization and the Ministry of Industry and Mines of the Gabonese Republic regarding the establishment of a trust fund for the implementation of a project in Gabon entitled “ <i>Renforcement des capacités en production et analyse de statistiques industrielles au Gabon</i> ”, signed on 1 October 2013	70
6. Organisation for the Prohibition of Chemical Weapons	70
Agreement between the Organisation for the Prohibition of Chemical Weapons and the Republic of Chile on the privileges and immunities of the OPCW	70
7. International Atomic Energy Agency	78

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. Membership of the United Nations	81
2. Peace and Security	
(a) Peacekeeping missions and operations	81
(b) Political and peacebuilding missions	89
(c) Other bodies	96
(d) Missions of the Security Council	98
(e) Action of Member States authorized by the Security Council	99
(f) Sanctions imposed under Chapter VII of the Charter of the United Nations	102
(g) Terrorism	110
(h) Humanitarian law and human rights in the context of peace and security	112
(i) Piracy	113
(j) Transnational organized crime	114
3. Disarmament and related matters	
(a) Disarmament machinery	115
(b) Nuclear disarmament and non-proliferation issues	117
(c) Biological and chemical weapons issues	121
(d) Conventional weapons issues	124

	<i>Page</i>
(e) Regional disarmament activities of the United Nations	127
(f) Outer space (disarmament aspects)	129
(g) Other disarmament measures and international security	130
4. Legal aspects of peaceful uses of outer space	
(a) Legal Subcommittee on the Peaceful Uses of Outer Space	131
(b) General Assembly	133
5. Human rights	
(a) Sessions of the United Nations human rights bodies and treaty bodies	134
(b) Racism, racial discrimination, xenophobia and all forms of discrimination	138
(c) Right to development and poverty reduction	141
(d) Right of peoples to self-determination	142
(e) Economic, social and cultural rights	144
(f) Civil and political rights	151
(g) Rights of the Child	159
(h) Migrants	163
(i) Internally displaced persons	164
(j) Minorities	165
(k) Indigenous issues	167
(l) Terrorism and human rights	169
(m) Promotion and protection of human rights	171
(n) Persons with disabilities	174
(o) Contemporary forms of slavery	174
(p) Other	175
6. Women	
(a) United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)	178
(b) Commission on the Status of Women	179
(c) Economic and Social Council	180
(d) General Assembly	181
(e) Security Council	183
7. Humanitarian matters	
(a) Economic and Social Council	184
(b) General Assembly	185
(c) Security Council	186
8. Environment	
(a) United Nations Climate Change Conference in Warsaw	191
(b) Economic and Social Council	192
(c) General Assembly	193
9. Law of the Sea	
(a) Reports of the Secretary-General	197

	<i>Page</i>
(b) Consideration by the General Assembly	199
10. Crime prevention and criminal justice	
(a) Conference of the Parties to the United Nations Convention against Corruption	200
(b) Commission on Crime Prevention and Criminal Justice	200
(c) Economic and Social Council	202
(d) General Assembly	202
11. International drug control	
(a) Commission on Narcotic Drugs	203
(b) Economic and Social Council	204
(c) General Assembly	205
12. Refugees and displaced persons	
(a) Executive Committee of the Programme of the United Nations High Commissioner for Refugees	206
(b) General Assembly	206
13. International Court of Justice	
(a) Organization of the Court	207
(b) Jurisdiction of the Court	208
(c) General Assembly	208
14. International Law Commission	
(a) Membership of the Commission	209
(b) Sixty-fifth session of the International Law Commission	209
(c) Sixth Committee	212
(d) General Assembly	212
15. United Nations Commission on International Trade Law	
(a) Forty-sixth session of the Commission	213
(b) General Assembly	217
16. Legal questions dealt with by the Sixth Committee and other related subsidiary bodies of the General Assembly	
(a) Responsibility of States for internationally wrong acts	217
(b) Diplomatic protection	219
(c) Consideration of prevention of transboundary harm from hazard- ous activities and allocation of loss in the case of such harm	221
(d) The law of transboundary aquifers	223
(e) Criminal accountability of United Nations officials and experts on mission	225
(f) United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law	227
(g) Report of the Special Committee on the Charter of the United Na- tions and on the Strengthening of the Role of the Organization	228
(h) The rule of law at the national and international levels	231
(i) The scope and application of the principle of universal jurisdiction	233

	<i>Page</i>
(j) Measures to eliminate international terrorism	235
(k) Administration of justice at the United Nations	239
(l) Report of the Committee on Relations with the Host Country . . .	241
(m) Observer Status in the General Assembly	243
(n) Revitalization of the work of the General Assembly	244
17. <i>Ad hoc</i> international criminal tribunals	
(a) International Criminal Tribunal for the former Yugoslavia and In- ternational Criminal Tribunal for Rwanda	245
(b) General Assembly	247
(c) Security Council	247
B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
1. International Labour Organization	
(a) Treaty provisions concerning the legal status of the International Labour Organization (ILO)	248
(b) Resolutions adopted by the International Labour Conference during its 102nd Session (Geneva, June 2013)	248
(c) Entry into force of International Labour Conventions	251
(d) Legal Advisory Services and Training	252
(e) Committee on Freedom of Association	253
(f) Representations submitted under article 24 of the ILO Constitution and complaints made under article 26 of the ILO Constitution . . .	253
2. Food and Agriculture Organization of the United Nations	
(a) Membership of the Food and Agriculture Organization (FAO) . .	253
(b) Constitutional and general legal matters	254
(c) Activities in respect of multilateral treaties	256
(d) Legislative matters	256
3. United Nations Educational, Scientific and Cultural Organization	
(a) International regulations	258
(b) Human Rights	259
(c) Copyright activities	260
4. World Health Organization	
(a) Constitutional developments	260
(b) Other normative developments and activities	260
(c) Status on new instruments	264
5. International Monetary Fund	
(a) Membership	264
(b) Issues pertaining to representation at the IMF	265
(c) Key policy decisions of the IMF	265
6. International Civil Aviation Organization	
(a) Depositary actions in relation to multilateral air law instruments	270

	<i>Page</i>
(b) Activities of ICAO in the legal field	270
7. International Maritime Organization	
(a) Membership of the organisation	273
(b) Review of the legal activities undertaken by the IMO Legal Committee	273
(c) Adoption of amendments to conventions and protocols	277
8. Universal Postal Union	281
9. World Meteorological Organization	
(a) Membership	282
(b) Agreements and other arrangements concluded in 2013	282
10. World Intellectual Property Organization	
(a) Service: Facilitating international IP protection	285
(b) Law: Global IP laws and standards	286
(c) Development: Using IP to support economic development	289
(d) Reference: Access to IP and IP Information	290
11. International Fund for Agricultural Development	
(a) Membership	291
(b) Partnership agreements and memoranda of understanding	291
(c) Legal developments and other	292
12. United Nations Industrial Development Organization	
(a) Constitutional matters	294
(b) Lima Declaration: Towards inclusive and sustainable industrial development	294
(c) Agreements and other arrangements concluded in 2013	294
13. Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization	
(a) Membership	294
(b) Legal status, privileges and immunities and international agreements	295
(c) Legislative assistance activities	295
14. International Atomic Energy Agency	
(a) Membership	296
(b) Treaties under IAEA's auspices	296
(c) IAEA legislative assistance activities	299
(d) Conventions	300
(e) Civil liability for nuclear damage	300
(f) Safeguards agreements	301
15. Organization for the Prohibition of Chemical Weapons	
(a) Membership	301
(b) Legal status, privileges and immunities and international agreements	302
(c) Review of the Chemical Weapons Convention	302
(d) Legislative assistance	304

	<i>Page</i>
(e) Other normative developments and activities of the policy-making organs	305
16. World Trade Organization	
(a) Membership	307
(b) Dispute settlement	308
(c) Main decisions of the General Council and the 2013 Ministerial Conference	310
(d) Acceptances of the protocols amending the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Government Procurement Agreement (GPA)	312
17. International Criminal Court (ICC)	312
 CHAPTER IV. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
A. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS	315
B. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
1. World Intellectual Property Organization	315
 CHAPTER V. DECISIONS OF THE ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
A. UNITED NATIONS DISPUTE TRIBUNAL	317
1. <i>Judgment No. UNDT/2013/090 (26 June 2013): Candusso v. Secretary-General of the United Nations</i>	
Legal standing to bring a claim—Payslips constitute administrative decisions that may be appealed—Staff members are not required to exhaust consultative or negotiation mechanisms prior to filing an application with the Tribunal—Variation of contract—Acquired rights—Acquiescence to a variation—Waiver of a right—Legitimate expectation	318
2. <i>Judgment No. UNDT/2013/102 (12 August 2013): Galbraith v. Secretary-General of the United Nations</i>	
Termination in the interest of the Organization—Secretary-General's authority to terminate appointment of an Assistant-Secretary-General—Types of separation from service—Requirement to disclose reasons for termination—Interests of a peacekeeping mission are interests of the Organization—Secretary-General's discretion in determining interest of the Organization	320

	<i>Page</i>
3. <i>Judgment No. UNDT/2013/109 (26 August 2013): Saffir v. Secretary-General of the United Nations</i> Staff Union elections—Judicial review of claims relating to Staff Union elections—Staff Union Arbitration Committee has the authority to issue binding ruling on Staff Union matters—International labour standards require non-interference by management into Staff Union elections—Secretary-General has no legal basis with the rulings of the Staff Union Arbitration Committee or the format or conduct of elections—Certain Staff Union-related matters that may constitute misconduct under the Organization’s Regulations and Rules, may give rise to initiation of appropriate procedures	322
4. <i>Judgment No. UNDT/2013/155 (2 December 2013): A-Ali et al v. Secretary-General of the United Nations</i> Receivability—Time limits for seeking management evaluation and filing an application with the Dispute Tribunal—Applicant’s responsibility to pursue his or her own case—Applicants are not absolved of errors or oversight by counsel regarding the applicable time limits—Test for abuse of process—Costs	323
5. <i>Judgment No. UNDT/2013/176 (20 December 2013): Nguyen-Kropp and Postica v. Secretary-General of the United Nations</i> Standards that apply with respect to preliminary investigations—Test for reason to believe that misconduct may have occurred—Retaliation—Test for establishing whether retaliation took place—Burden of proof in cases of alleged retaliation—Principles for determining compensation—Legal costs (<i>attorney fees</i>) as compensable economic loss—Median compensation for non-pecuniary harm as a reference point in assessing compensation	325
B. DECISIONS OF THE UNITED NATIONS APPEALS TRIBUNAL	329
1. <i>Judgment No. 2013-UNAT-303 (28 March 2013): O’Hanlon v. Secretary-General of the United Nations</i> Conversion of fixed-term appointment into permanent appointment—Criteria for conversion to a permanent appointment—Five years of continuous service under fixed-term appointments—Status of UNRWA staff member and Secretariat staff members—Fixed-term appointment under the 100 series of the Staff Rules . .	329
2. <i>Judgment No. 2013-UNAT-343 (21 June 2013): Larghi v. United Nations Joint Staff Pension Board</i> Application of the consumer price index (<i>CPI</i>) to the Pension Adjustment System (<i>PAS</i>)—Purchasing power of a recipient’s benefit—Protection of pension against inflation—Conversion of the United States dollar pension amount into local currency—Unjust and aberrant results under paragraph 26 of the <i>PAS</i>	330

	<i>Page</i>
3. <i>Judgment No. 2013-UNAT-357 (17 October 2013): Malmström et al. v. Secretary-General of the United Nations</i> Conversion of ICTY staff members appointment into permanent appointment—Finite mandate of ICTY staff member—Discretionary authority in matters of permanent appointment—Consequences of the rescission of a decision—Staff members’ right to be considered for conversion	331
4. <i>Judgment No. 2013-UNAT-368 (17 October 2013): Roig v. Secretary-General of the United Nations</i> Deadline to request management evaluation—Time bar—Commencement date of the time limit—Discretion to waive the deadline for management evaluation or administrative review—Irreivability of the application <i>ratione temporis</i>	334
5. <i>Judgment No. 2013-UNAT-370 (17 October 2013): Bi Bea v. Secretary-General of the United Nations</i> Separation from service due to the abolition of the post—Compensation for the non-renewal of the appointment—Compensation for moral injuries—Execution of the JAB’s recommendations—Limits of the UNDT’s power to award costs—Improper use of the proceedings of the court	335
6. <i>Judgment No. 2013-UNAT-379 (17 October 2013): Andersson v. Secretary-General of the United Nations</i> Promotion—Failure to comply with the procedure for completion of the promotion exercise—Victim of a procedural violation—Rescission of the decision not to promote—Alternative compensation—Evidence of moral harm—Claim for moral damages.	336
C. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL LABOUR ORGANIZATION	337
1. <i>Judgment No. 3152 (6 February 2013): International Fund for Agricultural Development (IFAD) v. A.T.S.G.</i> A request for the advisory opinion from the ICJ does not imply the suspension of the execution of a judgment—Judgments of the Tribunal are final and without appeal—Compensation for the moral injury caused by the protracted failure to execute the judgments—Imposition of a penalty for flagrant lack of goodwill to honour obligations	338
2. <i>Judgment No. 3156 (6 February 2013): A.B. and C.S. v. International Telecommunication Union (ITU)</i> Bodies responsible for defending interests of international organizations’ staff members before the administration enjoy broad freedom of speech and freedom of communication—Rights to freedom of speech and to freedom of communication do not encompass action that impairs the dignity of the international civil service—Lawfulness of a mechanism for the prior authorisation of messages	340

	<i>Page</i>
3. <i>Judgment No. 3159 (6 February 2013): M.F. v. World Health Organization (WHO)</i> Obligations of the organization towards staff members following the abolition of the post—The Organization’s duty to use reasonable efforts to reassign a staff member applies only in case of fixed term appointment—Clear evidence is required to demonstrate that short-term contracts are adopted as device to deny staff members the protection of an otherwise applicable rule	341
4. <i>Judgment No. 3163 (6 February 2013): M.Z. v. International Organization for Migration (IOM)</i> Power not to renew a fixed-term contract represents a legitimate exercise of the administration’s discretionary authority—Abolition of position for lack of funding does not involve an error of law—Notice to the employee about the non-renewal of the fixed-term contract—Compensation for loss of opportunity.	342
5. <i>Judgment No. 3182 (6 February 2013): M.H. v. International Labour Organization (ILO)</i> Discretionary power of the Director-General to make appointments—Technical panels provide the foundation for objective assessment—Principles of equality, impartiality and transparency—Priority given to applications of transfer over claims to promotion applies only where the qualifications of the applicants are equal—Anti-union discrimination	344
6. <i>Judgment No. 3188 (6 February 2013): H.S. v. International Atomic Energy Agency (IAEA)</i> Failure to provide in a timely manner an updated job description represents a breach of the Applicant’s rights to be compensated—In the absence of clear evidence suggesting that the recruitment panel was led into factual error the selection process cannot be reviewed—Breach of the duty of care occasioned by egregious delays in addressing the internal appeals.	345
7. <i>Judgment No. 3192 (6 February 2013): E.P.-M. v. World Health Organization (WHO)</i> Implied rejection under article VII, paragraph 3, of the Tribunal’s Statute—Forwarding of the claim to the advisory appeal body constitutes a decision upon the claim under article VII, paragraph 3, of the Tribunal’s Statute—Failure to exhaust the internal appeal procedure—Charge of harassment must be supported by specific facts—Burden of proving harassment falls on the Applicant	347
8. <i>Judgment No. 3200 (4 July 2013): A.A. v. Food and Agriculture Organization of the United Nations (FAO)</i> Investigation on abuse of authority and on harassment conducts—Egregious delays in the investigation and in addressing the internal proceedings represent a violation of the Organization’s duty of care—Staff member’s right of due process to know the name of the accuser and the allegations—Conflict of interest during the investigation. . .	348

	<i>Page</i>
9. <i>Judgment No. 3203 (4 July 2013): A.J.H.B. v. International Telecommunication Union (ITU)</i> Staff members are not entitled to employment benefits on the basis of a spousal relationship with same-sex marriage under Staff Regulations and Rules—Same-sex recognition is a matter not justiciable before the Tribunal—The ITU Council is free to decide whether to amend Regulations and Rules	350
10. <i>Judgment No. 3206 (4 July 2013): A.M.K. v. World Intellectual Property Organization (WIPO)</i> Cancellation of a position—Cause of action in seeking the setting aside of the decision to give a post to another candidate—The complaint is not moot if the decision has been implemented and produced legal effects—Recruitment based upon competition—Exceptions to the principle of recruitment based upon competition are allowed only in specific cases and with a proper justification . .	351
11. <i>Judgment No. 3214 (4 July 2013): J.H.V.M. v. European Patent Organisation (EPO)</i> The Organization enjoys broad discretion when deciding upon re-appointment requests—The President of the Office is competent to decide whether to propose the re-appointment—The administrative authority must base itself on the provisions in force at the time it takes the decision—The Organization is not under a duty to provide information of its own accord—Interest of the service—Preference to fill positions with new staff members.	352
12. <i>Judgment No. 3222 (4 July 2013): A.R.B.B. v. United Nations Industrial Development Organization (UNIDO)</i> Procedures for the prosecution of internal appeals—The internal remedies are not exhausted if the claims are briefly analysed—Request for disclosure of documents—Right to obtain the requested documents in a timely manner	353
13. <i>Judgment No. 3225 (4 July 2013): S.N. v. World Intellectual Property Organization (WIPO)</i> Conversion of short-term contracts into fixed-term contracts—Rights of short-term employees to impugn a decision before the Tribunal—The Tribunal has competence over cases involving misuse of the rules governing short-term contracts—Time-limit to file an application with the Tribunal—A long succession of short-term contracts gives rise to a legal relationship equivalent to that on which permanent staff members may rely on.	354

	<i>Page</i>
14. <i>Judgment No. 3238 (4 July 2013): M.-J.C., P.D., M.F., C.G. and D.K. v. Centre for the Development of Enterprise (CDE)</i>	
Abolition of post in case of restructuring—Greater efficiency and budgetary savings as legitimate cause for restructuring—Lack of competence—Duty to find alternative employments before terminating the appointment—Duty to inform staff members about the abolition of the post—Burden of proof—Right to be heard before any unfavourable decision is taken—Material damages for the unlawful removal of the post	356
15. <i>Judgment No. 3239 (4 July 2013): B.G.G. v. Centre for the Development of Enterprise (CDE)</i>	
Corruption and fraud—Release of information concerning fraudulent practices—Assessment report—Dismissal for unsatisfactory performance—Non-receivability of appeals against final decision—Time bar—Exhaustion of internal appeals—Assessment presupposes information about the objectives—Objectivity of the assessment—Role of the second-level supervisor in the assessment.	357
D. DECISIONS OF THE WORLD BANK ADMINISTRATIVE TRIBUNAL	359
1. <i>Decision No. 473 (13 February 2013): Ramesh Bhatia v. International Bank for Reconstruction and Development</i>	
Commencement date to challenge a policy—Tribunal’s jurisdiction over a policy that directly affects the employment rights of a staff member—Mandatory enrolment in medical insurance plan for retirees—Allegations of discrimination—Principle of parallelism does not bind international organizations	359
2. <i>Decision No. 476 (13 February 2013): CB v. International Bank for Reconstruction and Development</i>	
Misconduct—Tribunal’s scope of review of a disciplinary case—Reckless failure to observe generally applicable norms of prudent professional conduct—Harassment contributing to a hostile work environment—Definition of harassment does not require hostile or abusive conduct—Abuse of discretion	360
3. <i>Decision No. 478 (3 October 2013): David Tanner v. International Bank for Reconstruction and Development</i>	
Termination of employment for abandonment of office—Failure, without acceptable excuse, to perform official duties for a continuous period of time—E-mail correspondence and adequate method of communication—Requirement of a reasonable notice of period—Timeliness of an application	362

	<i>Page</i>
4. <i>Decision No. 484 (3 October 2013): Daniel Lecuona v. International Bank for Reconstruction and Development</i> Requirements prior to approving spousal support claims on staff member's pension—Section 5.1(c) of the Staff Retirement Plan—Effect of national court orders—Finality of national court order creating an immediate legal obligation	363
E. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL MONETARY FUND	364
1. <i>Judgment No. 2013–2 (13 March 2013): Mr. B. Tosko Bello v. International Monetary Fund</i> Policy against re-hiring of former staff members who voluntarily separated under a downsizing exercise—Meaning of a regulatory decision—Time limit to challenge a regulatory decision—Extent of the employer discretionary authority—Value of the individual decision taken on the basis of a void regulatory decision—Rescission of policy—Rescission of individual decision—Compensation	364
2. <i>Judgment No. 2013–4 (9 October 2013): Mr. “HH” v. International Monetary Fund</i> Request for anonymity—Conversion of a fixed-term appointment into an open-ended appointment—Abuse of discretionary power—Managerial discretion to evaluate staff performance—Legitimate expectations before the decision on conversion—Violation of the IMF internal rules—Value of the consent to transfer—Compensable harms as a result of a decision to transfer—Rescission of the non-conversion decision	366
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	
1. Privileges and immunities	
(a) Note to the Ministry of Foreign Affairs of [State], concerning privileges and immunities extended to locally-recruited staff who are nationals of [State]	369
(b) Note to the Ministry of Foreign Affairs of [State], concerning privileges and immunities enjoyed by certain categories of United Nations personnel in [State]	371
(c) Note to the Ministry of Foreign Affairs of [State], concerning the privileges and immunities of a [United Nations entity] and its officials from legal process initiated against it by a former service contractor	377
(d) Note to the Secretary for Foreign Affairs of [State], concerning the taxation of nationals employed by the United Nations	381
(e) Note to the Secretary-General from the Legal Counsel, concerning the extension of the privileges and immunities of the officials of the Special Court for Sierra Leone and the Residual Special Court for Sierra Leone	384

	<i>Page</i>
(f) Request for review and clearance of draft Memorandum of Understanding between [the Secretariat Office] and United Nations Volunteers	386
2. Procedural and institutional issues	
(a) Inter-office memorandum to the Assistant Secretary-General and Deputy Executive Director of the United Nations Environment Programme, concerning the rules of procedure and participation issues of the first universal session of the Governing Council	387
(b) Inter-office memorandum to the Executive Secretary of the United Nations Economic and Social Commission for Western Asia (ES-CWA), concerning proposal to change the name of the Commission	389
(c) Inter-office memorandum to [a Secretariat Office], concerning the terms of reference for the Scientific Advisory Board to the Secretary-General.	390
(d) Inter-office memorandum to the Legal Adviser of [a Secretariat Office], concerning partnership arrangements with entities that would engage in cause-related marketing campaigns using a logo of the [Secretariat Office's Campaign]	393
(e) Note to [United Nations Mission] concerning the use of United Nations license plates	398
(f) Inter-office memorandum to the Executive Office of the Secretary-General, concerning the bestowing of an award to the Secretary-General from the President of a Member State.	399
(g) Inter-office memorandum to the Officer-in-Charge of the International Civil Service Commission (ICSC), concerning a request from a Member State to provide information and clarification on a number of issues within the purview of the ICSC	400
3. Procurement	
Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, concerning effective competition in public procurement	402
B. LEGAL OPINIONS OF THE SECRETARIAT OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
United Nations Industrial Development Organization	404
(a) Internal e-mail message to a UNIDO Branch, concerning updated requirements for the employment of private household help.	404
(b) External e-mail message to the Permanent Mission of [State], concerning [State]'s [Year] contribution language	405
(c) Inter-office memorandum to the Secretary of the Joint Appeals Board (JAB), concerning a request for the JAB to recommend suspension of action on an administrative decision	406
(d) Internal e-mail message to a Human Resource Specialist, concerning an offer of settlement to [UNIDO staff]	409

	<i>Page</i>
(e) Internal e-mail message concerning the legal basis for UNIDO tax exemption in [State]	411
(f) Internal e-mail message to a UNIDO Director, concerning the rules for the election of an External Auditor at General Conference (15th session)	413
(g) Internal e-mail message to a UNIDO Head of Operation concerning income tax and pension status of local employees in [State] . .	414

Part Three. Judicial decisions on questions relating to the United Nations and related intergovernmental organizations

CHAPTER VII. DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS

A. INTERNATIONAL COURT OF JUSTICE	419
1. Judgments	419
2. Advisory Opinions	419
3. Pending cases and proceedings as at 31 December 2013	419
B. INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA	420
1. Judgments	420
2. Advisory Opinions	420
3. Pending cases and proceedings as at 31 December 2013	420
C. INTERNATIONAL CRIMINAL COURT	421
Situations and cases before the Court as at 31 December 2013	
(a) Situation in Uganda	422
(b) Situation in the Democratic Republic of the Congo	422
(c) Situation in Darfur, the Sudan	423
(d) Situation in the Central African Republic	423
(e) Situation in Kenya	423
(f) Situation in Libya	424
(g) Situation in Côte d'Ivoire	424
(h) Situation in Mali	425
D. INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA	425
1. Judgments delivered by the Appeals Chamber	425
2. Judgments delivered by the Trial Chambers	425
E. INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA	426
1. Judgments delivered by the Appeals Chamber	426
2. Judgments delivered by the Trial Chambers	426
F. THE INTERNATIONAL RESIDUAL MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS	426
1. Judgments delivered by the Appeals Chamber	427
2. Judgments delivered by the Trial Chambers	427

	<i>Page</i>
G. SPECIAL COURT FOR SIERRA LEONE AND RESIDUAL SPECIAL COURT FOR SIERRA LEONE	427
1. Judgments delivered by the Appeals Chamber of the SCSL.	428
2. Judgments delivered by the Trial Chambers of the SCSL.	428
H. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA	428
Judgments.	429
I. SPECIAL TRIBUNAL FOR LEBANON	429
Judgments.	429
 CHAPTER VIII. DECISIONS OF NATIONAL TRIBUNALS	
A. THE UNITED MEXICAN STATES	
1. Amparo directo DT-558/2013, [Petitioner], Cuarto Tribunal Colegiado en Materia de Trabajo del Primo Circuito	
Extent of immunity depends on the nature of the act underlying the claim—A distinction must be made between acts <i>jure imperii</i> and acts <i>jure gestionis</i> in determining whether the immunity from national jurisdiction applies to the claim—Acts representing a manifestation of the exercise of sovereign powers must enjoy full immunity from jurisdiction—Acts performed by a State or an Organization in the same fashion as any private person are justiciable before national courts—The immunities granted to international organizations are exclusively based on states' willingness—Inadmissibility of submission of two complaints based upon the same employment relationship before two different systems of justice. .	431

Part Four. Bibliography

A. INTERNATIONAL ORGANIZATIONS IN GENERAL	
1. General	435
2. Particular questions.	435
3. Responsibility of international organizations	435
B. UNITED NATIONS	
1. General	436
2. Principal organs and subsidiary bodies	438
General Assembly	438
International Court of Justice	438
Secretariat.	441
Security Council	441
C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
1. Food and Agriculture Organization	444
2. General Agreement on Tariffs and Trade.	444

3. International Atomic Energy Agency	444
4. International Centre for Settlement of Investment Disputes	445
5. International Civil Aviation Organization	445
6. International Fund for Agricultural Development	445
7. International Labour Organization	445
8. International Maritime Organization	446
9. International Monetary Fund	446
10. Organisation for the Prohibition of Chemical Weapons	447
11. United Nations Educational, Scientific and Cultural Organization	447
12. World Bank Group	447
13. World Health Organization	448
14. World Intellectual Property Organization	448
15. World Trade Organization	448
D. OTHER LEGAL ISSUES	
1. Aggression	450
2. Aviation law	450
3. Collective security	451
4. Commercial arbitration	451
5. Consular relations	452
6. Diplomatic protection	452
7. Diplomatic relations	453
8. Disarmament	453
9. Environmental questions	454
10. Friendly relations and cooperation among States	456
11. Human rights	456
12. International administrative law	461
13. International commercial law	462
14. International criminal law	462
15. International economic law	465
16. International terrorism	466
17. International trade law	466
18. International tribunals	467
19. International waterways	471
20. Intervention and humanitarian intervention	472
21. Law of armed conflict	474
22. Law of the sea	476
23. Law of treaties	479
24. Membership and representation	480
25. Most favoured nation clause	480
26. Natural resources	480
27. Non-governmental organizations	480

28. Outer space law	481
29. Peaceful settlement of disputes	481
30. Peacekeeping and related activities	482
31. Piracy	483
32. Political and security questions	484
33. Progressive development and codification of international law (in general)	484
34. Recognition of States	485
35. Refugees and internally displaced persons	485
36. Rule of law	485
37. Self-defence	486
38. Self-determination	486
39. State immunity	487
40. State responsibility	488
41. State sovereignty	489
42. Transitional justice	489
43. Use of force	490
ANNEX. ORGANIZATIONAL CHART OF THE UNITED NATIONS SYSTEM	492

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*. The present volume, which is the fifty-first of the series, has been prepared by the Codification Division of the Office of Legal Affairs.

Chapters I and II contain selected legislative texts and treaties, or provisions thereof, concerning the legal status of the United Nations and related intergovernmental organizations.

Chapter III contains a general review of the legal activities of the United Nations and related intergovernmental organizations, based on information provided by each organization.

Chapter IV contains selected 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 in view of the sometimes considerable time lag between the conclusion of the treaties and their entry into force.

Chapter V contains selected decisions of administrative tribunals of the United Nations and related intergovernmental organizations.

Chapter VI reproduces selected legal opinions of the United Nations and related intergovernmental organizations.

Chapter VII includes a list of judgments, advisory opinions and selected decisions rendered by international tribunals in 2013.

Chapter VIII contains decisions given in 2013 by national tribunals relating to the legal status of the various organizations.

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 relating to the work of the United Nations and related intergovernmental organizations.

Several documents published in the *Juridical Yearbook* were supplied by the organizations or Governments concerned at the request of the Secretariat. Treaty provisions, legislative texts and judicial decisions may have been subject to minor editing by the Secretariat.

This volume will appear on the United Nations Juridical Yearbook's website at <http://legal.un.org/unjuridicalyearbook/>.

ABBREVIATIONS

ADB	Asian Development Bank
AFISMA	African-led International Support Mission in Mali
AMISOM	African Union Mission in Somalia
AU	African Union
BINUCA	United Nations Integrated Peacebuilding Office in the Central African Republic
BNUB	United Nations Office in Burundi
BONUCA	United Nations Peacebuilding Office in the Central African Republic
CAF	Latin American Development Bank
CCLM	Committee on Constitutional and Legal Matters (FAO)
CCPCJ	Commission on Crime Prevention and Criminal Justice (United Nations)
CLCS	Commission on the Limits of the Continental Shelf
CTBTO	Comprehensive Nuclear-Test-Ban Treaty Organization
CTC	Counter-Terrorism Committee (Security Council)
CTED	Counter-Terrorism Committee Executive Directorate (United Nations)
CTITF	Counter-Terrorism Implementation Task Force
DESA	Department of Economic and Social Affairs (United Nations)
DPA	Department of Political Affairs (United Nations)
DPI	Department of Public Information (United Nations)
EBRD	European Bank for Reconstruction and Development
ECCC	Extraordinary Chambers in the Courts of Cambodia
ECOWAS	Economic Community of West African States
EPO	European Patent Office
EU	European Union
EUFOR	European Union-led peacekeeping force
FAO	Food and Agriculture Organization of the United Nations
GRULAC	Latin American and Caribbean Group
HRC	Human Rights Council (United Nations)
IADC	Inter-Agency Space Debris Coordination Committee
IAEA	International Atomic Energy Agency
IANSA	International Action Network on Small Arms
IBRD	International Bank for Reconstruction and Development

ICAO	International Civil Aviation Organization
ICC	International Criminal Court
ICSID	International Centre for Settlement of Investment Disputes
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDA	International Development Association
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IGO	Intergovernmental organization
ILC	International Law Commission
ILO	International Labour Organization
IMF	International Monetary Fund
IMO	International Maritime Organization
INTERPOL	International Police Organization
IOM	International Organization for Migration
IPU	Inter-Parliamentary Union
ISA	International Seabed Authority
ISAF	International Security Assistance Force
ISO	International Organisation for Standardization
ITLOS	International Tribunal for the Law of the Sea
ITU	International Telecommunication Union
IUCN	International Union for Conservation of Nature
JAB	Joint Appeals Board (United Nations)
LDC	Least Developed Country
MINURSO	United Nations Mission for the Referendum in Western Sahara
MINUSMA	United Nations Multidimensional Integrated Stabilization Mission in Mali
MINUSTAH	United Nations Stabilisation Mission in Haiti
MISCA	African-led International Support Mission in the Central African Republic
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organization

OCSS	Office of Central Support Services (United Nations)
OHCHR	Office of the High Commissioner for Human Rights (United Nations)
OIOS	Office of Internal Oversight Services (United Nations)
OLA	Office of Legal Affairs (United Nations)
OPCW	Organisation for the Prohibition of Chemical Weapons
OSLA	Office of Staff Legal Assistance (United Nations)
PCA	Permanent Court of Arbitration
RSCSL	Residual Special Court for Sierra Leone
SCSL	Special Court for Sierra Leone
SOFA	Status-of-forces agreement
SRI	Seafarers' Rights International
SRSG	Special Representative of the Secretary-General (United Nations)
STL	Special Tribunal for Lebanon
UNAMA	United Nations Assistance Mission in Afghanistan
UNAMI	United Nations Assistance Mission for Iraq
UNAMID	African Union/United Nations Hybrid operation in Darfur
UNAT	United Nations Appeals Tribunal
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNDC	United Nations Disarmament Commission
UNDOF	United Nations Disengagement Observer Force
UNDP	United Nations Development Programme
UNDT	United Nations Dispute Tribunal
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGCO	United Nations Global Compact Office
UNFICYP	United Nations Peacekeeping Force in Cyprus
UNFPA	United Nations Population Fund
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNIDO	United Nations Industrial Development Organization
UNIDROIT	International Institute for the Unification of Private Law
UNIFEM	United Nations Development Fund for Women
UNIFIL	United Nations Interim Force in Lebanon

UNIOGBIS	United Nations Integrated Peacebuilding Office in Guinea-Bissau
UNIPSIL	United Nations Integrated Peacebuilding Office in Sierra Leone
UNISDR	United Nations Office for Disaster Risk Reduction
UNISFA	United Nations Interim Security Force for Abyei
UNITAR	United Nations Institute for Training and Research
UNJSPF	United Nations Joint Staff Pension Fund
UN-LiREC	United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIL	United Nations Mission in Liberia
UNMISS	United Nations Mission in the Republic of South Sudan
UNMIT	United Nations Integrated Mission in Timor-Leste
UNMOGIP	United Nations Military Observer Group in India and Pakistan
UNOCA	United Nations Regional Office for Central Africa
UNOCI	United Nations Operation in Côte d'Ivoire
UNODA	United Nations Office for Disarmament Affairs
UNODC	United Nations Office on Drugs and Crime
UNOG	United Nations Office at Geneva
UNOPS	United Nations Office for Project Services
UNOV	United Nations Office at Vienna
UNOWA	United Nations Office for West Africa
UNPOS	United Nations Political Office for Somalia
UNRCCA	United Nations Regional Centre for Preventive Diplomacy for Central Asia
UNRCPD	United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific
UNREC	United Nations Regional Centre for Peace and Disarmament in Africa
UNSAC	United Nations Standing Advisory Committee on Security Questions in Central Africa
UNSCO	United Nations Special Coordinator for the Middle East Peace Process
UNSCOL	United Nations Special Coordinator for Lebanon
UNSMIL	United Nations Support Mission in Libya
UNTSO	United Nations Truce Supervision Organization
UN-Women	United Nations Entity for Gender Equality and the Empowerment of Women
UNWTO	United Nations World Tourism Organization

UPU	Universal Postal Union
WEOG	Western European and Others Group
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization
WFP	World Food Programme
WTO	World Trade 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

[No legislative texts concerning the legal status of the United Nations and related intergovernmental organizations are to be reported for 2013.]

Chapter II

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

A. TREATIES CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS

1. Status of the Convention on the Privileges and Immunities of the United Nations. Approved by the General Assembly of the United Nations on 13 February 1946**

Brunei Darussalam acceded to the Convention on 1 August 2013. As of 31 December 2013, there were 160 States parties to the Convention.***

2. Agreements relating to missions, offices and meetings

(a) Exchange of letters constituting an agreement between the United Nations and the Government of the People's Republic of China on the holding of the United Nations International Meeting in support of Israeli-Palestinian Peace in Beijing from 18 to 19 June 2013 Geneva on 7 June 2013 and New York on 17 June 2013****

I

7 June 2013

Excellency,

1. I have the honour to refer to resolution 67/20 entitled "Committee on the Exercise of the Inalienable Rights of the Palestinian People" (hereinafter referred to as "the Committee") on the agenda item "Question of Palestine", adopted by the General Assembly on 30 November 2012, in particular to its operative paragraph 2, by which the General Assembly requested "the Committee to continue to exert all efforts to promote the

* In light of the large number of treaties concluded, only a selection of the relevant treaties is reproduced herein.

** United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).

*** For the list of the States parties, see *Multilateral Treaties Deposited with the Secretary-General*, available on the website <https://treaties.un.org>.

**** Entered into force on 17 June 2013 by the exchange of the said letters, in accordance with their provisions.

realization of the inalienable rights of the Palestinian people, including their right to self-determination, to support the Middle East process for the achievement of the two-State solution on the basis of the pre-1967 borders and the just resolution of the final status issues...”. Accordingly, the Committee included the organization of international meetings and conferences in various regions in its annual programme of work.

2. The Committee has received with appreciation the acceptance of Your Excellency’s Government to hold the United Nations International Meeting in support of Israeli-Palestinian Peace (hereinafter referred to as “the Meeting”) from 18 to 19 June 2013 in Beijing, People’s Republic of China. The Meeting, organized by the United Nations, represented by the Department of Political Affairs (DPA) (hereinafter referred to as “the United Nations”), in cooperation with the Government of the People’s Republic of China, (hereinafter referred to as “the Government”), will be held at the Sofitel Wanda, Beijing, on the above dates. With the present letter, I wish to obtain your Government’s acceptance of the arrangements set out below.

3. The number of persons who will participate in the meeting is expected to be about 150–200. They will include:

- (a) Representatives of States, including Members and Observers of the Committee;
- (b) United Nations officials;
- (c) representatives of specialized agencies of the United Nations;
- (d) representatives of intergovernmental organizations;
- (e) representatives of non-governmental organizations; and
- (f) other persons invited by the United Nations, including eminent personalities, parliamentarians, and individuals drawn from academic community.

All participants will be invited by the United Nations in consultation with the Government.

4. The public sessions of the Meeting shall be open to representatives of information media, accredited by the United Nations at its discretion in consultation with the Government.

5. The official languages of the Meeting will be Chinese and English. Simultaneous interpretation from and into these languages will be provided by the United Nations.

6. The United Nations shall be responsible for:

- (a) The preparation and conduct of the Meeting;
- (b) invitation of participants;
- (c) travel and DSA for United Nations officials specified in sub-paragraph 3(b) above, including experts and Secretariat staff servicing the Meeting;
- (d) rental of conference facilities and office space, as well as necessary conference and office equipment, stationery and supplies;
- (e) recruitment of local staff; and
- (f) preparation and distribution of documentation and preparation and publication of the reports of the Meeting.

7. The Government shall be responsible for:

- (a) first aid and medical services; and

(b) the necessary security arrangements and furnish such police protection as may be required to ensure the effective functioning of the Meeting in an atmosphere of security and tranquillity free from interference of any kind. While such police services shall be under the direct supervision and control of a senior officer provided by the Government, this officer shall work in close cooperation with a designated official of the United Nations.

8. I wish to propose that the following terms shall apply to the Meeting:

(a) (i) The Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946 ("the Convention"), to which the People's Republic of China is a party, shall be applicable in respect of the Meeting. In particular, representatives of States, referred to in sub-paragraph 3(a) above, shall enjoy the privileges and immunities accorded under article IV of the Convention. The participants, invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations under articles VI and VII of the Convention. Officials of the United Nations, referred to in sub-paragraph 3(b) above, participating in or performing functions in connection with the Meeting, shall enjoy the privileges and immunities provided under articles V and VII of the Convention. Officials of the specialized agencies participating in the Meeting, referred to in sub-paragraph 3(c) above, shall be accorded the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly on 21 November 1947;

(ii) Without prejudice to the provisions of the two Conventions, all participants and persons performing functions in connection with the Meeting shall enjoy such facilities and courtesies as are necessary for the independent exercise of their functions in connection with the Meeting;

(b) The Meeting premises shall be deemed to constitute premises of the United Nations in the sense of Section 3 of the Convention for the duration of the Meeting, including the preparatory stage and the winding-up. The premises of the Meeting shall not be used in a way inconsistent with the purposes and functions of the Meeting. Without prejudice to the provisions of the Convention or this Agreement, the United Nations shall prevent the premises from being used as a refuge by persons who are avoiding arrest under any law of the People's Republic of China, who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process;

(c) All participants and all persons performing functions in connection with the Meeting shall have the right of entry into and exit from the People's Republic of China without undue delay. The Government shall provide necessary facilitation for this purpose. Visas and entry permits, when required, shall be granted as speedily as possible and free of charge;

(d) The Government shall allow the temporary importation, duty-free, of all equipment, including technical equipment accompanying representatives of the information media duly accredited by the United Nations, and shall waive import duties on supplies necessary for the official use of the United Nations for the Meeting. It shall issue without delay, to the United Nations and the representatives of the information media specified in paragraph 4 above, any necessary import and export permits for this purpose. All equipment and supplies mentioned in this paragraph shall not be resold or diverted for purposes other than the official use of the Meeting unless agreed by the Government.

9. The Government shall be responsible for dealing with any action, claim or other demand against the United Nations or its officials and arising out of:

(a) injury to persons or damage to or loss of property in the Meeting premises that are provided by or are under the control of the Government for the Meeting;

(b) injury to persons or damage to or loss of property caused by, or incurred in using the transportation services provided by or under the control of the Government; and

(c) the employment for the Meeting of local personnel provided or arranged by the Government.

The Government shall indemnify and hold harmless the United Nations and its officials in respect of any such action, claim or other demand unless they are caused by willful acts or gross negligence of the United Nations or its officials.

10. Any dispute between the United Nations and the Government concerning the interpretation or application of this Agreement, except for a dispute subject to Section 30 of the Convention or to any other applicable agreement, shall, unless the parties otherwise agree, be resolved by negotiations or other agreed mode of settlement. Any such dispute that is not settled by negotiation or any other agreed mode of settlement shall be submitted, if agreed by both parties, for a final decision to a tribunal of three arbitrators, one of whom shall be appointed by the Secretary-General of the United Nations, one by the Government, and the third, who shall be Chairperson, by the other two arbitrators. If either party does not appoint an arbitrator within three months of the other party having notified the name of its arbitrator, or if the first two arbitrators do not, within three months of the appointment or nomination of the second one of them appoint the Chairperson, then such arbitrators shall be nominated by the President of the International Court of Justice at the request of either party to the dispute. Except as otherwise agreed by the parties, the tribunal shall adopt its own rules of procedure, provide for the reimbursement of its members and the distribution of expenses between the parties, and take all decisions by a two-thirds majority. Its decision on all questions of procedure and substance shall be final and, even if rendered in default of one of the parties, be binding on both of them.

11. I further propose that upon receipt of your Government's written acceptance of this proposal, the present letter and the letter in reply from your Government shall constitute an Agreement between the United Nations and the Government of the People's Republic of China on the holding of the United Nations International Meeting in support of Israeli-Palestinian Peace. It shall enter into force on the date of your reply and shall remain in force for the duration of the Meeting and for such additional period as is necessary for its preparation and for all matters relating to any of its provisions to be settled.

Please accept, Excellency, the assurances of my highest consideration.

[Signed] JEFFREY FELTMAN
Under-Secretary-General
for Political Affairs

II

New York, 17 June 2013

Your Excellency,

I have the honour to refer to your letter ... of 7 June 2013 relating to the arrangements for the hosting of the United Nations International Meeting in support of Israeli-Palestinian Peace to be held in Beijing, China from 18 to 19 June 2013, which reads as follows:

[letter reproduces text of paragraphs 1 to 11 of letter as contained in I, above]

In reply, I have the honour to confirm that the terms of your proposal are acceptable to the Government of People's Republic of China. Consequently, your letter and this reply shall constitute an Agreement between the United Nations and the Government of the People's Republic of China, which shall enter in force on today's date and shall remain in force for the duration of the United Nations International Meeting in support of Israeli-Palestinian Peace and for such additional period as is necessary for the completion of this work and for the resolution of any matters arising out of the Agreement.

Please accept, Your Excellency, the assurances of my highest consideration.

[Signed] WANG MIN

Chargé d'affaires, a.i.

and Deputy Permanent Representative of the
People's Republic of China to the United Nations

**(b) Agreement between the Government of the Federal Democratic Republic
of Ethiopia and the United Nations regarding the establishment
of the United Nations Office to the African Union
Addis Ababa, 13 June 2013***

The Government of the Federal Democratic Republic of Ethiopia and the United Nations (hereinafter jointly referred to as "the Parties" and separately as "Party");

Recalling the proposal by the United Nations Secretary-General in his report A/64/762 of 20 April 2010 to integrate the former United Nations Liaison Office, the African Union Peace and Support team, the United Nations Planning Team for the African Union Mission in Somalia and the administrative functions of the Joint Support and Coordination Mechanism of the African Union—United Nations Hybrid Operation in Darfur;

Bearing in Mind the approval of the establishment of UNOAU by the General Assembly of the United Nations in its resolution 64/288 of 24 June 2010;

Desiring to regulate the legal framework within which the United Nations Office to the African Union will carry out its activities in Ethiopia;

Have agreed as follows:

* Entered into force on 13 June 2013 by signature, in accordance with its article 17.

Article 1. Definitions

In this Agreement, unless the context otherwise requires, the following terms and expressions shall have the meanings as stated hereunder:

(a) “Appropriate Ethiopian Authorities” means such national, local or other authorities in the Federal Democratic Republic of Ethiopia as may be appropriate in accordance with its laws;

(b) “Convention” means the Convention on the Privileges and Immunities of the United Nations as adopted by the General Assembly of the United Nations of 13 February 1946 and acceded by the Federal Democratic Republic of Ethiopia on 22 July 1947;

(c) “Government” means the Government of the Federal Democratic Republic of Ethiopia;

(d) “Head of Office” means the head of the United Nations Office to the African Union or his/her authorized representative;

(e) “Laws of Ethiopia” includes legislative acts, proclamations, regulations, directives, decrees or orders issued by or under the authority of the Government or the Appropriate Ethiopian Authorities;

(f) “Officials” means officials of the UNOAU, including the Head of Office and all members of the staff of UNOAU, irrespective of nationality, with the exception of those who are both recruited locally and assigned to hourly rates;

(g) “Premises” means the building and structures or portions thereof which at any given moment are in fact occupied by the United Nations Office to the African Union;

(h) “UN” means the United Nations;

(i) “UNOAU” means the United Nations Office to the African Union established in Addis Ababa, the Federal Democratic Republic of Ethiopia.

Article 2. Establishment

The Government hereby agrees to the establishment of UNOAU in Addis Ababa, Ethiopia.

Article 3. Purpose and scope of the Agreement

1. This Agreement shall regulate matters relating to or arising out of the establishment and functioning of UNOAU and its relationship with the Government in the territory of the Federal Democratic Republic of Ethiopia.

2. The UNOAU, its officials and experts on mission shall refrain from any action or activity incompatible with the impartial and international nature of their duties or which is inconsistent with the spirit of the present Agreement. The UNOAU, its officials and experts on mission shall respect all local laws and regulations. The Head of Office shall take all appropriate measures to ensure the observance of those obligations.

Article 4. Activities of the UNOAU

The activities of UNOAU shall include the following:

(a) to liaise with and strengthen the cooperation between the UN and the African Union, including in the area of peace and security, as well as to provide technical advice

and support in the areas of mediation, good offices and conflict prevention; elections; disarmament, demobilization and reintegration; and public information;

(b) to provide technical advice and support in the areas of military and police operations, as well as mine action and security-related matters;

(c) to provide technical advice and support to the African Union Commission in the development of its institutional and operational capacity in the areas of mission-related administration; information technology and communications; training and logistics; and contingent-owned equipment; and

(d) to advise, assist and liaise with African Union counterparts regarding ongoing and future peace support operations, and requirements in support of the African peace and security architecture, including the African Standby Force.

Article 5. Inviolability of the Premises

1. The Premises shall be inviolable and shall be under the control and authority of UNOAU as provided under this Agreement.

2. Government officials, whether administrative, judicial, military or police, shall not enter the Premises to perform any official duties therein except with the consent of and under conditions agreed to by the Head of Office.

3. Without prejudice to the provisions of the Convention or of this Agreement, UNOAU shall prevent the Premises from becoming a refuge for persons who are avoiding arrest under the laws of Ethiopia, or who are required by the Government for extradition to another country or who are endeavouring to avoid service of legal process.

4. The Appropriate Ethiopian Authorities shall exercise due diligence to ensure that the tranquillity of the Premises is not disturbed by the unauthorized entry of grounds of persons from outside or by disturbance in its immediate vicinity, and shall cause to provide on the boundaries of the Premises such police protection as required for these purposes.

5. If so requested by the Head of Office, the Appropriate Ethiopian Authorities shall provide a sufficient number of police for the preservation of law and order on the Premises and for the removal therefrom of persons as requested under the authority of the Head of Office.

Article 6. Communication and transport

1. UNOAU shall enjoy for its official communication treatment not less favorable than that accorded by the Government to any other government or to any other international organization, including foreign diplomatic missions in the Federal Democratic Republic of Ethiopia.

2. No censorship shall be applied to the official correspondence or other communications of UNOAU. Such immunity shall extend, without limitation by reason of this enumeration, to publications, documents, still and moving pictures, films and sound recordings.

3. UNOAU shall have the right to use codes and to dispatch and receive official correspondence and, without limitation by reason of this enumeration, publications,

documents, still and moving pictures, films and sound recordings, either by courier or in sealed bags which shall have the same immunities and privileges as diplomatic couriers and bags.

4. UNOAU shall have the authority to install and operate at the Premises, for its exclusive official use, a radio sending and receiving station or stations to exchange traffic with the United Nations radio network, subject to the provisions of article 45 of the Constitution of the International Telecommunication Union relating to harmful interference. The frequencies on which any such station may be operated will be agreed between UNOAU and the Appropriate Ethiopian Authorities and shall be duly communicated by the Appropriate Ethiopian Authorities to the International Telecommunication Union within one month from the date on which the frequencies are agreed, in accordance with the previous sentence. A copy of such communication shall be provided to UNOAU.

5. UNOAU shall be entitled, for its official purposes, to use transportation operated by the Government at the same rates and treatment as may be granted to resident diplomatic missions.

6. Aircrafts operated by or for the UN shall be exempt from all charges, except those for actual service rendered, and from fees or taxes incidental to the landing at, parking on or taking off from any aerodrome in the Federal Democratic Republic of Ethiopia. Except as limited by the preceding sentence, nothing herein shall be construed as exempting such aircraft from full compliance with all applicable rules and regulations governing the operation of flights into, within, and out of the territory of the Federal Democratic Republic of Ethiopia.

Article 7. Access and residence

1. The Appropriate Ethiopian Authorities shall not impede the transit to or from the Premises of the following persons:

- (a) Officials and their families;
- (b) Persons, other than Officials, performing missions for the UNOAU and their spouses; and
- (c) Other persons invited to the Premises on official business whose names shall be communicated to the Government by the Head of Office or his/her duly authorized representative.

2. This article shall not apply to general interruptions of transport and shall not impede the enforcement of the law.

Article 8. Visas

1. The Government shall process applications for visas from all those listed in article 7, paragraph 1 above, as speedily as possible and free of charge, provided that they are travelling on the business of UNOAU.

2. Paragraph 1 of this article shall not imply exemption from the reasonable application of rules governing quarantine and public health, consistent with internationally accepted regulations in that domain.

Article 9. Representatives of government

The representatives of governments participating in the work of UNOAU or in any conference which may be convened by UNOAU on its Premises shall be entitled in the territory of Ethiopia, while exercising their functions and during the journey to and from the premises, the same privileges and immunities as are accorded to diplomatic envoys of comparable rank under international law.

Article 10. Privileges and immunities of Officials of UNOAU

1. The Officials of UNOAU shall enjoy, in the territory of the Federal Democratic Republic of Ethiopia, the following privileges and immunities:

(a) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned may have ceased to be officials of UNOAU;

(b) immunity from personal arrest or detention;

(c) immunity from seizure of their personal and official baggage;

(d) the right to import, free of duty and other levies, prohibitions and restrictions on imports, their furniture and effects within twelve months after first taking up their post in the Federal Democratic Republic of Ethiopia; the same regulation shall apply in the case of importation, transfer and replacement of automobiles, as are in force for the resident members of diplomatic missions of comparable rank, except to Ethiopian nationals and foreigners who are permanent residents in Ethiopia;

(e) immunity from national service obligations;

(f) immunity, together with members of their families and their personal employees, from immigration restrictions and alien registrations;

(g) the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government;

(h) the same repatriation facilities in time of international crisis, together with members of their families and their personal employees, as diplomatic envoys;

(i) exemption from taxation on their salaries and emoluments paid to them by the UN.

2. All officials of UNOAU shall be provided with a special identity card certifying the fact that they are officials of UNOAU enjoying privileges and immunities specified in this Agreement. The Head of Office and all Officials of UNOAU who are at the P-4 level and above shall be provided, in accordance with paragraph 3 below, with a diplomatic card certifying that they are officials of UNOAU enjoying the privileges and immunities specified in this Agreement and the Vienna Convention on Diplomatic Relations.

3. The Government shall accord to the Head of Office and all officials of UNOAU who are at the P-4 level and above, in respect of themselves, their spouses and dependent children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

4. For this purpose, the Head of Office and all Officials of UNOAU who are at the P-4 level and above referred to in paragraph 3 above shall be incorporated by the Ministry

of Foreign Affairs into the appropriate diplomatic categories in the Federal Democratic Republic of Ethiopia.

5. United Nations Volunteers assigned to UNOAU shall be assimilated to Officials of UNOAU for the purposes of this Agreement and shall accordingly enjoy in the territory of the Federal Democratic Republic of Ethiopia the privileges and immunities set out in paragraphs 1 and 2 of this article.

6. United Nations civilian police advisers and military advisors assigned to UNOAU and personnel other than United Nations Officials who are assigned to UNOAU whose names are for that purpose notified to the Government by the Head of Office shall be considered as experts on mission within the meaning of article VI of the Convention and shall enjoy the privileges, immunities, exemptions and facilities specified in that article and in article VII. They shall be provided with an identity card certifying the fact that they are personnel of UNOAU enjoying the privileges and immunities set out in those articles of the Convention.

Article 11. Waiver of privileges and immunities

1. The privileges and immunities accorded by article 10 are granted in the interests of United Nations and not for the personal benefit of the individuals themselves. The Secretary-General of the United Nations shall have the right and duty to waive the immunity of any official or any expert on mission in any case where, in his/her opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of United Nations.

2. UNOAU shall cooperate at all times with the Appropriate Ethiopian Authorities to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in article 10.

Article 12. Public services and utilities

The Appropriate Ethiopian Authorities will exercise, to the extent requested by the Head of Office, the powers which they possess with respect to the supplying of public services to ensure that the Premises shall be supplied on equitable terms with the necessary public services, including electricity, water, post, telephone, telegraph, transportation, drainage, collection of refuse, fire protection etc. In case of any interruption or threatened interruption of any such services, the Appropriate Ethiopian Authorities will consider the needs of UNOAU as being of equal importance with the similar needs of essential agencies of the Government, and will take steps accordingly to ensure that the work of UNOAU is not prejudiced.

Article 13. Uniforms

United Nations Security Officers may wear the United Nations uniform. United Nations civilian police advisers and military advisers may, while on duty, wear the national military or police uniform of their respective States, with standard United Nations accoutrements.

Article 14. Interpretation and application

1. The provisions of the Convention and of this Agreement shall, where they relate to the same subject matter, be treated wherever possible as complementary, so that the provisions of both shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this Agreement shall prevail.

2. The Parties may enter into such supplementary agreement(s) as may be necessary to fulfill the purposes of this Agreement.

3. Whenever this Agreement imposes obligations on the Appropriate Ethiopian Authorities, the ultimate responsibility for the fulfillment of such obligations shall rest with the Government.

4. This Agreement shall be interpreted in the light of its primary purpose to enable UNOAU to fully and efficiently discharge its responsibilities and to fulfill its objectives.

Article 15. Settlement of disputes

1. Any dispute between the Parties concerning the interpretation or application of this Agreement or of any supplementary agreement(s), which is not settled in negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Secretary-General of the United Nations, one to be named by the Government, and the third to be chosen by the two, or, if they should fail to agree upon a third, then by the President of the International Court of Justice.

2. The Secretary-General of the United Nations or the Government may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal questions arising in the course of such proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed by both Parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

Article 16. Modifications and amendments

1. The Parties shall enter into consultations on modification(s) or amendments(s) to this Agreement at the request of either Party.

2. Any modification(s) or amendment(s) made to this Agreement in accordance with paragraph 1 above shall be made in writing by mutual consent. Any such modification or amendment shall be considered an integral part of the present Agreement.

Article 17. Entry into force and termination

1. This Agreement shall enter into force upon signature and shall remain in force for an indefinite period of time.

2. This Agreement and any supplementary agreement(s) entered into between the Parties within the framework of this Agreement shall cease to be in force six months after either of the Parties have given notice in writing to the other of its decision to terminate the Agreement, except as regards those provisions which may apply to the normal cessation of the activities of UNOAU in the Federal Democratic Republic of Ethiopia and the disposal of its property.

In witness whereof, the undersigned, being duly authorized, has signed this Agreement in duplicate in the English language, both texts being equally authentic.

Done at Addis Ababa on this thirteenth day of the month of June in the year 2013.

H.E. Amb. Brehane GEBRE-CHRISTOS
State Minister
Ministry of Foreign Affairs
Federal Republic of Ethiopia
Addis Ababa

[Signed]

For the Government of the Federal
Democratic Republic of Ethiopia

Mr. Zachary MUBURI-MUITA
Special Representative of the
Secretary-General to the
African Union
Addis Ababa

[Signed]

For the United Nations

**(c) Agreement between the United Nations and
the Government of the Kingdom of Bahrain regarding
arrangements for the 2013 United Nations Public Service Forum
New York, 19 June 2013***

Whereas the Secretary-General accepted the invitation of the Kingdom of Bahrain, represented by the Government Authority, (hereinafter referred to as the “Government”) to hold the 2013 United Nations Public Service Forum (hereinafter referred to as the “Meeting”) in Manama, and whereas the United Nations General Assembly in its resolution 57/277 designated 23 June as the United Nations Public Service Day. Its purpose is to celebrate the value and virtue of service to the community at the local, national and global levels, with prizes to be awarded to public sector organizations for contributions made to the cause of enhancing the role, prestige and visibility of public service. Therefore, the Division of Public Administration and Development Management has organized every year since 2003 the United Nations Public Service Day and Awards Ceremony, a global event where innovators from the entire world meet to present and discuss their awarded initiatives to improve citizens’ quality of life.

Now therefore, the United Nations and the Government hereby, agree as follows:

Article I. Date and place of the Meeting

The Meeting shall be held in Manama at the National Theatre of Bahrain (24 and 27 June) and the Bahrain International Circuit (25 and 26 June), from 24 to 27 June 2013.

Article II. Attendance at the Meeting

1. The Meeting will be attended by the following participants:

(a) up to 450 international participants, including government officials from developing countries selected by the United Nations in consultation with the Government;

* Entered into force on 19 June 2013 by signature, in accordance with its article XIV.

- (b) up to 8 resource persons selected by the United Nations;
- (c) up to 21 officials from the United Nations; and
- (d) up to 200 other participants invited by the United Nations and the Government, including representatives of regional and international organizations and the United Nations system, and other public administration partners and experts from academia and civil society organisations.

2. The total number of participants is approximately 700. The provisional list of participants will be determined by the United Nations in consultation with the Government, prior to the holding of the Meeting.

3. All meetings shall be open to representatives of information media accredited by the United Nations at its discretion in consultation with the Government.

Article III. Premises, equipment, utilities and supplies

1. The division of functions and responsibilities between the United Nations and the Government is set out in annex I to the present Agreement.

2. The Government shall provide the necessary premises, including meeting rooms for informal meetings, office space, working areas and other related facilities, as specified in annex II and annex III. The Government shall at its expense furnish, equip and maintain in good repair all these premises and facilities in a manner that the United Nations considers adequate for the effective conduct of the Meeting. The Meeting will be conducted in English with simultaneous translation provided by the Government in English, Arabic and French for the opening session, plenary session and the Ministerial Round Table, in addition to one of the Capacity Development Workshops. The main meeting room shall be equipped for reciprocal simultaneous interpretation between three languages (English, Arabic and French) and shall have facilities for digital sound recording in that number of languages as well as facilities for press, television, radio and film operations, to the extent required by the United Nations as specified in annex IV. The premises shall remain at the disposal of the United Nations 24 hours a day from one day prior to the meeting until the day after it closes.

3. The Government shall provide, if possible within the meeting area or within its proximity: bank, post office, telephone and telegram facilities, as well as appropriate eating facilities, a travel agency and a secretarial service centre, equipped in consultation with the United Nations, for the use of delegations to the meeting on a commercial basis.

4. The Government shall provide the necessary Information and Communication Technology (ICT) services, as specified in annex V.

5. The Government shall bear the cost of transport and insurance charges, from any established United Nations office to the site of the Meeting and return, of all United Nations equipment and supplies required for the adequate functioning of the Meeting. The United Nations shall determine the mode of shipment of such equipment and supplies.

Article IV. Accommodation

The Government shall ensure that adequate accommodation in hotels or residences is available at reasonable commercial rates for persons participating in or attending the Meeting.

Article V. Financial arrangements

The Government shall cover all financial obligations related to its responsibilities under this Agreement and its annexes. In particular, the Government shall directly fund and carry out all arrangements related to paragraph 2 of annex 1.

Article VI. Medical facilities

1. Medical facilities adequate for first aid in emergencies shall be provided by the Government within the Meeting area.

2. For serious emergencies, the Government shall ensure immediate transportation and admission to a hospital.

Article VII. Transport

1. The Government shall provide transport between the airport and the Meeting area and principal hotels for the members of the United Nations Secretariat servicing the Meeting upon their arrival and departure.

2. The Government shall ensure the availability of transport for all participants and those attending the Meeting between the airports, the principal hotels and the meeting area.

3. The Government shall provide an adequate number of cars with drivers for official use by the principal officers and the secretariat of the meeting, as well as such other local transportation as is required by the secretariat in connection with the Meeting.

4. The Government shall also provide regular shuttle buses to transport people between the hotels and the Meeting venue for the duration of the Meeting.

Article VIII. Police protection and security

1. The Government shall be responsible for providing, at its expense, such police protection and security as may be required to ensure the efficient functioning of the Meeting without interference of any kind. Such police services shall be under the direct supervision and control of a senior officer to be designated by the Government. He/she shall work in close cooperation with the security liaison officer appointed by the secretariat for this purpose, so as to ensure a proper atmosphere of security and tranquillity.

Article IX. Local personnel

1. The Government shall appoint a liaison officer who shall be responsible, in consultation with the United Nations, for making and carrying out the administrative and personnel arrangements for the Meeting as required under this Agreement.

2. The Government shall recruit and provide an adequate number of secretaries, typists, clerks, personnel for the reproduction and distribution of documents, assistant Meeting officers, ushers, messengers, bilingual receptionists, telephone operators, cleaners and workmen required for the proper functioning of the Meeting, as well as drivers for the cars referred to in article VI, paragraphs 1 and 3. The exact requirements in this respect are specified in annex VI. Some of the persons shall be available at least four days before

the opening of the Meeting and until a maximum of two days after its close, as required by the United Nations.

Article X. Liability

1. The Government shall be responsible for dealing with any action, claim or other demand against the United Nations or its officials and arising out of:

(a) injury to persons or damage to or loss of property in the premises referred to in article III that are provided by or are under the control of the Government;

(b) injury to persons or damage to or loss of property caused by, or incurred in using, the transport services referred to in article VI that are provided by or are under the control of the Government;

(c) the employment for the Meeting of the personnel provided by or arranged by the Government under article VIII.

2. The Government shall indemnify and hold harmless the United Nations and its officials in respect of any such action, claim or other demand.

Article XI. Privileges and immunities

The Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly on 13 February 1946 (hereinafter referred to as “the Convention”), to which the Government of the Kingdom of Bahrain is a party, shall be applicable in respect to the Meeting.

(a) the representative of States and other participants invited by the United Nations shall enjoy the privileges and immunities provided under article IV of the Convention. Other participants invited by the United Nations shall enjoy the privileges and immunities accorded to experts on mission for the United Nations by articles VI and VII of the Convention. Officials of the United Nations participating in or performing functions in connection with the Meeting shall enjoy the privileges and immunities provided under articles V and VII of the Convention. Officials of the specialized agencies participating in the Meeting shall be accorded the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies, adopted by the General Assembly, on 21 November 1947;

(b) without prejudice to the provisions of the Convention all participants and persons performing functions in connection with the Meeting shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connection with the Meeting. The representatives of the information media referred to in article II, paragraph 3 shall be accorded the appropriate facilities necessary for the independent exercise of their functions in connection with the Meeting;

(c) 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 Meeting;

(d) all participants and all persons performing functions in connection with the Meeting shall have the right of unimpeded entry into and exit from Bahrain. This does not exclude the presentation by the Government of well-founded objections concerning a particular individual. Such objections, however, must not relate to nationality, religion,

professional or political affiliation. Visas and entry permits, where required, shall be granted free of charge and issued as speedily as possible. When applications are made four weeks before the opening of the Meeting, visas shall be granted not later than two weeks before the opening of the Meeting. 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. Arrangements shall also be made to ensure that visas for the duration of the Meeting are delivered at the airport of arrival to those who are unable to obtain them prior to their arrival. Exit permits, where required, shall be granted free of charge, as speedily as possible and in any case not later than three days before the closing of the Meeting;

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

Article XII. Settlement of disputes

Any dispute between the United Nations and the Government concerning the interpretation or implementation of this Agreement, except for a dispute subject to section 30 of the Convention or to any other applicable agreement, shall, unless the parties otherwise agree, be resolved by negotiations or any other agreed mode of settlement. Any such dispute that is not settled by negotiations or any other agreed mode of settlement shall be referred at the request of either party for a final decision to a tribunal of three arbitrators, one of whom shall be appointed by the Secretary-General of the United Nations, one to be appointed by the Government and the third, who shall be the chairperson, to be chosen by the first two. If either party fails to appoint an arbitrator within 60 days of the appointment by the other party, or if these two arbitrators should fail to agree on the third arbitrator within 60 days of their appointment, the President of the International Court of Justice shall nominate such arbitrators at the request of either party. Except as otherwise agreed by the Parties, the tribunal shall adopt its own rules of procedure, provide for the reimbursement of its members and the distribution of expenses between the parties, and take all decisions by a two-thirds majority. Its decisions on all questions of procedure and substance shall be final and even if rendered in default of one of the parties, be binding on both of them.

*Article XIII. Annexes**

All annexes to this Agreement form an integral part of the Agreement.

Article XIV. Final provisions

1. This Agreement may be modified by written agreement between the United Nations and the Government.

2. This Agreement shall enter into force immediately upon signature by the Parties and shall remain in force for the duration of the Meeting and for such a period thereafter as is necessary for all matters relating to any of its provisions to be settled.

* Annexes I-VI not reproduced herein.

Signed this nineteenth of June 2013 in New York in duplicate in English.

For the United Nations

[*Signed*] WU HONGBO
Under-Secretary-General for
Economic and Social Affairs

For the Government
of the Kingdom of Bahrain

[*Signed*] JAMAL FARES AL ROWAIE
Permanent Representative
Permanent Mission of the Kingdom
of Bahrain to the United Nations

- (d) Exchange of letters constituting an agreement between the United Nations and the Government of the Federal Republic of Germany concerning the applicability, *mutatis mutandis*, of the Agreement of 10 November 1995 between the Federal Republic of Germany and the United Nations concerning the Headquarters of the United Nations Volunteers and the Exchange of Notes of the same date between the Administrator of the United Nations Development Programme and the Permanent Representative of Germany to the United Nations concerning the interpretation of certain provisions of the Agreement (hereinafter referred to as the “UNV Headquarters Agreement”) to the Office of the United Nations Platform for Space-based Information for Disaster Management and Emergency Response (UN-SPIDER) in the Federal Republic of Germany—Vienna, 18 January 2013 and 8 May 2013^{*}

I

18 January 2013

Excellency,

I have the honor to refer to discussions which have taken place between officials of the United Nations and the Government of the Federal Republic of Germany relating to the applicability, *mutatis mutandis*, of the Agreement between the United Nations and the Federal Republic of Germany concerning the Headquarters of the United Nations Volunteers Programme concluded on 10 November 1995 and the Exchange of Notes of the same date between the Administrator of the United Nations Development Programme and the Permanent Representative of Germany to the United Nations concerning the interpretation of certain provisions of the Agreement (hereinafter referred to as the “UNV Headquarters Agreement”) to the UNOOSA/UN-SPIDER Bonn Office.

Pursuant to the discussions, I am pleased to propose on behalf of the United Nations to the Government of the Federal Republic of Germany the following:

^{*} Entered into force provisionally on 8 May 2013, in accordance with the provisions of the said letters. Registration with the Secretariat of the United Nations: *ex officio*, 14 June 2013—Registration Number: I-50880.

1. *Purpose and field of application*

This Agreement governs the issues connected with or resulting from the location and the effective discharge of the functions of the UNOOSA/UN-SPIDER Bonn Office in the Federal Republic of Germany.

2. *Application of the UNV Headquarters Agreement*

The UNV Headquarters Agreement shall apply, *mutatis mutandis*, to the UNOOSA/UN-SPIDER Bonn Office in accordance with article 4, paragraph 2, thereto.

3. *Definitions and understandings*

The following definitions and understandings shall apply for the purposes of the present Agreement, which shall complement the definitions in article 1 of the UNV Agreement already applying:

- (i) “the Office” means the UNOOSA/UN-SPIDER Bonn Office, established by the United Nations Office for Outer Space Affairs with the support of the Government of the Federal Republic of Germany;
- (ii) References to “the UNV” or “the Programme” in the UNV Headquarters Agreement shall be deemed to mean the United Nations Office for Outer Space Affairs, an Office of the United Nations Secretariat, and its UN-SPIDER Programme established by General Assembly resolution 61/110;
- (iii) “Head of Office” means the Head of the UNOOSA/UN-SPIDER Bonn Office;
- (iv) References to “the Executive Coordinator” in the UNV Headquarters Agreement shall be deemed to mean the Head of the UNOOSA/UN-SPIDER Bonn Office;
- (v) References to “officials of the Programme” in the UNV Headquarters Agreement shall be deemed to mean the Head of the UNOOSA/UN-SPIDER Bonn Office and all members of its staff, irrespective of nationality, with the exception of those who are locally recruited and assigned to hourly rates as provided for in the United General Assembly resolution 76 (1) of December 1946.

4. *Final provisions*

(a) This Agreement shall also apply *mutatis mutandis* to such other UNOOSA/UN-SPIDER Offices as may be located in the Federal Republic of Germany with the consent of the Government of the Federal Republic of Germany.

(b) This Agreement shall cease to be in force twelve months after the date when either of the Parties has given notice in writing to the other of its decision to terminate the Agreement. The relevant date shall be the date on which the notice is received. This Agreement shall, however, remain in force for such an additional period as might be necessary for the orderly cessation of activities in the Federal Republic of Germany and

the disposition of their property therein, and the resolution of any dispute between the Parties of this Agreement.

I have the honor to propose that, if the Government of the Federal Republic of Germany agrees to the proposals made in paragraphs 1 to 4 above, this letter and your Excellency's letter in reply thereto expressing the agreement of the Government of the Federal Republic of Germany shall constitute an Agreement between the United Nations and the Government of the Federal Republic of Germany regarding the UNOOSA/UN-SPIDER Bonn Office, which shall apply provisionally as provided for in article 27 paragraph 4 of the Agreement and shall enter into force on the date on which the Parties have informed each other that their internal requirements for such entry into force have been fulfilled. The relevant date shall be the day on which the last communication is received. This Agreement shall be concluded in the German and English languages, both texts being equally authentic.

Please accept, Excellency, the assurances of my highest consideration

[Signed] YURY FEDOTOV
Director-General
United Nations Office at Vienna

II

Vienna, 8 May 2013

I have the honour to confirm receipt of your letter of 18 January 2013 proposing on behalf of United Nations Office for Outer Space Affairs (UNOOSA) the conclusion of an Agreement between the Government of the Federal Republic of Germany and the United Nations Office for Outer Space Affairs concerning the applicability *mutatis mutandis* of the Agreement of 10 November 1995 between the Federal Republic of Germany and the United Nations concerning the Headquarters of the United Nations Volunteers Programme to the Office of the United Nations Platform for Space-based Information for Disaster Management and Emergency Response (UN-SPIDER) in the Federal Republic of Germany.

Your letter reads as follows:

[text of letter as contained in I, above, is reproduced]

I have the honour to inform you that my Government agrees to the proposals contained in your letter. Your letter and this letter in reply thereto shall thus constitute an Agreement between the Government of the Federal Republic of Germany and the United Nations regarding the UN-SPIDER office in Bonn.

Accept, Director-General, the assurance of my highest consideration.

[Signed]
KONRAD MAX SCHARINGER

3. Other agreements

**(a) Memorandum of understanding between the United Nations and the International Criminal Court concerning cooperation between the United Nations Operation in Côte d'Ivoire (UNOCI) and the International Criminal Court
New York, 4–5 June 2013 and The Hague, 12 June 2013^{*}**

Whereas the United Nations and the International Criminal Court (the “Court”) have concluded a Relationship Agreement between the United Nations and the International Criminal Court (the “Relationship Agreement”), which entered into force on 4 October 2004;

Whereas the United Nations General Assembly, in its resolution 58/318 of 13 September 2004, decided that all expenses resulting from the provision of services, facilities, cooperation and any other support rendered to the Court that may accrue to the United Nations as a result of the implementation of the Relationship Agreement shall be paid in full to the Organization;

Whereas the United Nations and the Court have concluded a memorandum of understanding between the United Nations, represented by the United Nations Security Coordinator, and the International Criminal Court regarding coordination of security arrangements (the “MOU on Security Arrangements”), which entered into force on 22 December 2004;

Whereas the United Nations Operation in Côte d'Ivoire (“UNOCI”) was established pursuant to United Nations Security Council resolution 1528 (2004) of 27 February 2004 as a subsidiary organ of the United Nations;

Whereas the United Nations Security Council, in its resolution 2062 (2012) of 26 July 2012, called upon UNOCI, where consistent with its authorities and responsibilities, to continue to support national and international efforts to bring to justice perpetrators of grave abuses of human rights and violations of international humanitarian law in Côte d'Ivoire, irrespective of their status or political affiliation;

Whereas the Government of Côte d'Ivoire (the “Government”), on 18 April 2003, lodged with the Registrar of the International Criminal Court (the “Registrar”) pursuant to article 12, paragraph 3, of the Rome Statute of the International Criminal Court (the “Rome Statute”) a declaration accepting the exercise of jurisdiction by the International Criminal Court and reaffirmed its acceptance of the Court's jurisdiction on 14 December 2010;

Whereas the Pre-Trial Chamber of the International Criminal Court, on 3 October 2011, authorized the Prosecutor of the International Criminal Court (the “Prosecutor”) to commence an investigation into the situation of crimes within the jurisdiction of the Court which may have been committed on the territory of Côte d'Ivoire since 28 November 2010 and whereas the Prosecutor has commenced such an investigation;

^{*} Entered into force on 12 June 2013 by signature, in accordance with its article 24. As between the United Nations and the Prosecutor the provisions of the MOU shall be deemed to have taken effect as from 20 January 2012.

Whereas the Pre-Trial Chamber of the International Criminal Court, on 22 February 2012, extended its authorization for investigation in Côte d'Ivoire to include crimes within the jurisdiction of the Court allegedly committed between 19 September 2002 and 28 November 2010;

Whereas in order to carry out its mandate, and more particularly, to conduct investigations and protect victims and witnesses, the Court needs administrative and logistical arrangements to support its activities in the territory of Côte d'Ivoire;

Whereas, in article 10 of the Relationship Agreement, the United Nations agrees that, upon the request of the Court, it shall, subject to availability, provide on a reimbursable basis for the purposes of the Court such facilities and services as may be required and whereas it is further stipulated in that article that the terms and conditions on which any such facilities or services may be provided by the United Nations shall, as appropriate, be the subject of supplementary arrangements;

Whereas, in article 15 of the Relationship Agreement, with due regard to its responsibilities and competence under the Charter and subject to its rules as defined under applicable international law, the United Nations undertakes to cooperate with the Court;

Whereas, in article 18 of the Relationship Agreement, the United Nations undertakes, with due regard to its responsibilities and competence under the Charter of the United Nations and subject to its rules, to cooperate with the Prosecutor of the Court and to enter with the Prosecutor into such arrangements or agreements as may be necessary to facilitate such cooperation, in particular when the Prosecutor exercises her or his duties and powers with respect to investigation and seeks the cooperation of the United Nations under article 54 of the Statute;

Whereas the United Nations and the Court wish to conclude arrangements of the kind foreseen in articles 10 and 18 of the Relationship Agreement; Now, therefore, the United Nations represented by UNOCI (hereinafter UNOCI) and the Court (the "Parties") represented by the Registrar and the Prosecutor (hereinafter the Registrar and the Prosecutor) have agreed as follows:

CHAPTER 1: GENERAL PROVISIONS

Article 1. Purpose

This memorandum of understanding (the "MOU") sets out the modalities of cooperation between the United Nations and the Court in connection with investigations conducted by the Prosecutor into crimes within the jurisdiction of the Court which may have been committed on the territory of Côte d'Ivoire since 19 September 2002.

Article 2. Cooperation

1. The United Nations undertakes to cooperate with the Court, including the Prosecutor, in accordance with the specific modalities set out in this MOU.

2. This MOU may be supplemented from time to time by means of written agreement between the signatories or their designated representatives setting out additional modalities of cooperation between the United Nations and the Court or the Prosecutor, as the case may be.

3. This MOU is supplementary and ancillary to the Relationship Agreement. It is subject to that Agreement and shall not be understood to derogate from any of its terms. In the case of any inconsistency between the provisions of this MOU and those of the Relationship Agreement, the provisions of the Relationship Agreement shall prevail.

Article 3. Basic principles

1. It is understood that UNOCI shall afford the assistance and support provided for in this MOU to the extent feasible within its capabilities and areas of deployment and without prejudice to its ability to discharge its other mandated tasks.

2. The Court acknowledges that the Government has primary responsibility for the safety and security of all individuals, property and assets present on its territory. Without prejudice to the MOU on Security Arrangements, neither the United Nations nor UNOCI shall be responsible for the safety or security of the staff/officials or assets of the Court or of potential witnesses, witnesses, victims, suspects or accused or convicted persons identified in the course, or as a result, of the Prosecutor's investigations. In particular, nothing in this MOU shall be understood as establishing or giving rise to any responsibility on the part of the United Nations or UNOCI to ensure or provide for the protection of witnesses, potential witnesses or victims identified or contacted by the Court, including the Prosecutor, in the course of its investigations.

Article 4. Reimbursement

1. All services, facilities, cooperation, assistance and other support that may be provided to the Court by the United Nations or by UNOCI pursuant to this MOU shall be provided on a fully reimbursable basis.

2. The Court shall reimburse the United Nations or UNOCI in full for and in respect of all clearly identifiable direct costs that the United Nations or UNOCI may incur as a result of or in connection with providing services, facilities, cooperation, assistance or support pursuant to this MOU.

3. The Court shall not be required to reimburse the United Nations or UNOCI for or in respect of:

(a) costs that the United Nations or UNOCI would have incurred regardless of whether or not services, facilities, cooperation, assistance or support were provided to the Court pursuant to this MOU;

(b) any portion of the common costs of the United Nations or of UNOCI;

(c) depreciation in the value of United Nations or contingent owned equipment, vehicles, vessels or aircraft that might be used by the United Nations or UNOCI in the course of providing services, facilities, cooperation, assistance or support pursuant to this MOU.

CHAPTER II: SERVICES, FACILITIES AND SUPPORT

Article 5. Administrative and logistical services

1. At the request of the Court, UNOCI is prepared to provide administrative and logistical services to the Court, including:

(a) access to UNOCI's information technology (IT) facilities in areas where available, subject to compliance with UNOCI's information technology protocols, policies and rules, in particular with respect to the use of external applications and the installation of software;

(b) with the prior written consent of the Government and on the understanding that the Court purchases compatible equipment for that purpose, access to UNOCI's internal telecommunications facilities (PABX) and its two-way radio security channels for the purpose of communications within Côte d'Ivoire;

(c) storage for items of equipment or property owned by the Court on a space available basis, it being understood that risk of damage to, or deterioration or loss of, such equipment or property during its storage by UNOCI shall lie with the Court. The Court hereby agrees to release the United Nations, including UNOCI, and their officials, agents, servants and employees from any claim in respect of damage to, or deterioration or loss of, such equipment or property;

(d) provided that (i) staff/officials of the Court and (ii) victims, witnesses, defence counsel and defence team members travelling for Court related purposes ("Other Persons") are lawfully entitled to benefit from the same immigration formalities on their entry into and departure from Côte d'Ivoire as members of UNOCI, assistance to staff/officials of the Court and Other Persons in completing those formalities when arriving or departing on flights that are also carrying members of UNOCI. It is understood that it is the Court's responsibility to ensure that its staff/officials and Other Persons are in possession of appropriate travel documents and that UNOCI is not in a position to resolve any travel, immigration or departure problems for staff/officials of the Court and Other Persons;

(e) on an exceptional basis and with the prior written consent of the Government, temporary or overnight accommodation for staff/officials of the Court on UNOCI premises, it being understood that UNOCI will consider requests for such services on a case-by-case basis, taking duly into consideration the security of its own members and assets and the availability of alternative suitable accommodation in the vicinity. It shall be a condition of the accommodation of any staff member/official of the Court on UNOCI premises that he or she first sign a waiver of liability as set out in Annex A of this MOU. The Court shall advise their staff/officials concerned of this requirement and shall instruct them to complete and sign that waiver. UNOCI and the Court shall make practical arrangements for the transmittal to UNOCI of completed and signed waivers at least 5 (five) working days in advance of the arrival of the staff/officials concerned at UNOCI premises at which they are to be accommodated. The United Nations shall not be responsible in any way for the safety or security of any staff/officials of the Court who are accommodated on UNOCI premises pursuant to a request by the Court;

(f) access to UNOCI's vehicle maintenance facilities for the purpose of first line maintenance of the Court's vehicles, it being understood that neither the United Nations nor UNOCI is in a position to guarantee parts, consumables or workmanship;

(g) sale, at prevailing market rates, of computing equipment and supplies and of Post Exposure Prophylaxis (PEP) kits, subject to availability and to the priority that is to be accorded to UNOCI's own operational requirements, it being understood that such items can only be sold where no alternative sources are available or in emergency situations, and provided that UNOCI has surplus emergency stocks;

(h) geographic or cartographic information relating to a particular area, including cartographic outputs in digital or paper format from existing UNOCI resources.

2. The Court shall make requests for such services in writing, preferably on a quarterly basis but no less than 30 days before the service is required. In making such requests, the Court shall specify the nature of the administrative or logistical services sought, when they are sought and for how long. UNOCI shall inform the Court in writing whether or not it accedes to a request as soon as possible and in any event within 10 (ten) working days of its receipt. In the event that it accedes to a request, UNOCI shall simultaneously inform the Court in writing of the date on which it is able to commence provision of the services concerned and of their estimated cost.

3. Should UNOCI, in its sole discretion, determine that the provision of the administrative or logistical services requested by the Court is beyond the staffing capabilities of UNOCI, UNOCI shall nevertheless provide such services if the Court first agrees to provide UNOCI with the funds needed by it to recruit and pay for the services of additional administrative support staff to assist UNOCI in performing the said administrative or logistical services and provides all related infrastructure and common services requirements necessary to accommodate such staff.

Article 6. Medical services

1. In the event of a medical emergency affecting staff/officials of the Court while they are present in UNOCI's areas of deployment, UNOCI undertakes, subject to availability and to the security of its own members and assets, to provide, on request by the Court

(a) on-site medical support to the staff/officials of the Court concerned; and

(b) transportation to the nearest available appropriate medical facility, including emergency medical evacuation services to an appropriate country, it being understood that it is the Court's responsibility to arrange for subsequent hospitalisation and further medical treatment in that country, it being further understood that, in the provision of such services, staff/officials of the Court shall be accorded the same priority as is accorded to officials of the specialized agencies and of the other related organizations of the United Nations.

2. UNOCI shall provide Level I medical services for staff/officials at UNOCI's United Nations-owned medical facilities in Côte d'Ivoire on a space-available basis, it being understood that, in the delivery of such services, staff/officials shall be accorded the same priority as is accorded to officials of the specialized agencies and of the other related organizations of the United Nations.

3. The Court shall advise its staff/officials travelling to Côte d'Ivoire on official business of the requirement to complete and sign a release from liability form (the Release from Liability Form), as set out in Annex B of this MOU, as a condition to obtaining medical services pursuant to this MOU and shall accordingly instruct them to complete and sign such a form before travelling and to carry a copy with them at all times while in Côte d'Ivoire. UNOCI and the Court shall make practical arrangements for the transmittal to UNOCI of completed and signed forms in advance of the arrival of the staff/officials concerned in Côte d'Ivoire. Without prejudice to the foregoing, it is nevertheless understood that no staff member or official of the Court will be denied medical services provided

for in this MOU solely on the grounds of his or her not having previously completed and signed a Release from Liability Form if, at the time of the medical emergency or of arrival at the medical facility, he or she is physically unable to complete and sign such a form.

Article 7. Transportation

1. At the request of the Court and subject to prior signature of a waiver of liability by the staff member/official concerned as set out in annex C of this MOU, UNOCI shall provide aircraft passenger services to staff/officials of the Court, on a space-available basis, aboard its regular flights, it being understood that, in the provision of such services, staff/officials of the Court shall be accorded the same priority as is accorded to officials of the specialized agencies and of the other related organizations of the United Nations.

2. UNOCI is prepared to give favourable consideration, when appropriate and on a case-by-case basis, to requests by the Court for additional ground time at landing sites subject to operational limitations.

3. UNOCI may provide special flights to the Court, where possible, at the Court's request on a full cost reimbursement basis.

4. At the request of the Court and with the prior written consent of the Government, UNOCI may provide assistance to the Court by transporting on UNOCI aircraft, witnesses who are voluntarily cooperating with the Court. UNOCI will consider such requests on a case-by-case basis, taking duly into consideration the security of its own members and assets, the performance of its other mandated tasks and operational priorities, seat availability on UNOCI aircraft and the availability of alternative means of transportation, such as commercial flights. Neither UNOCI nor the United Nations shall be responsible for the security or safety of any witnesses whom UNOCI might transport on its aircraft in response to such requests. It shall be a condition to the transportation of any witness on UNOCI aircraft pursuant to such a request that the witness concerned first sign a waiver of liability as set out in annex D of this MOU and that a staff member/official of the Court accompany the witness during the entire period of his or her transportation by UNOCI. In the event that it is necessary to protect the identity of a particular witness, the Court and UNOCI shall consult with each other, at the Court's request, with a view to putting in place practical arrangements that will make it possible for the witness concerned to complete the waiver of liability as set out in annex D of this MOU while at the same time protecting his or her identity.

5. At the request of the Court and subject to the signature of a waiver of liability by the staff member/official concerned as set out in annex E of this MOU, UNOCI shall provide transportation in its motor vehicles to staff/officials on a space-available basis, it being understood that, in the provision of such services, staff/officials of the Court shall be accorded the same priority as is accorded to officials of the specialized agencies and of the other related organizations of the United Nations.

6. At the request of the Court and with the prior written consent of the Government, UNOCI may provide assistance to the Court by transporting in UNOCI motor vehicles witnesses who are voluntarily cooperating with the Court. The provisions of paragraph 3 of this article shall apply in respect of such requests, *mutatis mutandis*, except that the waiver that is to be signed by any witness who may be transported by UNOCI pursuant to any such request shall be as set out in annex E of this MOU.

7. At the request of the Court, UNOCI shall provide air or ground transportation services for items of Court-owned equipment or property on a space-available basis, it being understood that, in the provision of such services, items of Court-owned equipment or property shall be accorded the same priority as is accorded to equipment or property of the specialized agencies and of the other related organizations of the United Nations. Risk of damage to, or loss of, items of Court-owned equipment or property during such transportation shall lie with the Court. The Court hereby agrees to release the United Nations, including UNOCI, from any claim in respect of damage to, or loss of, such equipment or property.

8. The Court shall make all requests regarding the provision of transportation by UNOCI under this article in writing. In making such requests, the Court shall specify for whom or what and the date on, and the locations between, which transportation is sought. UNOCI shall inform the Court in writing whether or not it accedes to a request as soon as possible and in any event within 10 (ten) working days of its receipt. If UNOCI accedes to a request, it shall simultaneously provide the Court with a written estimate of the cost of the transportation services chargeable to it.

9. Without prejudice to article 4 of this MOU, it is understood that costs that are reimbursable by the Court in connection with services provided pursuant to this article shall include, *inter alia*, those arising from the payment by the United Nations of any additional insurance premiums and of any increase in fees for the charter of aircraft and, in the case of any special flights provided pursuant to paragraph 3 of this article, the cost of fuel consumed by United Nations or contingent owned aircraft and of helicopter or aircraft flying hours.

10. UNOCI confirms to the Court that it is prepared, in principle, to give consideration to requests from the Government to assist the Government in the transportation of:

- (a) suspects or accused persons, for the purpose of their transfer to the Court;
- (b) witnesses who have received a summons from the competent authorities of Côte d'Ivoire to attend for questioning, for the purpose of their transfer to the location in Côte d'Ivoire identified in that summons.

11. At the request of the Court, UNOCI is prepared to arrange for the rental by the Court from commercial operators, of motor vehicles for the purpose of the official travel of its staff/officials. The procurement of such rental services shall be carried out in accordance with the United Nations Financial Regulations and Rules, provided that the vehicle rental contract will be entered into between the Court and the rental service provider.

Article 8. Police and military support

1. At the request of the Court and with the prior written consent of the Government, UNOCI may provide police or military support to the Court for the purpose of facilitating its investigations in areas where UNOCI police or military units are already deployed.

2. The Court shall make requests for such support in writing. When making such requests, the Court shall provide such information as the location, date, time and nature of the investigations that is to be conducted and the number of staff/officials of the Court involved, as well as an evaluation of the attendant risks of which the Court may be aware.

3. UNOCI will review such requests on a case-by-case basis, taking into consideration the security of its own members and assets, the performance of its other mandated tasks and operational priorities, the consistency of the support requested with its mandate and Rules of Engagement or Directive on the Use of Force and the capacity of the Government to provide adequate security for the investigation concerned. UNOCI shall inform the Court in writing whether or not it accedes to such requests as soon as possible and in any event within 10 (ten) working days of their receipt.

4. In the event that UNOCI agrees to a request, UNOCI shall, on the basis of the information provided by the Court, determine in an operational order the extent, nature and duration of the police or military support to be provided, together with an estimate of the total reimbursable cost of the operation chargeable to the Court. The Court shall acknowledge in writing his or her agreement to that operational order.

5. Any police or military units and equipment that UNOCI might deploy pursuant to such an order shall remain exclusively and at all times under UNOCI's command and control.

6. For the purposes of this article, reference to police support is restricted to formed police units (FPUs).

7. Without prejudice to article 4 of this MOU, it is understood that the costs that are reimbursable by the Court in connection with support provided pursuant to this article shall include, *inter alia*, the cost of fuel consumed by United Nations or contingent owned vehicles, vessels or aircraft and of any helicopter or aircraft flying hours.

CHAPTER III: COOPERATION AND LEGAL ASSISTANCE

Article 9. Access to documents and information held by UNOCI

1. Requests by the Prosecutor for access to documents held by UNOCI are governed by article 18 of the Relationship Agreement.

2. Requests by the Prosecutor for access to such documents shall be communicated by the Prosecutor in writing to the Under-Secretary-General for Peacekeeping Operations and simultaneously copied to the Legal Counsel of the United Nations and to the Special Representative of the Secretary-General for Côte d'Ivoire.

3. Such requests shall identify with a reasonable degree of specificity the document or the category or categories of documents to which the Prosecutor wishes to be afforded access, and shall explain succinctly how and why such document or documents or the information that they contain is relevant to the conduct of the Prosecutor's investigations and explain why that information cannot reasonably be obtained by other means or from some other source.

4. The Under-Secretary-General for Peacekeeping Operations shall respond to the Prosecutor in writing as soon as possible and in any event within 30 (thirty) days of the receipt of the request.

5. The United Nations, acting through the Under-Secretary-General for Peacekeeping Operations, may, on its own initiative make available to the Prosecutor documents held by UNOCI that the United Nations may have reason to believe may be of use to the Prosecutor in connection with her or his investigations.

6. The United Nations shall endeavour, wherever possible, to accede to the Prosecutor's requests by providing the document or documents to which the Prosecutor wishes to be afforded access and by not placing any conditions, limitations, qualifications or exceptions on their disclosure.

7. Where a document requested contains information the disclosure of which would:

(a) endanger the safety or security of any person; or

(b) prejudice the security or proper conduct of any operation or activity of the United Nations or of its specialised agencies or related organizations or of its implementing partners or executing agencies; or

(c) violate an obligation of confidentiality owed by the United Nations to a third party; or

(d) violate or interfere with the privacy of a third person; or

(e) undermine or compromise the free and independent decision-making processes of the United Nations; or

(f) endanger the security of any Member State of the United Nations,

the United Nations shall nevertheless endeavour, wherever possible, to provide the document concerned to the Prosecutor. To this end, the United Nations may request the order by the Court of appropriate measures of protection in respect of the document or, in the absence of such measures, may place conditions, limitations, qualifications or exceptions on the disclosure of the document or on specified parts of its contents, including the introduction of redactions, for the purpose of preventing the disclosure of information of one or other of the kinds described above in a manner that would endanger the safety or security of any person or be detrimental to the interests of the United Nations or its Member States or place the United Nations in violation of its obligations.

8. Where it considers there is no other practicable way in which it can respond positively to the Prosecutor's request, the United Nations may, on an exceptional basis, provide documents to the Prosecutor subject to the arrangements and protections provided for in article 18, paragraph 3, of the Relationship Agreement. In such an eventuality, the provisions set out in annex F to this MOU shall apply.

9. It is understood that, in the normal course of events, the United Nations will provide the Prosecutor with photocopies of documents held by UNOCI and not with original versions. The United Nations is, nevertheless, prepared, in principle, to make available to the Prosecutor, on a temporary basis, the original versions of specific documents, should the Prosecutor indicate that such original versions are needed for evidentiary or forensic reasons. Requests for such original versions shall be communicated by the Prosecutor in writing to the Under-Secretary-General for Peacekeeping Operations and simultaneously copied to the Legal Counsel of the United Nations and to the Special Representative of the Secretary-General for Côte d'Ivoire. The United Nations undertakes to endeavour to accede to such requests whenever possible. It is nevertheless understood that the United Nations shall be free to decline any such request or to accede to it subject to such conditions, limitations, qualifications or exceptions as it might deem appropriate. It is further understood that the agreement of the United Nations to make available original

versions of documents may only be given in writing, by the Under-Secretary-General for Peacekeeping Operations.

10. For the purposes of this article, documents are understood to include communications, notes and records in written form, including records of meetings and transcripts of audio or video-taped conversations, facsimile transmissions, electronic mail, computer files and maps, whether generated by members of UNOCI or received by UNOCI from third parties.

11. References in this article to documents are to be understood to include other recorded forms of information, which may be in the form, *inter alia*, of audiotapes, including audiotapes of radio intercepts, video recordings, including video recordings of crime scenes and of statements by victims and potential witnesses, and photographs.

12. Without prejudice to article 4 of this MOU, it is understood that costs that are reimbursable by the Court in connection with assistance provided pursuant to this article shall include, *inter alia*:

- (a) the costs of copying documents provided to the Prosecutor;
- (b) the costs of transmitting those copies to the Prosecutor;
- (c) costs incurred in, or necessarily incidental to, making available and transmitting to the Prosecutor original versions of documents pursuant to paragraph 9 of this article.

13. References in paragraphs 4, 5 and 9 of this article to the Under-Secretary-General for Peacekeeping Operations are to be understood to include the Assistant Secretary-General for Peacekeeping Operations.

14. References in this article to the Prosecutor are to be understood to include the Deputy Prosecutor and the Heads of Divisions.

15. The provisions of this article and annex F shall apply *mutatis mutandis* with respect to requests submitted by the Registrar for the purposes of facilitating investigations pursuant to an order of a Pre-Trial Chamber [or] Trial Chamber.

16. The Parties agree that counsel retained by persons accused before the Court for their defence shall benefit from the possibilities of accessing documents and information held by UNOCI on and subject to, *mutatis mutandis*, the terms and conditions set out in this article and annex F. Such requests will be submitted through the Registrar.

17. The Parties agree that counsel retained by victim participants in a case before the Court shall benefit from the possibilities of accessing documents and information held by UNOCI on and subject to, *mutatis mutandis*, the terms and conditions set out in this article. Such requests will be submitted through the Registrar.

Article 10. Interview of members of UNOCI

1. The United Nations undertakes to cooperate with the Prosecutor by taking such steps as are within its powers and capabilities to make available for interview by the Prosecutor members of UNOCI whom there is good reason to believe may have information that is likely to be of assistance to the Prosecutor in the conduct of her or his investigations and that cannot reasonably be obtained by other means or from some other source. It is understood that, in the case of interviews conducted on the territory of Côte d'Ivoire, UNOCI will only so cooperate with the prior written consent of the Government.

2. Requests by the Prosecutor to interview members of UNOCI shall be communicated in writing to the Under-Secretary-General for Peacekeeping Operations and simultaneously copied to the Legal Counsel of the United Nations and to the Special Representative of the Secretary-General for Côte d'Ivoire.

3. Such requests shall identify the member of UNOCI whom the Prosecutor wishes to interview, identify with a reasonable degree of specificity the category or categories of information that the Prosecutor believes that the member of UNOCI concerned might be able to provide, explain succinctly how and why such information is relevant to the conduct of the Prosecutor's investigations and explain why that information cannot reasonably be obtained by other means or from some other source.

4. The Under-Secretary-General for Peacekeeping Operations shall respond to the Prosecutor in writing as soon as possible and in any event within 30 (thirty) days of the receipt of the request.

5. It is understood that police or military members of national contingents assigned to the police or military component of UNOCI remain subject to the police or military rules, regulations and discipline of the State contributing the contingent to which they belong. The Prosecutor accordingly understands that, once she or he has obtained the response of the Under-Secretary-General for Peacekeeping Operations to a request to interview a police or military member of a national contingent assigned to UNOCI's police or military component, she or he may need to approach the competent authorities of the State contributing the contingent to which that member of UNOCI belongs with a view to arranging for him or her to be interviewed.

6. Whenever so requested by the Under-Secretary-General for Peacekeeping Operations, the Prosecutor shall accept the presence of a representative of the United Nations at and during the interview of a member of UNOCI. The Under-Secretary-General for Peacekeeping Operations shall provide reasons in writing for any such request.

7. The Prosecutor shall, as soon as possible after the interview of a member of UNOCI, provide both the Under-Secretary-General for Peacekeeping Operations and the member of UNOCI concerned with a written transcript of the interview or the interview record.

8. It is understood that, unless otherwise expressly stated by the Under-Secretary-General for Peacekeeping Operations, members of UNOCI who may be interviewed by the Prosecutor are not at liberty to disclose to the Prosecutor information the disclosure of which would:

- (a) endanger the safety or security of any person;
- (b) prejudice the security or proper conduct of any operation or activity of the United Nations or of its specialised agencies or related organizations or of its implementing partners or executing agencies;
- (c) violate an obligation of confidentiality owed by the United Nations to a third party;
- (d) violate or interfere with the privacy of a third person;
- (e) undermine or compromise the free and independent decision-making processes of the United Nations;

(f) endanger the security of any Member State of the United Nations.

9. In the event that a member of UNOCI who is interviewed by the Prosecutor discloses to the Prosecutor during the interview without specific authorization from the Under-Secretary-General for Peacekeeping Operations information of one or other of the kinds specified in the preceding paragraph, the Prosecutor, at the request of and in consultation with the Under-Secretary-General for Peacekeeping Operations, shall take the necessary measures to ensure the confidentiality of that information, to restrict its availability within her or his Office on a strictly “need to know” basis and, as necessary, to request that necessary measures be taken by the Court to prevent its onward disclosure. In the event that the Prosecutor her/himself has reason to believe that the member of UNOCI concerned has disclosed such information during the interview, she or he shall immediately so notify the Under-Secretary-General for Peacekeeping Operations, and pending his or her response, shall take necessary measures to ensure the confidentiality of that information.

10. It is understood that members of UNOCI who may be interviewed by the Prosecutor are not at liberty to provide the Prosecutor with copies of any confidential documents of the United Nations that might be in their possession. It is further understood that, if the Prosecutor wishes to obtain copies of such documents, she or he should direct any request to that end to the Under-Secretary-General for Peacekeeping Operations in accordance with article 11, paragraph 2, of this MOU. At the same time, it is understood that, unless otherwise specified by the Under-Secretary-General for Peacekeeping Operations, members of UNOCI are at liberty to refer to such documents and, subject to paragraph 8 of this article, to disclose their contents in the course of their interview.

11. The provisions of this article shall also apply with respect to the interview by the Prosecutor of:

- (a) former members of UNOCI;
- (b) contractors engaged by the United Nations or by UNOCI to perform services or to supply equipment, provisions, supplies, materials or other goods in support of UNOCI’s activities (“contractors”);
- (c) employees of such contractors (“employees of contractors”).

12. The Court shall bear all costs incurred in connection with the interview of members of UNOCI.

13. The provisions of this article shall not apply to cases in which the Prosecutor wishes to interview a member of UNOCI who the Prosecutor has reason to believe may be criminally responsible for a crime within the jurisdiction of the Court.

14. References in paragraphs 4, 5, 6, 8 and 9 of this article to the Under-Secretary-General for Peacekeeping Operations are to be understood to include the Assistant Secretary-General Peacekeeping Operations.

15. References in this article to the Prosecutor are to be understood to include the Deputy Prosecutor(s) and the Heads of Divisions.

16. The provisions of this article and its related annexes shall apply *mutatis mutandis* with respect to requests submitted by the Registrar for the purposes of facilitating investigations pursuant to an order of a Pre-Trial Chamber or a Trial Chamber.

17. The Parties agree that counsel retained by persons accused before the Court for their defence and counsel engaged by victims party to a case before the Court shall benefit from the possibilities of interviewing members of UNOCI subject to, *mutatis mutandis*, the terms and conditions set out in this article. Such requests will be submitted through the Registrar.

Article 11. Testimony of members of UNOCI

1. Requests by the Prosecutor for the testimony of officials of the United Nations assigned to serve with UNOCI are governed by article 16 of the Relationship Agreement. That article shall also apply *mutatis mutandis* with respect to requests by the Prosecutor for the testimony of other members of UNOCI, including United Nations Volunteers, military observers, military liaison officers, civilian police, experts performing missions for the United Nations and military members of national contingents assigned to serve with UNOCI's military component.

2. Requests by the Prosecutor for the testimony of members of UNOCI shall be communicated in writing to the Legal Counsel of the United Nations and shall be simultaneously copied to the Under-Secretary-General for Peacekeeping Operations and to the Special Representative of the Secretary-General for Côte d'Ivoire. The Legal Counsel of the United Nations or the Assistant Secretary-General for Legal Affairs shall respond to the Prosecutor in writing as soon as possible and in any event within 30 (thirty) days of the receipt of the request.

3. Requests shall identify the member of UNOCI whom the Prosecutor wishes to testify, identify with a reasonable degree of specificity the matter or matters on which the Prosecutor wishes the member of UNOCI concerned to testify, explain succinctly how and why such testimony is relevant to the Prosecutor's case and explain why testimony on the matter or matters concerned cannot reasonably be obtained from some other source.

4. It is understood that only the Legal Counsel of the United Nations or the Assistant Secretary-General for Legal Affairs may, on behalf of the Secretary-General, execute* the waiver contemplated in article 16 of the Relationship Agreement in respect of a member of UNOCI. It is further understood that any such waiver must be executed in writing.

5. It is understood that police or military members of national contingents assigned to the police or military component of UNOCI remain subject to the police and military rules, regulations and discipline of the State contributing the contingent to which they belong. The Prosecutor accordingly understands that, once she or he has obtained the response of the Legal Counsel of the United Nations or of the Assistant Secretary-General for Legal Affairs to a request for the testimony of a police or military member of a national contingent assigned to UNOCI's police or military component, she or he may need to approach the competent authorities of the State contributing the contingent to which that member of UNOCI belongs with a view to arranging for his or her testimony.

6. The provisions of this article shall also apply with respect to the testimony of:

- (a) former members of UNOCI;
- (b) contractors;

* The authentic text reads "can execute".

(c) employees of contractors.

7. The Court shall bear all costs incurred in connection with the testimony of members of UNOCI.

8. The provisions of this article shall not apply to cases in which the Court seeks to exercise its jurisdiction over a member of UNOCI who may be alleged to be criminally responsible for a crime within the jurisdiction of the Court.

9. References in this article to the Prosecutor are to be understood to include the Deputy Prosecutor(s) and the Heads of Divisions.

10. The provisions of this article and its related annexes shall apply *mutatis mutandis* with respect to requests submitted by the Registrar for the purposes of facilitating investigations pursuant to an order of a Pre-Trial Chamber or Trial Chamber.

11. The Parties agree that counsel retained by persons accused before the Court for their defence and counsel for victims party to a case before the Court shall benefit from the possibilities of requesting testimony of members of UNOCI through the Registrar, subject to, *mutatis mutandis*, the terms and conditions set out in this article.

Article 12. Assistance in tracing witnesses

1. At the request of the Prosecutor and with the prior written consent of the Government, UNOCI may assist the Prosecutor by taking such steps as may be within its powers and capabilities to identify, trace and locate witnesses or victims not members of UNOCI whom the Prosecutor wishes to contact in the course of her or his investigations and who there is good reason to believe may be present in UNOCI's areas of deployment. UNOCI will consider such requests by the Prosecutor on a case-by-case basis, taking duly into consideration the security of its own members and assets, the performance of its other mandated tasks and operational priorities and the risks to victims or witnesses that may arise from any attempt by UNOCI to identify, trace or locate them, as well as any attendant risks to their families, dependants or third parties.

2. The Prosecutor shall make requests for assistance under this article in writing. When making such requests, she or he shall provide UNOCI in writing with an evaluation of the risks of which she or he is aware that are likely to be attendant on any attempt to identify, trace, or locate the victims or witnesses concerned. UNOCI shall inform the Prosecutor in writing whether or not it accedes to a request as soon as possible and in any event within ten (10) working days of its receipt.

3. UNOCI shall not be responsible for the safety or security of any witnesses or victims whom it may endeavour to identify and locate pursuant to this article, nor shall it be responsible for the safety or security of their families or dependants or of any third parties.

4. The provisions of this article shall apply *mutatis mutandis* with respect to requests submitted by the Registrar for the purposes of facilitating investigations pursuant to an order of a Pre-Trial or a Trial Chamber.

Article 13. Assistance in respect of interviews

1. At the request of the Prosecutor and with the prior written consent of the Government, UNOCI may agree to allow the Prosecutor to conduct on UNOCI premises interviews of witnesses who are not members of UNOCI and who are voluntarily

cooperating with the Prosecutor in the course of her or his investigations. UNOCI will consider such requests by the Prosecutor on a case-by-case basis, taking duly into consideration the security of its own members and assets, the performance of its other mandated tasks and operational priorities and the availability of suitable alternative locations for the conduct of such interviews.

2. The Prosecutor shall make requests for assistance under this article in writing. When making such requests, she or he shall explain in writing why the use of UNOCI premises is being sought and shall provide UNOCI in writing with an evaluation of the risks attendant on the interview of the witness concerned of which she or he may be aware. UNOCI shall inform the Prosecutor in writing whether or not it accedes to a request as soon as possible and in any event within ten (10) working days of its receipt.

3. It shall be a condition to the interview of any witness on UNOCI premises pursuant to this article that a staff member/official of the Court accompany the witness throughout the time that he or she is present on UNOCI premises.

4. Neither UNOCI nor the United Nations shall be responsible for the security or safety of any staff/officials of the Court or of any witnesses while they are on UNOCI premises for the purpose of the conduct of interviews pursuant to this article.

5. The provisions of this article shall apply *mutatis mutandis* with respect to requests submitted by the Registrar for the purposes of facilitating investigations pursuant to an order of a Pre-Trial or a Trial Chamber.

Article 14. Assistance in the preservation of physical evidence

1. At the request of the Prosecutor and with the prior written consent of the Government UNOCI may assist the Prosecutor, by storing items of physical evidence for a limited period of time in secure rooms, closets or safes on UNOCI premises.

2. The Prosecutor shall make such requests in writing. In making such requests, the Prosecutor shall specify the items of physical evidence whose storage is sought, where their storage is sought and for how long. UNOCI shall inform the Prosecutor in writing whether or not it accedes to a request as soon as possible and in any event within 10 (ten) working days of its receipt. In the event that it accedes to a request, UNOCI shall simultaneously inform the Prosecutor of the date on which storage can be provided, where and for how long.

3. Notwithstanding UNOCI's previous accession to a request to store a particular item of evidence, UNOCI may, at any time and upon giving reasonable notice in writing, require the Prosecutor to remove that item from its premises.

4. It is understood that the risk of damage to, or deterioration or loss of, items of physical evidence during their storage by UNOCI shall lie with the Court. The Court hereby agrees to release the United Nations, including UNOCI, and their officials, agents, servants and employees from any claim in respect of damage to, or deterioration or loss of, such items of physical evidence.

5. The provisions of this article shall apply *mutatis mutandis* with respect to requests submitted by the Registrar for the purposes of facilitating investigations pursuant to an order of a Pre-Trial or a Trial Chamber.

Article 15. Arrests, searches and seizures and securing of crime scenes

1. UNOCI confirms to the Court that it is prepared, in principle and consistently with its mandate, to give consideration, on a case-by-case basis, to requests from the Government to assist the Government in:

- (a) carrying out the arrest of persons whose arrest is sought by the Court;
- (b) securing the appearance of a person whose appearance is sought by the Court;
- (c) carrying out the search of premises and seizure of items whose search and seizure are sought by the Court;

it being understood that UNOCI, if and when it accedes to such requests to assist the Government does not in any way take over responsibilities that lie with the Government.

2. UNOCI confirms to the Court that it is prepared, in principle and consistently with its mandate, to secure the scenes of possible crimes within the jurisdiction of the Court (crime scenes) which it may encounter in the course of carrying out its mandate, pending the arrival of the relevant authorities of Côte d'Ivoire. UNOCI shall notify the Prosecutor as soon as possible of the existence of any such crime scene. UNOCI further confirms to the Court that it is prepared, in principle where consistent with its existing authorities and responsibilities, to give consideration to requests for assistance whether from the Prosecutor or the Government to assist the Government in securing and preserving the integrity of such crime scenes, pending arrival of staff/officials of the Office of the Prosecutor, and thereafter, if requested by the Government or the Court.

CHAPTER IV: SECURITY

Article 16. Security arrangements

1. The provisions of this article are supplemental and additional to those of the MOU on Security Arrangements and shall be understood to be without prejudice to, and not to derogate in any manner from, its terms. The Special Representative of the Secretary-General for Côte d'Ivoire is the Designated Official for Côte d'Ivoire within the meaning of that expression as it appears in the Memorandum of Understanding.

2. At the request of the Court, UNOCI shall, upon presentation of a valid form of identification, issue to staff/officials of the Court identity cards granting them access to UNOCI facilities as official visitors for the duration of their mission in Côte d'Ivoire. The Court shall make such requests in writing, at least five (5) working days in advance of the arrival of the staff/officials concerned in Côte d'Ivoire.

3. UNOCI shall permit staff/officials of the Court to attend security-related briefings provided by UNOCI, as and when deemed appropriate by the Special Representative of the Secretary-General for Côte d'Ivoire.

4. UNOCI shall, in case of emergency, provide temporary shelter within UNOCI premises to staff/officials of the Court and who present themselves at such premises and request protection, pending their emergency evacuation or relocation to another country, if necessary.

5. The Court shall instruct its staff/officials

(a) to follow the security instructions and directives issued by or under the authority of the Special Representative of the Secretary-General for Côte d'Ivoire;

(b) to comply with operational directions or orders issued to them by members of UNOCI while they are under their immediate protection;

(c) to comply at all times while they are on UNOCI premises, are aboard UNOCI vehicles, vessels or aircraft, or are under the immediate protection of members of UNOCI, with all UNOCI instructions, directives and policies regarding the care, carriage, display and use of firearms.

6. Staff/officials of the Court carrying firearms shall, upon entering UNOCI premises or boarding any UNOCI vehicle, vessel or aircraft, report to the Senior UNOCI security officer or other Senior member of UNOCI present that they are carrying firearms and shall, upon request, hand over the firearms to UNOCI for the duration of their stay on such premises or journey on such vehicle, vessel or aircraft. It is understood that the risk of damage to or loss of such firearms during their storage by UNOCI shall remain with the Court, unless such damage or loss results from the negligence of the United Nations or of UNOCI officials, agents, servants and employees or any third party. Subject to this exception, the Court hereby agrees to release the United Nations, including UNOCI, and their officials, agents, servants and employees from any claim in respect of such damage or loss.

7. UNOCI undertakes to store such firearms in a secure place and to treat them with the same level of care as it applies to its own firearms of the same nature.

8. UNOCI confirms to the Court that, subject to the security of its own members assets, it is prepared to provide temporary shelter within UNOCI premises to witnesses who are not members of UNOCI and who are cooperating with the Court in the course of its investigations in the event that they come under imminent threat of physical violence and present themselves at such premises and request protection.

9. At the request of the Court, UNOCI may undertake operations of a limited character to extract witnesses who are not members of UNOCI and who are cooperating with the Court in the course of its investigations in the event that they come under imminent threat of physical violence. UNOCI will review such requests on a case-by-case basis, taking into consideration the security of its own members and assets, the performance of its other mandated tasks and operational priorities, the consistency of the proposed operation with its mandate and its Rules of Engagement or Directives on the Use of Force and the capacity of the Government to provide security for the witnesses concerned. UNOCI shall inform the Court as soon as possible whether or not it accedes to its request.

10. Without prejudice to article 4 of this MOU, it is understood that the costs that are reimbursable by the Court in connection with support provided pursuant to the preceding paragraph shall include, *inter alia*, the cost of fuel consumed by United Nations or contingent owned vehicle, vessels or aircraft and of any helicopter or aircraft flying hours.

CHAPTER V: IMPLEMENTATION

Article 17. Payments

1. UNOCI shall submit invoices to the Court for the provision of services, facilities, cooperation, assistance and support under this MOU. It shall do so promptly and, in any

event, within 60 (sixty) days of the date on which the services, facilities, cooperation, assistance or support concerned was provided.

2. The Court shall make payment against such invoices within 30 (thirty) days of the date printed on them.

3. Payment shall be made in United States Dollars, by means of bank transfer made payable to the United Nations bank account specified on the invoice concerned.

Article 18. Communications

1. UNOCI and the Registrar and the Prosecutor shall each designate official contact persons responsible:

(a) for making, receiving and responding to requests under articles 5, 7, 8, 9, 10, 11, 12, 13, 14 and 16 of this MOU for administrative and logistical services, transportation, police and military support, assistance in tracing witnesses, assistance in respect of interviews, assistance in the preservation of physical evidence, the issuance of identity cards and the extraction of witnesses;

(b) for transmitting and receiving medical release forms under article 6, paragraph 3, of this MOU;

(c) for submitting and receiving invoices and for making and receiving payments under article 17 of this MOU.

These designated official contact persons shall be the exclusive channels of communication on these matters between UNOCI and the Court.

2. All requests, notices and other communications provided for or contemplated in this MOU shall be made in writing, either in English or in French.

3. All requests and communications provided for or contemplated in this MOU shall be treated as confidential, unless the Party making the request or communication specifies otherwise in writing. The United Nations, UNOCI, the Registrar and the Prosecutor shall restrict the dissemination and availability of such requests and communications and the information that they contain within their respective organizations or offices on a strictly “need to know” basis, it being understood that the Registry and the Prosecutor, may nevertheless share such requests with the Chambers on a strictly *ex parte* basis, should this become necessary, in which event the Registrar or the Prosecutor shall immediately inform the United Nations in writing by means of a communication addressed to the Legal Counsel. The Parties shall also take the necessary steps to ensure that those handling such requests and communications are aware of the obligation strictly to respect their confidentiality.

Article 19. Consent of the Government

It shall be the responsibility of the Registrar or the Prosecutor to obtain the prior written consent of the Government, as provided for in article 5 paragraph 1 (b), (e) and (g), article 7, paragraphs 4 and 6, article 8, article 10, paragraph 1, article 12, paragraph 1, article 13, paragraph 1, and article 14, paragraph 1.

Article 20. Planning

The Registrar and the Prosecutor shall each regularly prepare and submit to UNOCI a rolling work plan for the three months ahead, indicating the nature and scope of the services, facilities, cooperation, assistance and support that she or he anticipates requesting from UNOCI pursuant to articles 5, 7, 8, 9, 10, 11, 12, 13, 14 and 16 of this MOU, as well as the size, timing, location and duration of each of the missions that it anticipates sending to Côte d'Ivoire during that time.

Article 21. Consultation

1. The Parties shall keep the application and implementation of this MOU under close review and shall regularly and closely consult with each other for that purpose.

2. The Parties shall consult with each other at the request of either Party on any difficulties, problems or matters of concern that may arise in the course of the application and implementation of this MOU.

3. Any differences between the Parties arising out or in connection with the implementation of this MOU shall be settled by consultations between the Deputy Prosecutor or the Deputy Registrar and the Assistant-Secretary-General for Peacekeeping Operations. If such differences are not settled by such consultations, they shall be referred to the Prosecutor or the Registrar and to the Under-Secretary-General for Peacekeeping Operations for resolution.

Article 22. Indemnity

1. Each Party shall, at its sole cost and expense, be responsible for resolving, and shall indemnify, hold and save harmless, and defend the other Party, its officials, agents, servants and employees from and against, all suits, proceedings, claims, demands, losses and liability of any nature or kind, including, but not limited to, all litigation costs, attorneys' fees, settlement payments, damages and all other related costs and expenses (the "Liability"), brought by its officials, agents, servants or employees, based on, arising out of, related to, or in connection with the implementation of this MOU, unless the Liability results from the gross negligence or wilful misconduct of the other Party or of the other Party's officials, agents, servants or employees.

2. The Court shall, at its sole cost and expense, be responsible for resolving, and shall indemnify, hold and save harmless, and defend the United Nations, including UNOCI, and their officials, agents, servants and employees from and against, all suits, proceedings, claims, demands, losses and liability of any nature or kind, including, but not limited to, all litigation costs, attorneys' fees, settlement payments, damages and all other related costs and expenses (the "Liability"), brought by third parties, including, but not limited, to invitees of the Office of the Prosecutor, witnesses, victims, suspects and accused, convicted or sentenced persons or any other third parties, based on, arising of, related to, or in connection with the implementation of this MOU, unless the Liability results from the gross negligence or wilful misconduct of the United Nations, including UNOCI, or their officials, agents, servants or employees.

CHAPTER VI: MISCELLANEOUS AND FINAL PROVISIONS

Article 23. Assistance to UNOCI

This MOU does not apply in respect of any activities that the Prosecutor might undertake, at the request of the Special Representative of the Secretary-General for Côte d'Ivoire, in order to assist UNOCI in conducting its own investigations into a particular matter or incident. The terms on which any such assistance is given shall be the subject of separate arrangements between the Prosecutor and UNOCI.

Article 24. Final provisions

1. This MOU shall enter into force on the date on which it is signed by the Parties.
2. This MOU shall remain in force indefinitely, notwithstanding the eventual termination of UNOCI's mandate.
3. This MOU may be modified or amended by written agreement between the Parties.
4. The annexes to this MOU are an integral part of this MOU.*
5. As between the United Nations and the Prosecutor, this MOU shall supersede the Memorandum of Understanding between the United Nations and the International Criminal Court Concerning Cooperation between the United Nations Operation in Côte d'Ivoire (UNOCI) and the Prosecutor of the International Criminal Court, done on 20 and 23 January 2012, which is hereby terminated. As between the United Nations and the Prosecutor, the provisions of this MOU shall be deemed to have taken effect as from 20 January 2012.

In witness whereof, the duly authorized representatives of the Parties have affixed their signatures.

For and on behalf of the United Nations

For and on behalf of the Court

[Signed] HERVÉ LADSOUS
Under-Secretary-General
for Peacekeeping Operations
Date: 4 June 2013

[Signed] FATOU BENSOUDA
Prosecutor
Date: 5 June 2013

[Signed] AMEERAH HAQ
Under-Secretary-General
for Field Support
Date: 4 June 2013

[Signed] HERMAN VON HEBEL
Registrar
Date: 12 June 2013

[For Annexes A to F, see United Nations, *Treaty Series*, No. II-1371.]

* Annexes A–E not reproduced herein.

**(b) Agreement between the United Nations and the Government of the Republic of Iraq on the transfer of funds for compensation of the Iraqi private citizens whose assets remained on Kuwaiti territory following the demarcation of the international boundary between Iraq and Kuwait
Baghdad, 26 May 2013***

Whereas the Security Council has indicated its concurrence with the Secretary-General's approach in resolving the issue of compensation to Iraqi nationals for the loss of their assets located in Kuwait as a result of the demarcation of the international boundary between Iraq and Kuwait (S/25085 Annex II, S/1994/240 and S/RES/899 (1994));

Whereas on 22 September 1993 the United Nations entered into an arrangement with the Government of Kuwait under which the United Nations was to provide assistance in resolving the issue of compensation to those Iraqi nationals who lost their assets located in Kuwait as a result of the demarcation of the international boundary between Iraq and Kuwait (hereinafter the "Iraqi Beneficiaries");

Whereas pursuant to the arrangement with the United Nations, the Government of the State of Kuwait deposited an amount of compensation into a trust fund established by the United Nations from which the United Nations was to pay compensation to the Iraqi Beneficiaries identified by the United Nations (hereinafter the "UN Trust Fund");

Whereas on 28 March 2007 the Government of the Republic of Iraq informed the Secretary-General that the Council of Ministers of Iraq had decided to establish a team from the relevant Ministries headed by a representative of the Council of Ministers with a view to distributing compensation to the Iraqi Beneficiaries;

Whereas on 2 May 2013 the Government of Iraq requested the Secretary-General to transfer the total amount of compensation in the UN Trust Fund to the Ministry of Foreign Affairs' account number 2 in United States dollars at the Rasheed Bank;

Whereas on 19 May 2013 the Government of Iraq instead requested the Secretary-General to transfer the total amount of compensation in the UN Trust Fund to the Central Bank of Iraq's account in United States dollars at the Federal Reserve Bank of New York (hereinafter the "account");

Whereas the Security Council has concurred with the Secretary-General's proposal for the Government of the Republic of Iraq to assume full responsibility for identifying and making appropriate payment to the Iraqi Beneficiaries and for this purpose to transfer the funds currently held in the UN Trust Fund to the Government of Iraq [S/2013/295; S/2013/296];

Now therefore, the United Nations and the Government of the Republic of Iraq (hereinafter the "Parties") agree as follows:

Article 1. Purpose

This Agreement sets out the arrangements under which the Government of the Republic of Iraq (hereinafter the "Government") will assume from the United Nations the task of identifying and paying compensation to the Iraqi Beneficiaries and, for this

* Entered into force on 26 May 2013 by signature.

purpose, the modalities for the transfer by the United Nations to the Government the funds held in the UN Trust Fund.

Article 2. Responsibility of the United Nations

The United Nations shall transfer as soon as possible after entry into force of this Agreement and the receipt of written notification by the Government on the necessary banking details, the funds contained in the UN Trust Fund, less applicable administrative costs, to the account thus notified to the United Nations by the Government, to pay compensation to the Iraqi Beneficiaries.

Article 3. Responsibility of the Government

1. Upon deposit of funds by the United Nations into the account pursuant to article 2 of this Agreement, the Government shall assume all responsibility for identifying the Iraqi Beneficiaries, determining the amount of compensation to be paid to each beneficiary, and the disbursement of such compensation to such beneficiaries.

2. The Government shall routinely inform the Secretary-General on the progress achieved in identifying and paying compensation to the Iraqi Beneficiaries and on completion of the process.

Article 4. Liability and indemnity

1. The Government hereby assumes full responsibility and liability for the identification of the Iraqi Beneficiaries and for the disbursement of compensation to such beneficiaries, including any claims related thereto.

2. In addition, and without limitation to the foregoing, the United Nations shall not be liable to the Government of Iraq, or to any third party, for (i) the United Nations administration and management of the UN Trust Fund pursuant to the arrangements set forth in the letter dated 22 February 1994 from the Secretary-General addressed to the President of the Security Council (S/1994/240), as approved by Security Council resolution 899 (1994); or (ii) the transfer of the remaining funds in the United Nations Trust Fund to the account.

3. In furtherance of paragraphs 1 and 2 of this article, the Government of Iraq shall indemnify, hold and save harmless, and defend, at its own expense, the United Nations, its officials, agents and employees, from and against any suits, proceedings, claims, demands, losses and liability of any nature or kind, including, without limitation, their costs and expenses, arising out of, related to, or in connection with (i) the United Nations' administration and management of the UN Trust Fund pursuant to the arrangements set forth in the letter dated 22 February 1994 from the Secretary-General addressed to the President of the Security Council (S/1994/240), as approved by Security Council resolution 899 (1994), (ii) the transfer of the remaining funds in the UN Trust Fund to the account; and (iii) the identification of the Iraqi Beneficiaries, determination of the amount of compensation to be paid to each beneficiary, and the disbursement of compensation to such beneficiaries, by the Government.

Article 5. Privileges and immunities

Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

Article 6. Dispute settlement

Any disputes between the United Nations and the Government arising out of or relating to this Agreement which is not settled by negotiation or other agreed mode of settlement shall be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed should appoint a third, who shall be the chairperson. If within thirty days of the request for arbitration either Party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, and the expenses of the arbitration shall be borne by the Parties as assessed by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be final and binding upon the Parties.

Article 7. Final clauses

1. This Agreement shall enter into force upon the signature of both Parties and shall remain in force until complete fulfillment of all obligations entered into by virtue of this Agreement.
2. This Agreement may be modified by written agreement between the Parties.
3. The obligations assumed by the Government under article 4 of this Agreement shall survive the termination of this Agreement.

In witness whereof, the undersigned, duly appointed representatives of the Parties, have signed the present Agreement at Baghdad on this 26th day of May, 2013, in the English language, in duplicate.

[Signed] MARTIN KOBLER
Special Representative for Secretary-General's
For the United Nations in Iraq

[Signed] HOSHYAR ZEBARI
Minister of Foreign Affairs
For the Republic of Iraq

**(c) Memorandum of understanding between the United Nations and
the Government of the Republic of Estonia concerning contributions
to the United Nations Standby Arrangements System
New York, 16 May 2013***

The signatories to the present memorandum

Mr. Herve Ladsous
Under-Secretary-General
for Peacekeeping operations,
representing the United Nations

and

H.E. Mr. Mikk Marran
Permanent Secretary of the Ministry
of Defence of the Republic of Estonia,
representing the Government of the
Republic of Estonia

Recognizing the need to expedite the provision of certain resources to the United Nations in order to effectively implement in a timely manner, the mandate of the United Nations peacekeeping operations authorized by the Security Council,

Further recognizing that the advantages of pledging resources for peacekeeping operations contributes to enhancing flexibility and low costs,

Have reached the following understanding:

I. Purpose

The purpose of the present Memorandum of understanding is to identify the resources which the Government of the Republic of Estonia has indicated that it will provide to the United Nations for use in peacekeeping operations under the specified conditions.

II. Description of resources

1. The detailed description of the resources to be provided by the Government of the Republic of Estonia is set out in the annex to the present Memorandum of understanding.

2. In the preparation of the annex, the Government of the Republic of Estonia and the United Nations, have followed the guidelines for the provision of resources for United Nations peacekeeping operations.

III. Condition of provision

The final decision whether to actually deploy the resources by the Government of the Republic of Estonia remains a national decision.

IV. Entry into effect

1. The present Memorandum of understanding shall come into effect on the date of its signature.

* Entered into force on 16 May 2013 by signature, in accordance with its article IV.

2. The present Memorandum of understanding shall cease to have effect three months after the date on which either signatory gives written notice to the other signatory of its intention to terminate it.

V. Modification

The present Memorandum of understanding including the annex may be modified at any time by the signatories through exchange of letters.

Signed in New York on May 16, 2013

For the United Nations

For the Government of the Republic
of Estonia

[*Signed*] MR. HERVE LASDOUS
Under Secretary-General
for Peacekeeping Operations

[*Signed*] H.E. MR. MIKK MARRAN
Permanent Secretary of the Ministry
of Defence of the Republic of Estonia

Annex to Memorandum of understanding between
the United Nations and the Government of the Republic of Estonia
On Stand-by-Arrangements

SUMMARY OF CONTRIBUTIONS

<i>National Number</i>	<i>Description</i>	<i>Category</i>	<i>Source</i>	<i>Response Time</i>	<i>Strength</i>	<i>Remarks</i>
1	Observers	Military observers	Military	90 Days	2	Available with effect from 1 January, 2013–31 December, 2014. Belongs to the Army, Air Force, Navy. Language: English
2	Staff Officers	Headquarters	Military	90 Days	1	Available with effect from 1 January, 2013–31 December, 2014. Belongs to the Army, Air Force, Navy. Language: English
3	Observers	Military observers	Military	90 Days	2	Available with effect from 1 January, 2014–31 December, 2015. Belongs to the Army, Air Force, Navy. Language: English, French
4	Staff Officers	Headquarters	Military	90 Days	2	Available with effect from 1 January, 2014–31 December, 2016. Belongs to the Army, Air Force, Navy. Language: English, French
5	Observers	Military observers	Military	90 Days	3	Available with effect from 1 January, 2016. Belongs to the Army, Air Force, Navy. Language: English, French

**(d) Exchange of letters constituting an agreement between
the United Nations and the Government of Norway concerning
the website for the United Nations Regular Process
New York, 26 November 2012 and 17 January 2013***

I

26 November 2012

Excellency,

I have the honour to refer to resolution 65/37 B of 4 April 2011, in which the General Assembly requested the Secretary-General to explore, in consultation with the Group of Experts of the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (the “Regular Process”), the establishment of appropriate means to address the communication requirements of the Regular Process, having in mind the need to avoid duplication of efforts (paragraph 2).

The General Assembly also requested the Secretary-General, upon the request of the Group of Experts and in line with paragraph 211 of resolution 65/37 A of 7 December 2010, to facilitate the use of appropriate data handling and information schemes within the United Nations system, drawing on the experiences, existing systems and support of other United Nations specialized agencies and programmes (paragraph 4). Paragraph 211 of resolution 65/37 A requested the Secretary-General to invite the United Nations Environment Programme, among others, to provide technical and scientific support to the Regular Process.

In this regard, the secretariat of the Regular Process, represented by the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations (the “United Nations”) and GRID-Arendal, a Norwegian foundation, intend to enter into a Memorandum of understanding (MOU) for the development, establishment and operation of a website for the purpose of preparing the First Global Integrated Marine Assessment of the Regular Process (the “website”) at GRID-Arendal in Arendal, Norway. Pursuant to that MOU, *inter alia*:

- (a) the website shall be developed, established and operated at GRID-Arendal, in Arendal, Norway, under the auspices of the United Nations;
- (b) the website shall be financed through voluntary funding from the Member States and it shall be provided free-of-charge to the United Nations;
- (c) the United Nations shall administer the website and monitor the material and content that is to be posted on the website;
- (d) GRID-Arendal shall be responsible for the maintenance of the website; and
- (e) the Parties shall cooperate to ensure the uninterrupted operation of the website.

With the present letter, I wish to propose that the following terms shall apply with respect to the website:

* Entered into force on 17 January 2013 by the exchange of the said letters, in accordance with their provisions.

(a) the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly on 13 February 1946 (the “Convention”), to which Norway acceded on 18 August 1947, shall be applicable with respect to the website. In particular:

- (i) the website and its contents, as property and assets of the United Nations, shall enjoy immunity from every form of legal process in Norway except insofar as, in any particular case, the United Nations has expressly waived the immunity. It is, however, understood that no waiver of immunity shall extend to any measures of execution;
- (ii) the website and its contents, as property and assets of the United Nations, shall be immune from search, requisition, confiscation, expropriation and any other form of interference in Norway, whether by executive, administrative, judicial or legislative action; and
- (iii) the website, and in particular its contents, which shall be considered as part of the archives and documents of the United Nations pursuant to section 4 of the Convention, shall be inviolable;

(b) all official communications between GRID-Arendal and the United Nations shall be accorded the same immunity from censorship and from any other form of interference as accorded to official communications of the United Nations pursuant to the Convention; and

(c) any dispute concerning the interpretation of this Agreement shall be subject to the relevant terms for dispute settlement under the Convention.

I further propose that upon receipt of your Government’s confirmation in writing of the above, this exchange of letters shall constitute an agreement between the United Nations and the Government of Norway concerning the status, privileges and immunities of the website for the First Global Integrated Marine Assessment of the Regular Process, which shall enter into force on the date of your reply.

Please accept, Excellency, the assurances of my highest consideration.

[Signed] PATRICIA O’BRIEN
Under-Secretary-General for Legal Affairs
The Legal Counsel

II

17 January 2013

...

Reference is made to your letter dated 26 November 2012 regarding the development, establishment and operation of a website for the purpose of preparing the First Global Integrated Marine Assessment of the Regular Process (the “Website”) at GRID-Arendal in Arendal, Norway, where you proposed that the following terms shall apply with respect to the website:

[Letter contains text of sub-paragraphs (a) to (c) in I, above]

I have the honour to confirm that the proposed terms shall apply with respect to the website and that your letter together with this reply shall constitute an agreement

between the United Nations and the Government of Norway concerning the status, privileges and immunities of the website for the First Global Integrated Marine Assessment of the Regular Process, which shall enter into force on the date of this letter.

[Signed] GEIR O. PEDERSEN
Ambassador
Permanent Representative

4. United Nations Development Programme

Standard Basic Assistance Agreement between the Government of the Kingdom of Tonga and the United Nations Development Programme Nuku'alofa, 28 January 2013^{*}

Whereas the General Assembly of the United Nations has established the United Nations Development Programme (hereinafter called the UNDP) to support and supplement the national efforts of developing countries at solving the most important problems of their economic development and to promote social progress and better standards of life; and

Whereas the Government of the Kingdom of Tonga wishes to request assistance from the UNDP for the benefit of its people;

Now therefore the Government the Kingdom of Tonga and the UNDP (hereinafter called the Parties) have entered into this Agreement in a spirit of friendly cooperation.

Article I. Scope of this Agreement

1. This Agreement embodies the basic conditions under which the UNDP and its Executing Agencies shall assist the Government in carrying out its development projects, and under which such UNDP-assisted projects shall be executed. It shall apply to all such UNDP assistance and to such project documents or other instruments (hereinafter called Project documents) as the Parties may conclude to define the particulars of such assistance and the respective responsibilities of the Parties and the Executing Agency hereunder in more detail in regard to such projects.

2. Assistance shall be provided by the UNDP under this Agreement only in response to requests submitted by the Government and approved by the UNDP. Such assistance shall be made available to the Government or to such entity as the Government may designate, and shall be furnished and received in accordance with the relevant and applicable resolutions and decisions of the competent UNDP organs, and subject to the availability of the necessary funds to the UNDP.

Article II. Forms of assistance

1. Assistance which may be made available by the UNDP to the Government under this Agreement may consist of:

^{*} Entered into force on 28 January 2013, by signature in accordance with its article XIII.

- (a) the services of advisory experts and consultants, including consultant firms or organizations, selected by and responsible to, the UNDP or the Executing Agency concerned;
- (b) the services of operational experts selected by the Executing Agency, to perform functions of an operational, executive or administrative character as civil servants of the Government or as employees of such entities as the Government may designate under Article I, paragraph 2, hereof;
- (c) the services of members of the United Nations Volunteers (hereinafter called volunteers);
- (d) equipment and supplies not readily available in the Kingdom of Tonga (hereinafter called the country);
- (e) seminars, training programmes, demonstration projects, expert working groups and related activities;
- (f) scholarships and fellowships, or similar arrangements under which candidates nominated by the Government and approved by the Executing Agency concerned may study or receive training; and
- (g) any other form of assistance which may be agreed upon by the Government and the UNDP.

2. Requests for assistance shall be presented by the Government to the UNDP through the UNDP resident representative in the country (referred to in paragraph 4(a) of this article), and in the form and in accordance with procedures established by the UNDP for such requests. The Government shall provide the UNDP with all appropriate facilities and relevant information to appraise the request, including an expression of its intent with respect to the follow-up of investment-oriented projects.

3. Assistance may be provided by the UNDP to the Government either directly, with such external assistance as it may deem appropriate, or through an Executing Agency, which shall have primary responsibility for carrying out UNDP assistance to the project and which shall have the status of an independent contractor for this purpose. Where assistance is provided by the UNDP directly to the Government, all references in this Agreement to an Executing Agency shall be construed to refer to the UNDP, unless clearly inappropriate from the context.

4. (a) the UNDP may maintain a permanent mission, headed by a resident representative, in the country to represent the UNDP therein and be the principal channel of communication with the Government on all Programme matters. The resident representative shall have full responsibility and ultimate authority, on behalf of the UNDP Administrator, for the UNDP programme in all its aspects in the country, and shall be team leader in regard to such representatives of other United Nations organizations as may be posted in the country, taking into account their professional competence and their relations with appropriate organs of the Government. The resident representative shall maintain liaison on behalf of the Programme with the appropriate organs of the Government, including the Government's co-ordinating agency for external assistance, and shall inform the Government of the policies, criteria and procedures of the UNDP and other relevant programmes of the United Nations. He shall assist the Government, as may be required, in the preparation of UNDP country programme and project requests, as well as proposals for country programme or project changes, assure proper co-ordination of all assistance

rendered by the UNDP through various Executing Agencies or its own consultants, assist the Government, as may be required, in co-ordinating UNDP activities with national, bilateral and multilateral programmes within the country, and carry out such other functions as may be entrusted to him by the Administrator or by an Executing Agency.

(b) the UNDP mission in the country shall have such other staff, as the UNDP may deem appropriate to its proper functioning. The UNDP shall notify the Government from time to time of the names of the members, and of the families of the members, of the mission, and of changes in the status of such persons.

Article III. Execution of projects

1. The Government shall remain responsible for its UNDP-assisted development projects and the realization of their objectives as described in the relevant Project documents, and shall carry out such parts of such projects as may be stipulated in the provisions of this Agreement and such Project documents. The UNDP undertakes to complement and supplement the Government's participation in such projects through assistance to the Government in pursuance of this Agreement and the work plan forming part of such Project documents, and through assistance to the Government in fulfilling its intent with respect to investment follow-up. The Government shall inform UNDP of the Government Cooperating Agency directly responsible for the Government's participation in each UNDP-assisted project. Without prejudice to the Government's overall responsibility for its projects, the Parties may agree that an Executing Agency shall assume primary responsibility for execution of a project in consultation and agreement with the Cooperating Agency, and any arrangements to this effect shall be stipulated in the project work plan forming part of the Project Document together with arrangements, if any, for transfer of such responsibility, in the course of project execution, to the Government or to an entity designated by the Government.

2. Compliance by the Government with any prior obligations agreed to be necessary or appropriate for UNDP assistance to a particular project shall be a condition of performance by the UNDP and the Executing Agency of their responsibilities with respect to that project. Should provision of such assistance be commenced before such prior obligations have been met, it may be terminated or suspended without notice and at the discretion of the UNDP.

3. Any agreement between the Government and an Executing Agency concerning the execution of the UNDP-assisted project or between the Government and an operational expert shall be subject to the provisions of this Agreement.

4. The Cooperating Agency shall, as appropriate and in consultation with the Executing Agency, assign a full-time director for each project who shall perform such functions as are assigned to him by the Cooperating Agency. The Executing Agency shall, as appropriate and in consultation with the Government, appoint a Chief Technical Adviser or Project Coordinator responsible to the Executing Agency to oversee the Executing Agency's participation in the project at the project level. He shall supervise and coordinate activities of experts and other Executing Agency personnel and be responsible for the on-the-job training of national Government counterparts. He shall be responsible for the management and efficient utilization of all UNDP financed inputs, including equipment provided to the project.

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

6. Recipients of fellowships shall be selected by the Executing Agency. Such fellowships shall be administered in accordance with the fellowship policies and practices of the Executing Agency.

7. Technical and other equipment, materials, supplies and other property financed or provided by the UNDP shall belong to the UNDP unless and until such time as ownership thereof is transferred, on terms and conditions mutually agreed upon between the Government and the UNDP, to the Government or to an entity nominated by it.

8. Patent rights, copyright rights, and other similar rights to any discoveries or work resulting from UNDP assistance under this Agreement shall belong to the UNDP. Unless otherwise agreed by the Parties in each case, however, the Government shall have the right to use any such discoveries or work within the country free of royalty or any charge of similar nature.

Article IV. Information concerning projects

1. The Government shall furnish the UNDP with such relevant reports, maps, accounts, records, statements, documents and other information as it may request concerning any UNDP-assisted project, its execution or its continued feasibility and soundness, or concerning the compliance by the Government with its responsibilities under this Agreement or Project documents.

2. The UNDP undertakes that the Government shall be kept currently informed of the progress of its assistance activities under this Agreement. Either party shall have the right, at any time, to observe the progress of operations on UNDP-assisted projects.

3. The Government shall, subsequent to the completion of a UNDP-assisted project, make available to the UNDP at its request information as to benefits derived from and activities undertaken to further the purposes of that project, including information necessary or appropriate to its evaluation or to evaluation of UNDP assistance, and shall consult with and permit observation by the UNDP for this purpose.

4. Any information or material which the Government is required to provide to the UNDP under this article shall be made available by the Government to an Executing Agency at the request of the Executing Agency concerned.

5. The Parties shall consult each other regarding the publication, as appropriate, of any information relating to any UNDP-assisted project or to benefits derived therefrom. However, any information relating to any investment-oriented project may be released

by the UNDP to potential investors, unless and until the Government has requested the UNDP in writing to restrict the release of information relating to such project.

Article V. Participation and contribution of government in execution of projects

1. In fulfillment of the Government's responsibility to participate and cooperate in the execution of the projects assisted by the UNDP under this Agreement, it shall contribute the following in kind to the extent detailed in relevant Project documents:

(a) local counterpart professional and other services, including national counterparts to operational experts;

(b) land, buildings, and training and other facilities available or produced within the country; and

(c) equipment, materials and supplies available or produced within the country.

2. Whenever the provision of equipment forms part of UNDP assistance to the Government, the latter shall meet charges relating to customs clearance of such equipment, its transportation from the port of entry to the project site together with any incidental handling or storage and related expenses, its insurance after delivery to the project site, and its installation and maintenance.

3. The Government shall also meet the salaries of trainees and recipients of fellowships during the period of their fellowships.

4. If so provided in the Project document, the Government shall pay, or arrange to have paid, to the UNDP or an Executing Agency the sums required, to the extent specified in the Project budget of the Project document, for the provision of any of the items enumerated in paragraph 1 of this article, whereupon the Executing Agency shall obtain the necessary items and account annually to the UNDP for any expenditures out of payments made under this provision.

5. Monies payable to the UNDP under the preceding paragraph shall be paid to an account designated for this purpose by the Secretary-General of the United Nations and shall be administered in accordance with the applicable financial regulations of the UNDP.

6. The cost of items constituting the Government's contribution to the project and any sums payable by the Government in pursuance of this article, as detailed in Project budgets, shall be considered as estimates based on the best information available at the time of preparation of such Project budgets. Such sums shall be subject to adjustment whenever necessary to reflect the actual cost of any such items purchased thereafter.

7. The Government shall as appropriate display suitable signs at each project identifying it as one assisted by the UNDP and the Executing Agency.

Article VI. Assessed programme costs and other items payable in local currency

1. In addition to the contribution referred to in article V, above, the Government shall assist the UNDP in providing it with assistance by paying or arranging to pay for the following local costs or facilities, in the amounts specified in the relevant Project Document or otherwise determined by the UNDP in pursuance of relevant decisions of its governing bodies:

(a) the local living costs of advisory experts and consultants assigned to projects in the country;

(b) local administrative and clerical services, including necessary local secretarial help, interpreter-translators, and related assistance;

(c) transportation of personnel within the country; and

(d) postage and telecommunications for official purposes.

2. The Government shall also pay each operational expert directly the salary, allowances and other related emoluments which would be payable to one of its nationals if appointed to the post involved. It shall grant an operational expert the same annual and sick leave as the Executing Agency concerned grants its own officials, and shall make any arrangement necessary to permit him to take home leave to which he is entitled under the terms of his service with the Executing Agency concerned. Should his service with the Government be terminated by it under circumstances which give rise to an obligation on the part of an Executing Agency to pay him an indemnity under its contract with him, the Government shall contribute to the cost thereof the amount of separation indemnity which would be payable to a national civil servant or comparable employee of like rank whose service is terminated in the same circumstances.

3. The Government undertakes to furnish in kind the following local services and facilities:

(a) the necessary office space and other premises;

(b) such medical facilities and services for international personnel as may be available to national civil servants;

(c) simple but adequately furnished accommodation to volunteers; and

(d) assistance in finding suitable housing accommodation for international personnel, and the provision of such housing to operational experts under the same conditions as to national civil servants of comparable rank.

4. The Government shall also contribute towards the expenses of maintaining the UNDP mission in the country by paying annually to the UNDP a lump sum mutually agreed between the Parties to cover the following expenditures:

(a) an appropriate office with equipment and supplies, adequate to serve as local headquarters for the UNDP in the country;

(b) appropriate local secretarial and clerical help, interpreters, translators and related assistance;

(c) transportation of the resident representative and his staff for official purposes within the country;

(d) postage and telecommunications for official purposes; and

(e) subsistence for the resident representative and his staff while in official travel status within the country.

5. The Government shall have the option of providing in kind the facilities referred to in paragraph 4, above, with the exception of items (b) and (e).

6. Monies payable under the provisions of this article, other than under paragraph 2, shall be paid by the Government and administered by the UNDP in accordance with article V, paragraph 5.

Article VII. Relation to assistance from other sources

In the event that assistance towards the execution of a project is obtained by either Party from other sources, the Parties shall consult each other and the Executing Agency with a view to effective co-ordination and utilization of assistance received by the Government from all sources. The obligations of the Government hereunder shall not be modified by any arrangements it may enter into with other entities cooperating with it in the execution of a project.

Article VIII. Use of assistance

The Government shall exert its best efforts to make the most effective use of the assistance provided by the UNDP and shall use such assistance for the purpose for which it is intended. Without restricting the generality of the foregoing, the Government shall take such steps to this end as are specified in the Project document.

Article IX. Privileges and immunities

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

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

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

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

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

** *Ibid.*, vol. 374, p. 147.

the United Nations or of the specialized agencies, or of the Agreement on the Privileges and Immunities of the IAEA;

(b) for purposes of the instruments on privileges and immunities referred to in the preceding parts of this article:

- (1) all papers and documents relating to a project in the possession or under the control of the persons referred to in sub-paragraph 4(a), above, shall be deemed to be documents belonging to the United Nations, the specialized agency concerned, or the IAEA, as the case may be; and
- (2) equipment, materials and supplies brought into or purchased or leased by those persons within the country for purposes of a project shall be deemed to be property of the United Nations, the specialized agency concerned, or the IAEA, as the case may be.

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

Article X. Facilities for execution of UNDP assistance

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

- (a) prompt clearance of experts and other persons performing services on behalf of the UNDP or an Executing Agency;
- (b) prompt issuance without cost of necessary visas, licenses or permits;
- (c) access to the site of work and all necessary rights of way;
- (d) free movement within or to or from the country, to the extent necessary for proper execution of UNDP assistance;
- (e) the most favourable legal rate of exchange;
- (f) any permits necessary for the importation of equipment, materials and supplies, and for their subsequent exportation;
- (g) any permits necessary for importation of property belonging to and intended for the personal use or consumption of officials of the UNDP, its Executing Agencies, or other persons performing services on their behalf, and for the subsequent exportation of such property; and
- (h) prompt release from customs of the items mentioned in sub-paragraphs (f) and (g), above.

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

Article XI. Suspension or termination of assistance

1. The UNDP may by written notice to the Government and to the Executing Agency concerned suspend its assistance to any project if in the judgement of the UNDP any circumstance arises which interferes with or threatens to interfere with the successful completion of the project or the accomplishment of its purposes. The UNDP may, in the same or a subsequent written notice, indicate the conditions under which it is prepared to resume its assistance to the project. Any such suspension shall continue until such time as such conditions are accepted by the Government and as the UNDP shall give written notice to the Government and the Executing Agency that it is prepared to resume its assistance.

2. If any situation referred to in paragraph 1 of this article shall continue for a period of fourteen days after notice thereof and of suspension shall have been given by the UNDP to the Government and the Executing Agency, then at any time thereafter during the continuance thereof, the UNDP may by written notice to the Government and the Executing Agency terminate its assistance to the project.

3. The provisions of this article shall be without prejudice to any other rights or remedies the UNDP may have in the circumstances, whether under general principles of law or otherwise.

Article XII. Settlement of disputes

1. Any disputes between the UNDP and the Government arising out of or relating to this Agreement which is not settled by negotiation or other agreed mode of settlement shall be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed should appoint a third, who shall be the chairman. If within thirty days of the request for arbitration either Party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, and the expenses of the arbitration shall be borne by the Parties as assessed by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the Parties as the final adjudication of the dispute.

2. Any dispute between the Government and an operational expert arising out of or relating to the conditions of his service with the Government may be referred to the Executing Agency providing the operational expert by either the Government or the operational expert involved, and the Executing Agency concerned shall use its good offices

to assist them in arriving at a settlement. If the dispute cannot be settled in accordance with the preceding sentence or by other agreed mode of settlement, the matter shall at the request of either Party be submitted to arbitration following the same provisions as are laid down in paragraph 1 of this article, except that the arbitrator not appointed by either Party or by the arbitrators of the Parties shall be appointed by the Secretary-General of the Permanent Court of Arbitration (PCA).

Article XIII. General provisions

1. This Agreement shall enter into force upon signature, and it shall continue in force until terminated under paragraph 3, below. Upon the entry into force of this Agreement, it shall supersede existing Agreements concerning the provision of assistance to the Government out of UNDP resources and concerning the UNDP office in the country, and it shall apply to all assistance provided to the Government and to the UNDP office established in the country under the provisions of the Agreements now superseded.

2. This Agreement may be modified by written agreement between the Parties hereto. Any relevant matter for which no provision is made in this Agreement shall be settled by the Parties in keeping with the relevant resolutions and decisions of the appropriate organs of the United Nations. Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party under this paragraph.

3. This Agreement may be terminated by either Party by written notice to the other and shall terminate sixty days after receipt of such notice.

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

In witness whereof the undersigned, duly appointed representatives of the United Nations Development Programme and of the Government, respectively, have on behalf of the Parties signed the present Agreement in the English language in two copies at Nuku'alofa this 28 day of January 2013.

For the United Nations Development
Programme:

[Signed] MR. KNUT OSTBY
UNDP Resident Representative
UNDP Fiji Multi-Country Office of
the Federated States of Micronesia, Fiji,
Kiribati, Marshall Islands, Nauru, Palau,
Solomon Islands, Tonga, Tuvalu and
Vanuatu

For the Government of the
Kingdom of Tonga

[Signed] LORD TU'IVAKANO
Lord Prime Minister

**B. TREATIES CONCERNING THE LEGAL STATUS OF
INTERGOVERNMENTAL ORGANIZATIONS
RELATED TO THE UNITED NATIONS**

**1. Convention on the Privileges and Immunities
of the Specialized Agencies. Approved by the General Assembly
of the United Nations on 21 November 1947***

During 2013, San Marino acceded, without reservations, to the Convention and undertook to apply the provisions of the Convention to the following specialized agencies:

<i>State</i>	<i>Date of receipt of instrument of accession</i>	<i>Specialized agencies</i>
San Marino	21 February 2013	ILO, FAO (second revised text of annex II), ICAO, UNESCO, IMF, IBRD, WHO (third revised text of annex VII), UPU, ITU, IMO (second revised text of annex XII), WIPO, UNWTO

As of 31 December 2013, there were 123 States parties to the Convention.**

2. International Labour Organization

On 8 February 2013, an agreement for extension of the “Supplementary Understanding and its Minutes of the Meeting dated 28th February, 2007”*** was concluded and entered into force with the Government of Myanmar. This agreement extends the Supplementary Understanding relating to the role of the Liaison Officer with respect to forced labour complaints channelled through him/her.****

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

** For the list of the State parties, see *Multilateral Treaties Deposited with the Secretary-General*, available on the website of the Treaty Section of the United Nations Office of Legal Affairs: <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

*** International Labour Office (ILO), Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29), document GB.298/5/1, Appendix. Available from http://ilo.org/gb/GBSessions/WCMS_GB_298_5_1_EN/lang--en/index.htm (accessed on 31 December 2013).

**** ILO, Follow-up to the resolution concerning the measures on the subject of Myanmar adopted under article 33 of the ILO Constitution by the Conference at its 101st Session (2012), document GB.317/INS/4/2, Appendix III. Available from http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--relconf/documents/meetingdocument/wcms_207599.pdf (accessed on 31 December 2013).

On 22 February 2013, the Government of the Republic of South Sudan and the International Labour Organization concluded a Framework Agreement for Cooperation to strengthen their cooperation.*

In October 2013, an agreement for the “Further developments in relation to the International Organization for Standardization, including in the field of occupational safety and health (OSH)” was concluded on a pilot basis between the International Labour Organization and the International Organization for Standardization.**

3. United Nations Educational, Scientific and Cultural Organization

For the purpose of holding international conferences on the territory of Member States, UNESCO concluded various agreements that contained the following provisions concerning the legal status of the Organization:

Privileges and immunities

The Government of [name of the State] 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 thereto to which it has been a party from [date].

In particular, the Government shall not place any restriction on the entry into, sojourn in, and departure from the territory of [name of the State] 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 relevant rules and regulations.

Damage and accidents

As long as the premises reserved for the meeting are at the disposal of UNESCO, the Government of [name of State] shall bear the risk of damage to the premises, facilities and furniture and shall assume and bear all responsibility and liability for accidents that may occur to persons present therein. The [name of State] authorities shall be entitled to adopt appropriate measures to ensure the protection of the participants, particularly against fire and other risks, of the above-mentioned premises, facilities and furniture. The Government of [name of State] may also claim from UNESCO compensation for any damage to persons and properly caused by the fault of staff members or agents of the Organization.

* ILO , Framework Agreement for Cooperation between the Republic of South Sudan and the International Labour Organization. Available from http://www.ilo.org/dyn/legprot/en/f?p=2200:10002:3217716357447746::NO:10002:P10002_COUNTRY_ID:2697100:NO (accessed on 31 December 2013).

** ILO, Further developments in relation to the International Organization for Standardization, including in the field of occupational safety and health (OSH), document GB.319/INS/INF/1, Appendix. Available from http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meeting-document/wcms_222296.pdf (accessed on 31 December 2013).

4. Food and Agriculture Organization of the United Nations

(a) Agreements regarding the establishment of FAO representations and offices

The legal status, privileges and immunities enjoyed by FAO representations, regional, country and liaison offices, their personnel and assets are set out in agreements concluded with the host States. Whenever States hosting such offices are parties to the Convention on the Privileges and Immunities of the Specialized Agencies, 1947, the agreements confirm the applicability of the Convention to the office, personnel and assets concerned, and to FAO activities within that State. On 28 May 2013 and 9 August 2013, respectively, such agreements were concluded with the Kingdom of Tonga and the Republic of Vanuatu for the establishment of FAO representations in those countries. The agreements clarify the scope and nature of privileges and immunities to be accorded to personnel of the offices and the legal capacity that the Organization will enjoy in the countries concerned.

When the State entering in an agreement with FAO has not acceded to the Convention on the Privileges and Immunities of the Specialized Agencies, 1947, instead of reference to the Convention, the agreement includes specific clauses defining the legal capacity and the privileges and immunities that the Organization will enjoy in the country concerned. Such an agreement was concluded between the Republic of Equatorial Guinea and FAO for the establishment of a Liaison and Partnership Office, on 20 June 2013.

(b) Agreements for hosting meetings of FAO bodies

For the purpose of holding international conferences and meetings of FAO bodies outside FAO Headquarters and premises, FAO normally concludes agreements confirming the privileges and immunities and other facilities that the Organization and participants will enjoy for the purpose of the meeting. These agreements are based on a standard Memorandum of responsibilities.^{*} During 2013, Memoranda of responsibilities were concluded with Brazil, France, India, Italy, Norway, Oman, Papua New Guinea, the Russian Federation, Sri Lanka, Thailand and Uruguay, for hosting sessions of the FAO Governing and Statutory Bodies in 2013 and 2014.

(c) Framework Agreement for providing premises, logistic and administrative support

On 27 February 2013, FAO and the International Fund for Agricultural Development (IFAD) concluded a framework agreement by which office space, as well as administrative and logistic support, will be provided by FAO to IFAD at its country offices. The Framework Agreement establishes only the general terms for providing such premises and facilities, and individual agreements will be concluded between FAO and IFAD for each country office arrangement. The framework agreement sets forth the general principles and terms for the allocation of office space, management of premises and the status of personnel working for IFAD in these offices. In particular, as regards the privileges and

^{*} See *United Nations Juridical Yearbook, 1972* (United Nations Publication, Sales No. E.74.V.1).

immunities of personnel working for IFAD in the offices hosted by FAO, the Framework Agreement addresses two categories of staff: IFAD staff and staff recruited and appointed by FAO to provide services to IFAD.

5. United Nations Industrial Development Organization

The United Nations Industrial Development Organization concluded various agreements which came into force in 2013 that contained provisions relating to the legal status, privileges and immunities of UNIDO.

(a) Implementation Agreement between the United Nations Industrial Development Organization, the United Nations Environment Programme and the Ministry of Environment and Sanitation of Mali regarding the implementation of a project in Mali entitled “Reducing mercury risks from artisanal and small scale gold mining (ASGM) in Mali”, signed on 26 July, 2 and 20 September 2013*

...

Article 5. Status of personnel

For the purpose of implementation of this Agreement, no agents or employees of the Administrative Agent, the Participating Organization and the Applicant shall be considered as an agent or employee of any of the others and, thus, the personnel of one shall not be considered as staff members, personnel or agents of any of the others. Without restricting the generality of the preceding sentence, the Administrative Agent, the Participating Organization and the Applicant shall not be liable for the acts or omissions of the others or their personnel, or of persons performing services on their behalf.

Article 6. Dispute settlement

The Administrative Agent, the Participating Organization and the Applicant shall use their best efforts to promptly settle through direct negotiations any dispute, controversy or claim arising out of or in connection with this Agreement or any breach thereof. Any such dispute, controversy or claim which is not settled within sixty (60) days from the date either party has notified the other party of the nature of the dispute, controversy -or claim and of the measures which should be taken to rectify it, shall be resolved through consultation between the Executive Heads of the Parties or their duly authorized representatives.

* Entered into force on 20 September 2013.

(b) Agreement between the United Nations Industrial Development Organization and the Government of Peru relating to the arrangements for the fifteenth session of the General Conference of UNIDO, signed on 23 September 2013*

...

Article II. Participation in the Conference

1. As specified in the rules of procedure of the General Conference, the Conference shall be open to participation by the representatives, alternates, advisers and experts of

(a) Member States of UNIDO;

(b) Observers of UNIDO and States Members of the United Nations or of any of its specialized agencies or of the International Atomic Energy Agency, and States which enjoy observer status in the General Assembly of the United Nations;

(c) the United Nations and United Nations organs when duly authorized by a competent intergovernmental organ or by the Secretary-General of the United Nations;

(d) the specialized and related agencies of the United Nations system;

(e) intergovernmental and governmental organizations with which UNIDO has concluded a relationship agreement pursuant to article 19 1(a) of the Constitution of UNIDO;

(f) non-governmental organizations with which UNIDO has established relations pursuant to article 19 1(b) of the Constitution of UNIDO and whose participation has been approved by the Board;

(g) any other intergovernmental organizations that have been designated on a continuing basis by the Economic and Social Council of the United Nations under rule 79 of its rules of procedure;

(h) organizations which have been invited in accordance with article 4. 1 of the Constitution of UNIDO and which have not been referred to in any of the preceding parts of this article.

2. Special guests officially invited by the Government, after consultation with UNIDO, shall be given access to the Conference area by UNIDO.

3. Heads of State and Government, and other high-level participants shall be given relevant protocol assistance by the Government, in coordination with UNIDO protocol, from their arrival in Lima until their departure.

4. The Director General of UNIDO shall designate the officials of UNIDO and the United Nations required to service the Conference.

5. The Ministerial Conference of the Least Developed Countries shall, upon the invitation of the Director General of UNIDO, be open to:

(a) Representatives of LDCs;

(b) Representatives of the United Nations, United Nations organs, specialized agencies, other multilateral organizations and regional development finance institutions;

* Entered into force on 19 November 2013.

- (c) Observers of other intergovernmental organizations;
- (d) Representatives of the private sector.

6. The Conference of the Latin American and Caribbean (LAC) Ministers of Industry shall, upon the invitation of the Director General of UNIDO and the Ministers of Production and of Foreign Affairs of Peru, be open to:

Representatives of the ministries of industry in Latin America and the Caribbean.

7. The public meetings of the Conference shall be open to representatives of information media accredited by UNIDO after consultation with the Government

8. The Secretary of the Conference shall, prior to the opening of the Conference, furnish the Government with a list of participants, referred to in paragraphs 1 and 5 of the present article. It is understood that such list is not necessarily exhaustive and shall not prejudice any participant's right of participation.

...

Article IV. Premises, equipment, utilities and supplies

1. The Government shall provide at its own expense, for as long as required for the Conference, the necessary premises, including conference rooms for formal and informal meetings, side events, suitable office space, rooms for exhibitions, working and storage areas and, generally, other related facilities, as specified in the requirements paper submitted by UNIDO, annexed hereto.

2. The premises and facilities referred to under paragraph 1 of this article shall remain at the disposal of UNIDO 24 hours a day throughout the duration of the Conference and for such period prior to the opening and after the closing of the Conference as the Secretariat, in consultation with the Government, shall deem necessary for the preparation and closure of all matters connected with the Conference.

3. The conference rooms designated for the plenary and the main committee shall be equipped for reciprocal simultaneous interpretation in six languages and shall have facilities for sound recordings in each language. Each interpretation booth shall have the capacity to switch to all other channels (i.e. the speaker plus each language channel). The Arabic and Chinese booths shall have the capacity to override the English and French booths. The conference rooms designated for side events shall be equipped for reciprocal simultaneous interpretation in three languages. Each interpretation booth shall have the capacity to switch to all other channels (i.e. the speaker plus each language channel). The third booth shall have the capacity to override the English and French booths.

4. The Government shall provide adequate office supplies for producing the documentation of the Conference on-site, as required, and UNIDO shall reimburse the Government for the cost of such supplies in the amount not to exceed the cost that would have been incurred by UNIDO for a similar quantity of office supplies had the Conference been held at Headquarters

5. The Government shall provide within the Conference area the following: a registration desk, an information desk, an exchange bureau and an ATM, postal services, telephone facilities, appropriate restaurant and catering facilities, a travel agency, a secretarial service centre, equipped in consultation with UNIDO, for the use of delegations to the

Conference, and security screening equipment. Moreover, Internet access and a wireless connection, with sufficient capacity for uninterrupted simultaneous usage, in the entire Conference area, as well as an Internet corner with computers should be provided for the use of delegates free of charge.

6. The Government shall provide the necessary areas, services and facilities for written press coverage, film coverage, radio and television broadcasting of the proceedings, to the extent required by UNIDO. In addition, the Government shall provide, at its own expense, a press working area, a briefing room for correspondents, radio and television studios and areas for interviews and programme preparation.

7. The Government shall bear the cost of office supplies, equipment and photocopying services, personal computers, printers, scanners, video conferencing and such other equipment and office supplies as is necessary for the effective conduct of the Conference and for use by press representatives covering the Conference Local Area Network (LAN) infrastructure and high speed Internet access appropriate for Wide Area Network (WAN) and video conferencing connectivity are to be provided.

8. The Government shall at its expense furnish, equip and maintain in good repair all aforesaid premises and facilities in a manner that UNIDO considers adequate for the effective conduct of the Conference.

9. The Government shall bear the cost of all necessary utility services, including local and long-distance telephone communications, of the Secretariat of the Conference and its communications by telephone, Internet or fax with UNIDO Headquarters in Vienna.

10. The Government shall bear the cost of transport and insurance charges, from UNIDO Headquarters or any established United Nations office to the site of the Conference and return, of all UNIDO equipment and supplies required for the adequate functioning of the Conference UNIDO shall determine the mode of shipment of such equipment and supplies.

...

Article IX. Local personnel

1. The Government shall appoint an official who shall act as liaison officer between UNIDO and the Government and shall be responsible, in consultation with the Secretary of the Conference, for making and carrying out the administrative and personnel arrangements for the Conference as required under this Agreement.

2. The Government, based on the exact requirements established by UNIDO in consultation with Government officials, shall engage and provide at its own expense an adequate number of personnel required, in addition to UNIDO and United Nations staff:

(a) to ensure the proper functioning of the equipment and facilities referred to in article IV above during the Conference;

(b) to reproduce and distribute documents, information material and press releases, as needed by the Conference;

(c) to work, inter alia, as bilingual secretaries, typists, clerks, messengers, drivers, conference room ushers and IT support personnel;

(d) to assist with the on-site registration of participants; and

(e) to provide custodial and maintenance services for the equipment and premises made available in connection with the Conference.

3. The Government shall arrange, at the request of the Secretary of the Conference, for some local personnel referred to in paragraph 2 of this article to be available 24 hours a day before and after the closing of the Conference, as required by UNIDO.

Article X. Privileges and immunities

1. In accordance with article 21 of the Constitution of UNIDO, the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, to which the Republic of Peru is a party, shall be applicable in respect of the Conference.

2. In particular, the representatives, alternates, advisers and experts of States or of the intergovernmental organs referred to in article II, paragraph 1 (a), (b) and (c), and article II, paragraph 5 (a) and (b) above, shall enjoy the privileges and immunities provided under article IV of the Convention.

3. The officials of UNIDO and the United Nations performing functions in connection with the Conference referred to in article II, paragraph 4, of this Agreement shall enjoy the privileges and immunities provided under articles V and VII of the Convention and any experts on mission for UNIDO in connection with the Conference shall enjoy the privileges and immunities provided under articles VI and VII of the Convention.

4. The representatives or observers referred to in article II, paragraph 1 (e), (f), (g) and (h), and in article II, paragraph 5 (c) and (d) above, shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them in connection with their participation in the Conference.

5. The personnel provided by the Government under article IX of this Agreement shall not be rendered liable for performing their duly authorized responsibilities in connection with the Conference.

6. The representatives of the specialized or related agencies, referred to in article II, paragraph 1 (d), above, shall enjoy the privileges and immunities provided by the Convention on the Privileges and Immunities of the United Nations.

7. Without prejudice to the preceding paragraphs of the present article, all persons performing functions in connection with the Conference and all those participating in the Conference, shall enjoy the privileges, immunities and facilities necessary for the independent exercise of their functions in connection with the Conference.

8. All persons referred to in article II shall have the right of entry into and exit from the Republic of Peru, and no impediment shall be imposed on their transit to and from the Conference area. They shall enjoy facilities for obtaining visas and entry permits, free of charge, as speedily as possible. Exit permits, where required, shall be granted free of charge, as speedily as possible, and in any case not later than three days before the closing of the Conference.

9. For the purpose of the Convention on the Privileges and Immunities of the United Nations, the Conference premises specified in article IV, paragraph 1, above, shall be deemed to constitute premises of UNIDO in the sense of Section 3 of the Convention and access thereto shall be subject to the authority and control of UNIDO. The premises

shall be inviolable for the duration of the Conference, including the preparatory stage and the winding-up.

10. All persons referred to in article II above shall have the right to take out of the Republic of Peru at the time of their departure, without any restrictions, any unexpended portions of the funds they brought into the Republic of Peru in connection with the Conference and to reconvert any such funds at the same rate at their departure.

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

**(c) Framework programme on cooperation between
the United Nations Industrial Development Organization and
the Government of the Republic of Belarus for 2013–2017,
signed on 1 October 2013***

10. FINAL CLAUSES

10.4. Nothing in or related to this Programme shall be deemed a waiver of any of the privileges and immunities of UNIDO.

**(d) Agreement between the United Nations Industrial Development
Organization and the Ministry of Industry and Mines of the Gabonese
Republic regarding the establishment of a trust fund for the implementation
of a project in Gabon entitled “*Renforcement des capacités en production et
analyse de statistiques industrielles au Gabon*”, signed on 1 October 2013***

H. CONTEXTE LEGAL

Le présent projet est régi par les dispositions de l'Accord de coopération signé le 30 mars 1993 par le Gouvernement du Gabon et l'ONUDI.

6. Organisation for the Prohibition of Chemical Weapons

Agreement between the Organisation for the Prohibition of Chemical Weapons and the Republic of Chile on the privileges and immunities of the OPCW**

Whereas article VIII, paragraph 48, of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction*** provides that the OPCW shall enjoy on the territory and in any other place under the jurisdiction or control of State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions;

* Entered into force on 1 October 2013.

** Entered into force on 11 July 2013. Agreements on the same subject were signed with South Africa (entered into force 5 November 2013), and Bulgaria (25 November 2013).

*** United Nations, *Treaty Series*, vol. 1974, p. 45.

Whereas article VIII, paragraph 49, of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction provides that delegates of States Parties, together with their alternates and advisers, representatives appointed to the Executive Council together with their alternates and advisers, the Director-General and the staff of the Organisation shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the OPCW;

Whereas notwithstanding article VIII, paragraphs 48 and 49 of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, the privileges and immunities enjoyed by the Director-General and the staff of the Secretariat during the conduct of verification activities shall be those set forth in Part II, Section B, of the Verification Annex;

Whereas article VIII, paragraph 50, of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction specifies that such legal capacity, privileges and immunities are to be defined in agreements between the Organisation and the States Parties;

The Organisation for the Prohibition of Chemical Weapons and the Republic of Chile have agreed as follows:

Article 1. Definitions

In this Agreement:

(a) “Convention” means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 13 January 1993;

(b) “OPCW” means the Organisation for the Prohibition of Chemical Weapons established under article VIII, paragraph 1, of the Convention;

(c) “Director-General” means the Director-General referred to in article VIII, paragraph 41, of the Convention, or in his absence, the acting Director-General;

(d) “Officials of the OPCW” means the Director-General and all members of the staff of the Secretariat of the OPCW;

(e) “States Parties” means the States Parties which have signed and ratified the Convention;

(f) “Representatives of States Parties” means the accredited heads of delegation of States Parties to the Conference of the States Parties and/or to the Executive Council or the Delegates to other meetings of the OPCW;

(g) “Experts” means persons who, in their personal capacity, are performing missions authorised by the OPCW, are serving on its organs, or who are, in any way, at its request, consulting with the OPCW;

(h) “Meetings convened by the OPCW” means any meeting of any of the organs or subsidiary organs of the OPCW, or any international conferences or other gatherings convened by the OPCW;

(i) “Property” means all property, assets and funds belonging to the OPCW or held or administered by the OPCW in furtherance of its functions under the Convention and all income of the OPCW;

(j) “Archives of the OPCW” means all records, correspondence, documents, manuscripts, computer and media data, photographs, films, video and sound recordings belonging to or held by the OPCW or any officials of the OPCW in an official function, and any other material which the Director-General and the Republic of Chile may agree shall form part of the archives of the OPCW;

(k) “Premises of the OPCW” are the buildings or parts of buildings, and the land ancillary thereto if applicable, used for the purposes of the OPCW, including those referred to in Part II, subparagraph 11(b), of the Verification Annex to the Convention.

Article 2. Legal personality

The OPCW shall possess full legal personality. In particular, it shall have the capacity:

- (a) to contract;
- (b) to acquire and dispose of movable and immovable property;
- (c) to institute and act in legal proceedings.

Article 3. Privileges and immunities of the OPCW

1. The OPCW and its property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case the OPCW has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The premises of the OPCW shall be inviolable. The property of the OPCW, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation, and any other form of interference, whether by executive, administrative, judicial or legislative action.

3. The archives of the OPCW shall be inviolable, wherever located.

4. Without being restricted by financial controls, regulations or moratoria of any kind:

(a) the OPCW may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) the OPCW may freely transfer its funds, securities, gold and currencies to or from the Republic of Chile, to or from any other country, or within the Republic of Chile, and may convert any currency held by it into any other currency.

5. The OPCW shall, in exercising its rights under paragraph 4 of this article, pay due regard to any representations made by the Government of the Republic of Chile in so far as it is considered that effect can be given to such representations without detriment to the interests of the OPCW.

6. The OPCW and its property shall be exempt:

(a) from all direct taxes; it is understood, however, that the OPCW will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the OPCW for its official use; it is understood, however, that articles imported under such exemption will not be sold in the Republic of Chile, except in accordance with conditions agreed upon with the Republic of Chile;

(c) from duties and prohibitions and restrictions on imports and exports in respect of its publications.

7. While the OPCW will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the OPCW is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the Republic of Chile will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

*Article 4. Facilities and immunities in respect of
communications and publications*

1. For its official communications the OPCW shall enjoy, in the territory of the Republic of Chile and as far as may be compatible with any international conventions, regulations and arrangements to which the Republic of Chile adheres, treatment not less favourable than that accorded by the Government of the Republic of Chile to any other government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes for post and telecommunications, and press rates for information to the media.

2. No censorship shall be applied to the official correspondence and other official communications of the OPCW. The OPCW shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags. Nothing in this paragraph shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between the Republic of Chile and the OPCW.

3. The Republic of Chile recognises the right of the OPCW to publish and broadcast freely within the territory of the Republic of Chile for purposes specified in the Convention.

4. All official communications directed to the OPCW and all outward official communications of the OPCW, by whatever means or whatever form transmitted, shall be inviolable. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, videos, films, sound recordings and software.

Article 5. Representatives of States parties

1. Representatives of States Parties, together with alternates, advisers, technical experts and secretaries of their delegations, at meetings convened by the OPCW, shall, without prejudice to any other privileges and immunities which they may enjoy, while exercising their functions and during their journeys to and from the place of the meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention;

(b) immunity from legal process of any kind in respect of words spoken or written and all acts done by them, in their official capacity; such immunity shall continue to be

accorded, notwithstanding that the persons concerned may no longer be engaged in the performance of such functions;

(c) inviolability for all papers, documents and official material;

(d) the right to use codes and to dispatch or receive papers, correspondence or official material by courier or in sealed bags;

(e) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations while they are visiting or passing through the Republic of Chile in the exercise of their functions;

(f) the same facilities with respect to currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(g) the same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

2. Where the incidence of any form of taxation depends upon residence, periods during which the persons designated in paragraph 1 of this article may be present in the territory of the Republic of Chile for the discharge of their duties shall not be considered as periods of residence.

3. The privileges and immunities are accorded to the persons designated in paragraph 1 of this article in order to safeguard the independent exercise of their functions in connection with the OPCW and not for the personal benefit of the individuals themselves. It is the duty of all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of the Republic of Chile.

4. The provisions of paragraphs 1 and 2 of this article are not applicable in relation to a person who is a national of the Republic of Chile.

Article 6. Officials of the OPCW

1. During the conduct of verification activities, the Director-General and the staff of the Secretariat, including qualified experts during investigations of alleged use of chemical weapons referred to in Part XI, paragraphs 7 and 8 of the Verification Annex to the Convention, enjoy, in accordance with article VIII, paragraph 51, of the Convention, the privileges and immunities set forth in Part II, Section B, of the Verification Annex to the Convention or, when transiting the territory of non-inspected States Parties, the privileges and immunities referred to in Part II, paragraph 12, of the same Annex.

2. For other activities related to the object and purpose of the Convention, officials of the OPCW shall:

(a) be immune from personal arrest or detention and from seizure of their personal baggage;

(b) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(c) enjoy inviolability for all papers, documents and official material, subject to the provisions of the Convention;

(d) enjoy the same exemptions from taxation in respect of salaries and emoluments paid to them by the OPCW and on the same conditions as are enjoyed by officials of the United Nations;

(e) be exempt, together with their spouses, from immigration restrictions and alien registration;

(f) be given, together with their spouses, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;

(g) be accorded the same privileges in respect of exchange facilities as are accorded to members of comparable rank of diplomatic missions.

3. The officials of the OPCW shall be exempt from national service obligations, provided that, in relation to nationals of the Republic of Chile, such exemption shall be confined to officials of the OPCW whose names have, by reason of their duties, been placed upon a list compiled by the Director-General of the OPCW and approved by the Republic of Chile. Should other officials of the OPCW be called up for national service by the Republic of Chile, the Republic of Chile shall, at the request of the OPCW, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

4. In addition to the privileges and immunities specified in paragraphs 1, 2 and 3 of this article, the Director-General of the OPCW shall be accorded on behalf of himself and his spouse, the privileges and immunities, exemptions and facilities accorded to diplomatic agents on behalf of themselves and their spouses, in accordance with international law. The same privileges and immunities, exemptions and facilities shall also be accorded to a senior official of the OPCW acting on behalf of the Director-General.

5. Privileges and immunities are granted to officials of the OPCW in the interests of the OPCW, and not for the personal benefit of the individuals themselves. It is the duty of all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of the Republic of Chile. The OPCW shall have the right and the duty to waive the immunity of any official of the OPCW in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the OPCW.

6. The OPCW shall cooperate at all times with the appropriate authorities of the Republic of Chile to facilitate the proper administration of justice, and shall secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

Article 7. Experts

1. Experts shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connection with such functions:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer performing official functions for the OPCW;

(c) inviolability for all papers, documents and official material;

(d) for the purposes of their communications with the OPCW, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) the same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

2. The privileges and immunities are accorded to experts in the interests of the OPCW and not for the personal benefit of the individuals themselves. It is the duty of all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of the Republic of Chile. The OPCW shall have the right and the duty to waive the immunity of any expert in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the OPCW.

Article 8. Abuse of privilege

1. If the State Party considers that there has been an abuse of a privilege or immunity conferred by this Agreement, consultations shall be held between the Republic of Chile and the OPCW to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the Republic of Chile and the OPCW, the question whether an abuse of a privilege or immunity has occurred shall be settled by a procedure in accordance with article 10.

2. Persons included in one of the categories under articles 6 and 7 shall not be required by the territorial authorities to leave the territory of the Republic of Chile on account of any activities by them in their official capacity. In the case, however, of abuse of privileges committed by any such person in activities outside official functions, the person may be required to leave by the Government of the Republic of Chile, provided that the order to leave the country has been issued by the territorial authorities with the approval of the Foreign Minister of the Republic of Chile. Such approval shall be given only in consultation with the Director-General of the OPCW. If expulsion proceedings are taken against such person, the Director-General of the OPCW shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

3. The immunity from legal process shall in no case extend to acts carried out by officials and experts of the OPCW outside their official functions if such acts constitute an infraction or violation of traffic rules or employment law in force in the Republic of Chile.

Article 9. Travel documents and visas

1. The Republic of Chile shall recognise and accept as valid the United Nations *laissez-passer* issued to the officials of the OPCW, in accordance with special OPCW arrangements, for the purpose of carrying out their tasks related to the Convention. The Director-General shall notify the Republic of Chile of the relevant OPCW arrangements.

2. The Republic of Chile shall take all necessary measures to facilitate the entry into and sojourn in its territory and shall place no impediment in the way of the departure from its territory of the persons included in one of the categories under articles 5, 6 and 7 above, whatever their nationality, and shall ensure that no impediment is placed in the way

of their transit to or from the place of their official duty or business and shall afford them any necessary protection in transit.

3. Applications for visas and transit visas, where required, from persons included in one of the categories under articles 5, 6 and 7, when accompanied by a certificate that they are travelling in their official capacity, shall be dealt with as speedily as possible to allow those persons to effectively discharge their functions. In addition, such persons shall be granted facilities for speedy travel.

4. The Director-General, the Deputy Director(s)-General and other officials of the OPCW, travelling in their official capacity, shall be granted the same facilities for travel as are accorded to members of comparable rank in diplomatic missions.

5. For the conduct of verification activities visas are issued in accordance with paragraph 10 of Part II, Section B, of the Verification Annex to the Convention.

Article 10. Settlement of disputes

1. The OPCW shall make provision for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private law character to which the OPCW is a party;

(b) disputes involving any official of the OPCW or expert who, by reason of his official position, enjoys immunity, if such immunity has not been waived in accordance with article 6, paragraph 5, or article 7, paragraph 2, of this Agreement.

2. Any dispute concerning the interpretation or application of this Agreement, which is not settled amicably, shall be referred for final decision to a tribunal of three arbitrators, at the request of either party to the dispute. Each party shall appoint one arbitrator. The third, who shall be chairman of the tribunal, is to be chosen by the first two arbitrators.

3. If one of the parties fails to appoint an arbitrator and has not taken steps to do so within two months following a request from the other party to make such an appointment, the other party may request the President of the International Court of Justice to make such an appointment.

4. Should the first two arbitrators fail to agree upon the third within two months following their appointment, either party may request the President of the International Court of Justice to make such appointment.

5. The tribunal shall observe in its proceedings the provisions of the "Permanent Court of Arbitration Optional Rules" for arbitration involving international organisations and states, as in force on the date of this Agreement.

6. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the parties to the dispute.

Article 11. Interpretation

1. The provisions of this Agreement shall be interpreted in the light of the functions which the Convention entrusts to the OPCW.

2. The provisions of this Agreement shall in no way limit or prejudice the privileges and immunities accorded to members of the inspection team in Part II, Section B, of the Verification Annex to the Convention or the privileges and immunities accorded to

the Director-General and the staff of the Secretariat of the OPCW in article VIII, paragraph 51, of the Convention. The provisions of this Agreement shall not themselves operate so as to abrogate, or derogate from, any provisions of the Convention or any rights or obligations which the OPCW may otherwise have, acquire or assume.

Article 12. Final provisions

1. This Agreement shall enter into force on the date of deposit with the Director-General of an instrument of ratification of the Republic of Chile. It is understood that, when an instrument of ratification is deposited by the State Party it will be in a position under its own law to give effect to the terms of this Agreement.

2. This Agreement shall continue to be in force for so long as the Republic of Chile remains a State Party to the Convention.

3. The OPCW and the Republic of Chile may enter into such supplemental agreements as may be necessary.

4. Consultations with respect to amendment of this Agreement shall be entered into at the request of the OPCW or the Republic of Chile. Any such amendment shall be by mutual consent expressed in an agreement concluded by the OPCW and the Republic of Chile, and shall enter into force in the manner provided for in paragraph 1 of this article.

Done in The Hague in duplicate on 30 October 2007, in the English and the Spanish languages, each text being equally authentic.

For OPCW

[Signed] ROGELIO PFIRTER

For the Republic of Chile

[Signed]

7. International Atomic Energy Agency

In 2013, Palau became Party to the Agreement on the Privileges and Immunities of the International Atomic Energy Agency, 1959. By the end of the year, there were 84 Parties.

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. Membership of the United Nations

As of 31 December 2013, the number of Member States of the United Nations was 193.

2. Peace and Security

(a) Peacekeeping missions and operations¹

(i) *Peacekeeping missions and operations established in 2013*

Mali²

By resolution 2100 (2013) of 25 April 2013, the Security Council, *inter alia*, condemned the offensive launched on 10 January 2013 by terrorist, extremist and armed groups towards the south of Mali, welcomed the swift action by the French forces, at the request of the transitional authorities of Mali, to stop the offensive of terrorist, extremist and armed groups towards the South of Mali, and took note of letters and a communiqué addressed to the Secretary-General from the transitional authorities of Mali, the President of the Economic Community of West African States (ECOWAS) Commission and the African Union (AU) Peace and Security Council, respectively, in support of the deployment of a United Nations stabilization mission in Mali.

By the same resolution, recalling the report of the Secretary-General³ that included recommendations and options for establishing a United Nations stabilization operation in Mali⁴ and acting under Chapter VII of the Charter of the United Nations, the Security Council decided to establish the United Nations Multidimensional Integrated

¹ The missions and operations are listed in chronological order according to their date of establishment.

² See also the report of the Secretary-General on the situation in Mali (S/2013/582) and a statement by the President of the Security Council of 16 July 2013 (S/PRST/2013/10).

³ S/2013/189.

⁴ *Ibid.*, chap. VII.B, p. 12.

Stabilization Mission in Mali (MINUSMA) and requested the Secretary-General to subsume the United Nations Office in Mali (UNOM)⁵ into MINUSMA.⁶ The Security Council decided that the authority be transferred from the African-led International Support Mission in Mali (AFISMA)⁷ to MINUSMA on 1 July 2013, including military training, provision of equipment, intelligence and logistical support, at which point MINUSMA should commence the implementation of its mandate for an initial period of 12 months, and requested the Secretary-General to include in MINUSMA, in close coordination with the AU and ECOWAS, AFISMA military and police personnel appropriate to United Nations standards.

Resolution 2100 (2013) also defined the composition and mandate of MINUSMA,⁸ and authorized the Mission to use all necessary means, within the limits of its capacities and areas of development, to carry out its mandate. The Security Council authorized French troops, within the limits of their capacities and areas of deployment, and upon request of the Secretary-General, to use all necessary means, from the commencement of the activities of MINUSMA's mandate, to intervene in support of elements of MINUSMA when under imminent and serious threat.

(ii) *Changes in the mandate and/or extensions of time limits of ongoing peacekeeping operations or missions in 2013*

a. Cyprus

The United Nations Peacekeeping Force in Cyprus (UNFICYP) was established by Security Council resolution 186 (1964) of 4 March 1964.⁹ The Security Council decided

⁵ For more information about UNOM, see section A.2(b)(i)(a) of this chapter below.

⁶ For more information about MINUSMA, see <http://www.un.org/en/peacekeeping/missions/minusma/>. See also the report of the Secretary-General, recommending options for the establishment of a United Nations peacekeeping operation there (S/2013/189), the report of the Secretary-General on the situation in Mali, providing update on the developments since S/2013/189 and deployment of MINUSMA (S/2013/338), and the report of the Secretary-General on the situation in Mali, for the period from 10 June to 29 September 2013 (S/2013/582).

⁷ By its resolution 2085 (2012) of 20 December 2012, the Security Council authorized the deployment of AFISMA for an initial period of one year. See OP 9, and 9(a)–(f), of resolution 2085 (2012).

⁸ The Security Council decided that MINUSMA would comprise up to 11,200 military personnel and 1,440 police personnel. The Security Council decided that the mandate of MINUSMA should include, *inter alia*: (a) stabilization of key population centers and support for the reestablishment of State authority throughout the country (i) to support the transitional authorities of Mali, to stabilize the key population centers, especially in the north of Mali, and in this context, to deter threats and take active steps to prevent the return of armed elements to those areas, and (ii) to support the transitional authorities of Mali to extend and re-establish State administration throughout the country; (b) support for the implementation of the transitional road map, including the national political dialogue and the electoral process; protection of civilians and United Nations personnel; support for humanitarian assistance; support for cultural preservation; and support for national and international justice.

⁹ For more information about UNFICYP, see <https://unficy.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unficy/>. See also the report of the Secretary-General on the United Nations operation in Cyprus covering developments for the period from 21 June to 15 December 2012 (S/2013/7), for the period from 16 December 2012 to 20 June 2013 (S/2013/392), and for the period from 21 June to 15 December 2013 (S/2013/781).

to extend the mandate of UNFICYP by resolutions 2089 (2013) of 24 January 2013 and 2114 (2013) of 30 July 2013, until 31 July 2013 and 31 January 2014, respectively.

b. Syrian Arab Republic

In view of former Secretary-General Mr. Kofi Annan's decision to step down as Joint Special Envoy of the United Nations and the League of Arab States at the end of August 2012,¹⁰ the General Assembly in resolution 67/183 of 20 December 2012 welcomed the appointment of the new Joint Special Representative of the United Nations and the League of Arab States for Syria, Mr. Lakhdar Brahimi. In the same resolution, the General Assembly, *inter alia*, welcomed the report of the independent international commission of inquiry on the Syrian Arab Republic, submitted pursuant to Human Rights Council (HRC) resolution 19/22,¹¹ demanded that the Syrian authorities provide the commission of inquiry and individuals working on its behalf immediate, full and unfettered entry and access to all areas of the Syrian Arab Republic, and stressed the need to follow up on the report of the commission of inquiry and to conduct an international, transparent, independent and prompt investigation into abuses and violations of international law.

Subsequently, in General Assembly resolution 67/262 of 15 May 2013, the General Assembly, *inter alia*, reaffirmed its support for the mission of the Joint Special Representative of the United Nations and the League of Arab States for Syria and demanded that the Syrian authorities strictly observe their obligations under international law with respect to chemical and biological weapons.

c. Syrian Arab Republic and Israel

The United Nations Disengagement Observer Force (UNDOF) was established by Security Council resolution 350 (1974) of 31 March 1974.¹² The Security Council renewed the mandate of UNDOF by resolutions 2108 (2013) of 27 June 2013 and 2131 (2013) of 18 December 2013.¹³ In resolution 2131 (2013), the Security Council, *inter alia*, decided to renew the mandate of the UNDOF for a period of six months, underlined that there should be no military activity by Syrian armed opposition groups in the area of separation, and stressed the obligation of both parties to scrupulously and fully respect the terms of the 1974 Disengagement of Forces Agreement.

¹⁰ See *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(a)(i).

¹¹ A/HRC/21/50.

¹² For more information about UNDOF, see <http://www.un.org/en/peacekeeping/missions/undof/> and the report of the Secretary-General on the United Nations Disengagement Observer Force (UNDOF) for the period from 1 January to 31 March 2013 (S/2013/174), for the period from 1 April 2013 to 30 June 2013 (S/2013/345), for the period from 1 July to 12 September 2013 (S/2013/542), and for the period from 12 September to 3 December 2013 (S/2013/716).

¹³ The resolutions extended the mandate of UNDOF until 30 June 2013 and 31 December 2013, respectively.

d. Lebanon

The United Nations Interim Force in Lebanon (UNIFIL) was established by Security Council resolutions 425 (1978) and 426 (1978) of 19 March 1978.¹⁴ Following a request by the Lebanese Foreign Minister, presented in a letter dated 12 July 2013 addressed to the Secretary-General, the Secretary-General recommended that the Security Council consider the renewal of UNIFIL for a further period of one year.¹⁵ The Security Council renewed the mandate of UNIFIL by resolution 2115 (2013) of 29 August 2013, until 31 August 2014.

e. Western Sahara

The United Nations Mission for the Referendum in Western Sahara (MINURSO) was established by Security Council resolution 690 (1991) of 29 April 1991.¹⁶ By resolution 2099 (2013) of 25 April 2013, the Security Council decided to extend the mandate of MINURSO until 30 April 2014.

f. Democratic Republic of the Congo

The United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) was established by Security Council resolution 1279 (1999) of 30 November 1999. As of 1 July 2010, MONUC was renamed United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).¹⁷

By resolution 2098 (2013) of 28 March 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of MONUSCO as set out in resolution 1925 (2010) until 31 March 2014. As elaborated upon below, the resolution also reflected several additional MONUSCO-related legal developments, most notably the signing of the Peace, Security and Cooperation Framework (PSC Framework) for the Democratic Republic of the Congo (DRC) and the region, as well as the establishment of an "Intervention Brigade".

Resolution 2098 (2013) welcomed the signing on 24 February 2013 of the PSC Framework for the DRC and the region and stressed the importance of this Agreement for the long-term stability of Eastern DRC and the region. In this regard, it encouraged

¹⁴ For more information about UNIFIL, see <http://www.un.org/en/peacekeeping/missions/unifil/>. See also the reports of the Secretary-General on the implementation of Security Council resolution 1701 (2006) (S/2013/120, S/2013/381 and S/2013/650).

¹⁵ Letter dated 31 July 2013 from the Secretary-General addressed to the President of the Security Council (S/2013/457).

¹⁶ For more information about MINURSO, see <http://www.un.org/en/peacekeeping/missions/minurso/> and the report of the Secretary General on the situation concerning Western Sahara (S/2013/220).

¹⁷ For more information about MONUSCO, see <http://www.un.org/en/peacekeeping/missions/monusco/> and the report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) for the period from 15 November 2012 to 15 February 2013 (S/2013/96), for the period from 16 February to 28 June 2013 (S/2013/388), for the period from 29 June to 30 September 2013 (S/2013/581), and for the period from 1 October to 17 December 2013 (S/2013/757). See also the report of the Secretary-General on the implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region (S/2013/773), and the special report of the Secretary General on Democratic Republic of the Congo and the Great Lakes Region (S/2013/119).

the prompt establishment of a regional oversight mechanism involving the leaders of the region and a national oversight mechanism in order to accompany and oversee the implementation of the regional commitments for reform of the DRC. The Security Council called on the newly designated Special Envoy for the Great Lakes Region, in coordination with the Special Representative of the DRC, to lead, coordinate and assess the implementation of national and regional commitments under the PSC Framework, and further called on the Special Representative for the DRC, in collaboration with the Special Envoy for the Great Lakes Region, to support, coordinate and assess the implementation of national commitments in the DRC under the PSC Framework. The Security Council expressed its intention to review the progress of the implementation of the PSC Framework in the region, and indicated that in the event that any or all of the parties had not complied with the commitments set forth in the PSC Framework, it would take appropriate measures, as necessary.

Also in the same resolution, the Security Council decided that MONUSCO should, for an initial period of one year, on an exceptional basis and without creating a prejudice to the agreed principles of peacekeeping, include an “Intervention Brigade” under direct command of the MONUSCO Force Commander, with the responsibility of neutralizing armed groups as set out in paragraph 12(b) of the resolution and the objective of contributing to reducing the threat posed by armed groups to state authority and civilian security in Eastern DRC. The Security Council also decided that it would consider the continued presence of the Intervention Brigade in light of its performance and whether the DRC had made sufficient progress in implementing its commitments under the PSC Framework.

The Security Council further authorized MONUSCO, through its military component, in pursuit of the objectives described above, to take all necessary measures to achieve its mandate, which included: (a) protection of civilians; (b) neutralizing armed groups through the Intervention Brigade; (c) monitoring the implementation of the arms embargo; and (d) provision of support to national and international judicial processes.

g. Liberia¹⁸

The United Nations Mission in Liberia (UNMIL) was established by Security Council resolution 1509 (2003) of 19 September 2003.¹⁹ Acting under Chapter VII of the Charter of the United Nations, the Security Council decided by resolution 2116 (2013) of 18 September 2013 to extend the mandate of UNMIL until 30 September 2014.

h. Côte d’Ivoire²⁰

The United Nations Operation in Côte d’Ivoire (UNOCI) was established by Security Council resolution 1528 (2004) of 27 February 2004.²¹ By resolution 2112 (2013)

¹⁸ See section A.2(f)(xi) of this chapter below on sanctions as concerning Liberia.

¹⁹ For more information about UNMIL, see <http://unmil.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unmil/>. See also the twenty-fifth progress report of the Secretary-General on the United Nations Mission in Liberia (S/2013/124) and the twenty-sixth progress report of the Secretary-General on the United Nations Mission in Liberia (S/2013/479).

²⁰ See section A.2(f)(vii) of this chapter below on sanctions as concerning Côte d’Ivoire.

²¹ For more information about UNOCI, see <http://www.onuci.org> and <http://www.un.org/en/peacekeeping/missions/unoci/>. See also the special report of the Secretary-General of the United Nations

of 30 July 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNOCI until 30 June 2014.

In the same resolution, also acting under Chapter VII of the Charter of the United Nations, the Security Council decided, *inter alia*, that protection of civilians should remain the priority for UNOCI and that it should put renewed focus on supporting the Government of Côte d'Ivoire with disarmament, demobilization and reintegration, collection of weapons and security sector reform in accordance with paragraph 6 (a), (c) and (d) of the resolution, with the objective of gradually transitioning security responsibilities from UNOCI to the Government of Côte d'Ivoire. The Security Council also called upon UNOCI, where consistent with its authorities and responsibilities, to continue to support national and international efforts to bring to justice perpetrators of grave abuses of human rights and violations of international humanitarian law in Côte d'Ivoire, irrespective of their status or political affiliation. The Security Council further commended inter-mission cooperation between UNOCI and MINUSMA.

i. Haiti

The United Nations Stabilization Mission in Haiti (MINUSTAH) was established by Security Council resolution 1542 (2004) of 30 April 2004.²² By resolution 2119 (2013) of 10 October 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of MINUSTAH as contained in prior resolutions²³ until 15 October 2014, with the intention of further renewal.

j. Republic of the Sudan (Darfur)²⁴

The African Union-United Nations Hybrid Operation in Darfur (UNAMID) was established and authorized by Security Council resolution 1769 (2007) of 31 July 2007.²⁵ By resolution 2113 (2013) of 30 July 2013, the Security Council decided to extend the mandate of UNAMID as set out in resolution 1769 (2007) until 31 August 2014. In the same resolution, the Security Council, *inter alia*, emphasized the Chapter VII mandate of UNAMID to deliver its core tasks to protect civilians without prejudice to the primary responsibility of the Government of the Sudan and to ensure the freedom of movement and security of humanitarian workers and personnel of UNAMID. The Security Council further emphasized the importance of UNAMID acting to promote human rights by bringing abuses and violations to the attention of the authorities, and requested the Secretary-General to provide reporting on human rights violations and abuses.

Operation in Côte d'Ivoire (S/2013/197) and the thirty-second progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (S/2013/377).

²² For more information about MINUSTAH, see <http://minustah.org> and <http://www.un.org/en/peacekeeping/missions/minustah/>. See also the reports of the Secretary-General on the United Nations Stabilization Mission in Haiti (S/2013/139 and S/2013/493).

²³ See resolutions 1542 (2004), 1608 (2005), 1702 (2006), 1743 (2007), 1780 (2007), 1840 (2008), 1892 (2009), 1908 (2010), 1927 (2010), 1944 (2010), 2012 (2011) and 2070 (2012).

²⁴ See section A.2(f)(ii) of this chapter below on sanctions as concerning Darfur.

²⁵ For more information about UNAMID, see <http://unamid.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unamid/>. See also the reports of the Secretary-General on UNAMID (S/2013/22, S/2013/225, S/2013/420 and S/2013/607).

The Security Council also welcomed the Framework for AU and United Nations Facilitation of the Darfur Peace Progress,²⁶ and the priority given to UNAMID's efforts, in coordination with the United Nations country team, to support this framework. It further urged the signatory parties to implement the Doha Document for Peace in Darfur²⁷ in full, including by ensuring that the Darfur Regional Authority, National Human Rights Commission and Office for the Special Prosecutor in Darfur, as well as the Darfur Regional Security Committee are resourced and empowered to carry out their mandates.

k. Republic of the Sudan (Abyei)

The United Nations Interim Security Force for Abyei (UNIFSA) was established by Security Council resolution 1990 (2011) of 27 June 2011.²⁸ By resolution 2104 (2013) of 29 May 2013 and resolution 2126 (2013) of 25 November 2013, the Security Council decided to extend until 30 November 2013 and 31 May 2014, respectively, the mandate of the United Nations Interim Security Force for Abyei (UNISFA) as set out in paragraph 2 of resolution 1990 (2011) and modified by resolution 2024 (2011) of 14 December 2011 and paragraph 1 of resolution 2075 (2012) of 16 November 2012. Acting under Chapter VII of the Charter of the United Nations, the Security Council in both resolutions also determined that, for the purposes of paragraph 1 of resolution 2024 (2011), support to the operational activities of the Joint Border Verification and Monitoring Mission (JBVMM) should include support to the Ad Hoc Committees. Resolution 2104 (2013) also decided to increase the authorized troop ceiling for UNISFA to 5,326 as requested by the parties through the Joint Political and Security Mechanism decision, and expressed its intention to review, as appropriate, the mandate of UNISFA for possible reconfiguration of the mission in light of the compliance by the Sudan and South Sudan with the decisions set forth in resolution 2046 (2012) of 2 May 2012 and commitments made in related agreements.²⁹

²⁶ The Framework was finalized and transmitted to the Council by way of a letter dated 19 March 2012 from the Secretary-General to the President of the Security Council (S/2012/166), which also contained the guiding principles of the Framework. See also the report of the Secretary-General on UNAMID (17 April 2012) (S/2012/231), para. 2, and *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(a)(ii)(h).

²⁷ A/65/914-S/2011/449.

²⁸ For more information about UNISFA, see <http://www.un.org/en/peacekeeping/missions/unisfa/>. See also the reports of the Secretary-General on the situation in Abyei (S/2013/294 and S/2013/198).

²⁹ On 27 September 2012, nine agreements between the Sudan and South Sudan were signed under the auspices of the African Union High-Level Implementation Panel (AUHIP) in the Ethiopian capital Addis Ababa. The nine agreements were: the Agreement on Security Arrangements; the Framework Agreement on the Status of Nationals of the Other State; the Agreement on Border Issues (including demarcation); the Agreement on Trade and Trade-Related Issues; the Agreement on a framework for cooperation on Central Banking Issues; the Framework Agreement to Facilitate payment of post-service benefits; the Agreement on Certain Economic Matters: Division of Assets and Liabilities, Arrears and Claims and Joint Approach to the International Community; the Agreement on Oil and related Economic Matters; and the Cooperation Agreement.

I. Republic of South Sudan

The United Nations Mission in the Republic of South Sudan (UNMISS) was established by the Security Council in resolution 1996 (2011) of 8 July 2011.³⁰ By resolution 2109 (2013) of 11 July 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, to extend the mandate of UNMISS as set out in paragraph 3 of resolution 1996 (2011) through 15 July 2014. The Security Council noted the priority of the mandated tasks of UNMISS in resolution 1996 (2011) for the protection of civilians and for the achievement of an improved security environment.

(iii) *Other ongoing peacekeeping operations or missions*

a. Middle East

The United Nations Truce Supervision Organization (UNTSO) was established by resolution 50 (1948) on 29 May 1948 in order to supervise the observation of the truce in Palestine. UNTSO continued to operate in 2013.³¹

b. India and Pakistan

The United Nations Military Observer Group in India and Pakistan (UNMOGIP) was established by resolutions 39 (1948) and 47 (1948) of 20 January and 21 April 1948 respectively, in order to supervise, in the State of Jammu and Kashmir, the ceasefire between India and Pakistan. Following the India-Pakistan hostilities at the end of 1971 and a subsequent ceasefire of 17 December that year, the tasks of UNMOGIP have been to observe, to the extent possible, developments pertaining to the strict observance of the ceasefire of 17 December 1971 and to report thereon to the Secretary-General.³² UNMOGIP continued to operate in 2013.

c. Kosovo

The United Nations Interim Administration Mission in Kosovo (UNMIK) was established by resolution 1244 (1999) on 10 June 1999, and was mandated to help ensure conditions for a peace and normal life for all inhabitants of Kosovo and advance regional stability in the western Balkans.³³ UNMIK continued to operate in 2013.

³⁰ For more information about UNMISS, see <http://unmiss.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unmiss/>. See also the reports of the Secretary-General on South Sudan (S/2013/140, S/2013/366 and S/2013/651).

³¹ For more information about UNTSO, see <http://untso.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/untso/>.

³² For more information about UNMOGIP, see <http://www.un.org/en/peacekeeping/missions/unmogip/>.

³³ For more information about UNMIK, see <https://unmik.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unmik/>. See also the report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo for the period of 16 October 2012 to 15 January 2013 (S/2013/72), for the period from 16 January to 22 April 2013 (S/2013/254), for the period from 23 April to 15 July 2013 (S/2013/444) and for the period 16 July to 15 October 2013 (S/2013/631).

(iv) *Peacekeeping missions or operations concluded in 2013*

There were no peacekeeping missions or operations that were concluded in 2013.

(b) **Political and peacebuilding missions³⁴**(i) *Political and peacebuilding missions established in 2013*a. **Mali³⁵**

In resolution 2085 (2012) of 20 December 2012, the Security Council, *inter alia*, requested the Secretary-General to establish a multidisciplinary United Nations presence in Mali, in order to provide coordinated and coherent support to the political and security process. The Secretary-General was also requested in the same resolution to keep the Council informed of the situation in Mali and to report back to it every 90 days on the implementation of the resolution, including on the United Nations support to the political and security efforts to solve the crisis in Mali.

Accordingly, the United Nations Office in Mali (UNOM) was established and began its deployment on 21 January 2013.³⁶ The establishment of UNOM brought “additional capacities to United Nations in Mali, especially in terms of support to the political and security processes, rule of law, mine action and human rights”, thus “allowing the Organization to concentrate on supporting and assisting the Malians in their efforts to address the root causes of political tension and instability in the country”.³⁷

Notably, in accordance with resolution 2100 (2013) of 25 April 2013, the Security Council decided to establish the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and requested the Secretary-General to subsume UNOM into MINUSMA.³⁸

³⁴ The political and peacebuilding missions are listed in chronological order according to their date of establishment.

³⁵ For background information relating to the situation in Mali, see <http://www.un.org/en/peacekeeping/missions/minusma/background.shtml>. Of note is the 2012 rebellion and *coup d'état* which saw the appointment on 27 March 2012 of the President of Burkina Faso, Blaise Compaoré, by the Government of the Economic Community of West African States (ECOWAS) to mediate in the crisis. On 6 April 2012, the military junta and ECOWAS signed a Framework Agreement that led to the resignation of the then-President of Mali, Amadou Toumani Touré. The Agreement provided for the establishment of a transitional Government, headed by a Prime Minister with executive powers. Cheick Modibo Diarra was appointed interim Prime Minister on 17 April 2012, and on 20 August 2012, Diarra announced the formation of a Government of national unity. Following the *coup d'état*, the United Nations Secretary-General's Special Representative for West Africa, Said Djinnit, offered the support of the United Nations to the Malian authorities. The latter requested United Nations assistance to build their capacity in the areas of political negotiation, elections, governance, security sector reform and humanitarian assistance.

³⁶ Report of the Secretary-General on the situation in Mali (S/2013/189), para. 26.

³⁷ *Ibid.*, para. 91.

³⁸ For more information about MINUSMA, see section A.2(a)(i) of this chapter above.

b. Somalia

In resolution 2102 (2013) of 2 May 2013, the Security Council decided to establish the United Nations Assistance Mission in Somalia (UNSOM) by 3 June 2013, under the leadership of a Special Representative of the Secretary-General, for an initial period of twelve months with the intention to renew for further periods as appropriate.³⁹ The Security Council decided that the mandate of UNSOM would be, *inter alia*, to support the Federal Government of Somalia and the African Union Mission in Somalia (AMISOM)⁴⁰, as appropriate, by providing strategic policy advice on issues relating to peace building and state building.⁴¹

(ii) *Changes in the mandate and/or extensions of the time limits of ongoing political and peacebuilding missions in 2013*

a. Afghanistan

The United Nations Assistance Mission in Afghanistan (UNAMA) was established by Security Council resolution 1401 (2002) of 28 March 2002.⁴² On 19 March 2013, the Security Council decided by resolution 2096 (2013) to extend the mandate of UNAMA until 19 March 2014.

In the same resolution, the Security Council recognized that the renewed mandate of UNAMA took full account of the transition process and was in support of Afghanistan's full assumption of leadership and ownership in the security, governance and development areas, consistent with the understandings reached between Afghanistan and the international community in the London, Kabul and Bonn Conferences and the Lisbon Summit.⁴³ The Security Council further decided that UNAMA would continue to focus on, *inter alia*: (i) supporting, at the request of the Afghan authorities, the organization of future Afghan elections, including the 2014 presidential and provincial council elections; (ii) promoting the implementation of the Kabul Process; and (iii) supporting the efforts of the Afghan Government in fulfilling its commitments to improve governance and the rule of law.

³⁹ For more information about UNSOM, see <http://unsom.unmissions.org>. See also the report of the Secretary-General on Somalia for the period from 16 May to 15 August 2013 (S/2013/521) and for the period from 16 August to 15 November 2013 (S/2013/709).

⁴⁰ For more information about AMISOM, see section A.2(e)(ii)(c) of this chapter below.

⁴¹ The policy advice would be on, *inter alia*: (i) governance; (ii) security sector reform; rule of law, disengagement of combatants, disarmament, demobilization and reintegration, maritime security and mine action; (iii) the development of a federal system; the constitutional review process and a subsequent referendum on the constitution; and (iv) preparation for elections in 2016.

⁴² For more information about UNAMA, see <http://unama.unmissions.org>. See also the reports of the Secretary-General on the situation in Afghanistan and its implications for international peace and security (A/67/778-S/2013/133, A/67/889-S/2013/350, A/67/889-S/2013/350 and A/67/981-S/2013/535).

⁴³ See letter dated 6 December 2011 from the Permanent Representatives of Afghanistan and Germany to the United Nations addressed to the Secretary-General (A/66/597-S/2011/762). The Security Council requested UNAMA to assist the Government of Afghanistan on its way towards ensuring full Afghan leadership and ownership, as defined by the Kabul Process. See report of the Secretary-General on the situation in Afghanistan and its implications for international peace and security (S/2013/721).

b. Iraq

The United Nations Assistance Mission for Iraq (UNAMI) was established by Security Council resolution 1500 (2003) of 14 August 2003.⁴⁴ By resolution 2110 (2013) of 24 July 2013, the Security Council decided to extend the mandate UNAMI until 31 July 2014. It decided further that the Special Representative of the Secretary-General and UNAMI, at the request of the Government of Iraq, and taking into account the letter from the Minister of Foreign Affairs of Iraq to the Secretary-General (S/2013/430, annex), should continue their mandate as stipulated in resolution 2061 (2012) of 25 July 2012.

c. Sierra Leone

The United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL) was established by Security Council resolution 1829 (2008) of 4 August 2008.⁴⁵ On 26 March 2013, the Security Council decided by resolution 2097 (2013) of 26 March 2013 to extend the mandate of UNIPSIL until 31 March 2014. In the same resolution, the Security Council decided that, in accordance with the views of the Government of Sierra Leone, conditions on the ground following the successful conclusion of elections in 2012, and in line with the recommendations of the report of the Secretary General,⁴⁶ UNIPSIL should be fully drawn down by March 2014. The Security Council also, among other things, requested that UNIPSIL focus its remaining activities on facilitating political dialogue, including support to the Government, particularly related to the planned constitutional review, security sector support, and strengthening of human rights institutions and their long-term sustainability.

d. Guinea Bissau

The United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) was established by Security Council resolution 1876 (2009) of 26 June 2009,⁴⁷ and two Security Council resolutions in 2013 extended its mandate. First, by resolution 2092 (2013) of 22 February 2013, the Security Council decided to extend the mandate of UNIOGBIS until 31 May 2013. The Security Council requested the Secretary General to continue to

⁴⁴ For more information about the activities of UNAMI, see <http://www.uniraq.org>. See also the first report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 2107 (2013).

⁴⁵ For more information about the activities of UNIPSIL, see <http://unipsil.unmissions.org>. See also the eighth and ninth reports of the Secretary-General on the United Nations Integrated Peacebuilding Office in Sierra Leone (S/2012/160 and S/2012/679, respectively).

⁴⁶ S/2013/118.

⁴⁷ For more information about UNIOGBIS, see <http://uniogbis.unmissions.org/en/>. See also the report of the Secretary-General on Guinea-Bissau (S/2013/26); the report of the Secretary-General on the restoration of constitutional order in Guinea-Bissau (S/2013/123); the consolidated report of the Secretary-General on UNIOGBIS and the restoration of constitutional order in Guinea-Bissau (S/2013/262); the Secretary-General's report on the activities of the UNIOGBIS (S/2013/681); the report on the restoration of constitutional order in Guinea-Bissau (S/2013/680); the report of the Secretary-General on the restoration of constitutional order in Guinea-Bissau (S/2013/499); the consolidated report of the Secretary-General on UNIOGBIS and the restoration of constitutional order in Guinea-Bissau (S/2013/262); the report of the Secretary-General on the restoration of constitutional order in Guinea-Bissau (S/2013/123) and the Secretary-General's report on UNIOGBIS covering developments since 17 July 2012 (S/2013/26).

work through UNIOGBS, in coordination with other partners, on the ongoing dialogue process among political parties, to facilitate the early finalization of a broader political agreement for the restoration of constitutional order and the holding of free, fair and transparent elections. Thereafter, in resolution 2103 (2013) of 22 May 2013, the Security Council decided to extend the mandate of UNIOGBIS for a period of 12 months until May 2014.

e. Central African Republic

The United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) began its operations on 1 January 2010, succeeding the United Nations Peacebuilding Support Office in the Central African Republic (BONUCA),⁴⁸ which had been established by the Secretary-General on 15 February 2000.⁴⁹ BINUCA continued to operate throughout 2012. By resolution 2088 (2013) of 24 January 2013, the Security Council decided to extend the mandate of BINUCA until 31 January 2014.

In resolution 2121 (2013) of 10 October 2013, the Security Council, *inter alia*, took note of the report of the Secretary-General dated 5 August 2013⁵⁰ and a letter dated 16 September 2013 detailing recommendations on BINUCA and the situation in the Central African Republic.⁵¹ The Security Council decided to reinforce and update the mandate of BINUCA.⁵²

On 22 October 2013, the Secretary-General addressed the President of the Security Council in a letter, recommending that a guard unit be established to enable the implementation of the mandated tasks of BINUCA.⁵³ On 29 October 2013, the President of the Security Council addressed the Secretary-General, informing him that his letter concerning the establishment of a guard unit to enable to implementation of the mandated tasks

⁴⁸ See letter dated 3 March 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/128) and statement by the President of the Security Council of 7 April 2009 (S/PRST/2009/5).

⁴⁹ For more information about BINUCA, see <http://binuca.unmissions.org>. See also the reports of the Secretary General on the situation in the Central African Republic (S/2013/261, S/2013/470, S/2013/677, and S/2013/787) and the reports of the Secretary-General on the activities of the United Nations Regional Office for Central Africa and on the Lord's Resistance Army-affected areas (S/2013/297 and S/2013/671).

⁵⁰ See the report of the Secretary-General on the situation in the Central African Republic (S/2013/470). In resolution 2121 (2013), the Security Council reiterated its request to the Secretary-General to provide a report by 31 December 2013 on, *inter alia*, BINUCA's performance and effectiveness. See also the report of the Secretary-General on the situation in the Central African Republic (S/2013/787).

⁵¹ The letter of the Secretary-General relied, in part, on a review of the mandate and structure of BINUCA conducted by a multidisciplinary team from Headquarters from 21 to 26 August 2013 (S/2013/557).

⁵² The mandate would include the authority to (a) help restore the constitutional order; (b) exercise good offices, confidence-building and facilitation in order to anticipate, prevent, mitigate and resolve delivery of humanitarian assistance; (c) advise on security sector governance and reform (SSR), rule of law (including police, justice and corrections), and disarmament, demobilization and reintegration (DDR); (d) monitor, help, investigate and report to the Security Council on abuses or violations of human rights or violations of international humanitarian law committed throughout the CAR, including by the Lord's Resistance Army (LRA); and (e) coordinate international actors involved in the implementation of the tasks described above.

⁵³ S/2013/636 and S/2013/637.

of BINUCA had been brought to the attention of the members of the Security Council. The members took note of the information contained in the letter and the arrangements proposed therein.

f. Burundi⁵⁴

The United Nations Office in Burundi (BNUB) was established by Security Council resolution 1959 (2010) of 16 December 2010.⁵⁵ In resolution 2090 (2013) of 13 February 2013, the Security Council decided to extend the mandate of BNUB until 15 February 2014, consistent with paragraph 3 (a) to (d) of resolution 1959 (2010) and 2 (a) and (b) of resolution 2027 (2011) of 20 December 2011, and to focus on and support the Government of Burundi in the following areas: promoting and facilitating dialogue between national actors; strengthening the independence, capacities and legal frameworks of key national institutions; supporting efforts to fight impunity; promoting and protecting human rights; supporting the socioeconomic development of women and youth and the socioeconomic reintegration of conflict-affected populations; and providing support to Burundi's deepening regional integration.

g. Libya⁵⁶

The United Nations Support Mission in Libya (UNSMIL) was established by resolution 2009 (2011) of 16 September 2011 under Chapter VII of the Charter of the United Nations.

In resolution 2095 (2013) 14 March 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNSMIL for a further period of 12 months under the leadership of a Special Representative of the Secretary-General, and decided further that the mandate of UNSMIL, as an integrated special political mission, in full accordance with the principle of national ownership, would be to assist the Libyan Government to define national needs and priorities throughout Libya and to support Libyan efforts to, *inter alia*: (a) manage the process of democratic transition; (b) promote the rule of law and monitor and protect human rights; (c) restore public security; (d) counter illicit proliferation of all arms and related materiel of all types; and (e) coordinate international assistance and build government capacity across all relevant sectors.⁵⁷

⁵⁴ For more information about the situation in Burundi, see <http://www.un.org/en/peacekeeping/missions/past/onub/>. See also the report of the Secretary-General United Nations Office in Burundi (S/2013/36).

⁵⁵ For more information about the activities of BNUB, see <https://bnub.unmissions.org/>.

⁵⁶ See section A.2(f)(v) of this chapter below on sanctions concerning Libya.

⁵⁷ For a more detailed account of the UNSMIL mandate as defined by the Security Council, see paragraph 7 of resolution 2095 (2013).

(iii) *Other ongoing political and peacebuilding missions in 2013***a. Middle East**

The Office of the United Nations Special Coordinator for the Middle East (UNSCO), established by the Secretary-General on 1 October 1999,⁵⁸ continued to operate throughout 2013.

b. Lebanon

The Secretary-General decided in 2000 to appoint a senior official to serve as his representative in Lebanon.⁵⁹ The title of the representative was subsequently changed to Personal Representative for southern Lebanon and to Special Coordinator for Lebanon in 2005⁶⁰ and 2007⁶¹, respectively. The Office of the United Nations Special Coordinator for Lebanon (UNSCOL) continued to operate throughout 2013.⁶²

c. West Africa

The United Nations Office for West Africa (UNOWA), originally established by the Secretary-General in 2002,⁶³ with subsequent extensions of its mandate in 2004,⁶⁴ 2007⁶⁵ and 2010,⁶⁶ continued to operate throughout 2013.⁶⁷

d. Central Asia

The United Nations Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA) was established by the Secretary-General on 10 December 2007.⁶⁸ UNRCCA continued to function throughout 2013.⁶⁹

⁵⁸ Exchange of letters between the Secretary-General and the President of the Security Council (S/1999/983 and S/1999/984).

⁵⁹ S/2000/718.

⁶⁰ Letter dated 29 March 2005 from the Secretary-General to the President of the Security Council (S/2005/216).

⁶¹ Letter dated 8 February 2007 from the Secretary-General to the President of the Security Council (S/2007/85).

⁶² For more information about UNSCOL, see <https://unscol.unmissions.org/>. See also the reports of the Secretary-General on the implementation of Security Council resolution 1701 (2006) (S/2013/120, S/2013/381 and S/2013/650).

⁶³ Exchange of letters between the Secretary-General and the President of the Security Council (S/2001/1128 and S/2001/1129).

⁶⁴ Exchange of letters between the Secretary-General and the President of the Security Council (S/2004/797 and S/2004/858).

⁶⁵ Exchange of letters between the Secretary-General and the President of the Security Council (S/2007/753 and S/2007/754).

⁶⁶ Exchange of letters between the Secretary-General and the President of the Security Council (S/2010/660 and S/2010/661).

⁶⁷ For more information about UNOWA, see <https://unowas.unmissions.org/>. See also the reports of the Secretary-General on the activities of the United Nations Office for West Africa (S/2013/384 and S/2013/732).

⁶⁸ Letter dated 7 May 2007 from the Secretary-General to the President of the Security Council (S/2007/279).

⁶⁹ For more information about UNRCCA, see <https://unrcca.unmissions.org/>.

e. Central African Region

The United Nations Regional Office for Central Africa (UNOCA),⁷⁰ located in Libreville, Gabon, was established by an exchange of letters in August 2010 between the Secretary-General and the Security Council.⁷¹ UNOCA began its operations on 2 March 2011 and continued its operations throughout 2013 after its mandate was extended in 2012 until 28 February 2014.⁷²

(iv) *Political and peacebuilding missions concluded in 2013*

a. Somalia

The United Nations Political Office for Somalia (UNPOS)⁷³ was established by the Secretary-General on 15 April 1995 to help to advance the cause of peace and reconciliation through contacts with Somali leaders, civic organisations and the states and organisations concerned, in accordance with its revised mandate in resolution 1863 (2009) of 16 January 2009. In resolution 2093 (2013) of 6 March 2013, the Security Council welcomed the review by the Secretary-General of the United Nations presence and engagement in Somalia (UNPOS); agreed with the Secretary-General that UNPOS had fulfilled its mandate and should be dissolved, and further agreed that UNPOS should be replaced by a new expanded Special Political Mission as soon as possible.⁷⁴ The Security Council recalled further that the conditions in Somalia were not yet appropriate for the deployment of a United Nations peacekeeping operation, and requested to keep the matter under review, including through the setting of benchmarks for when it might be appropriate to deploy a peacekeeping operation.

b. Mali

The United Nations Office in Mali (UNOM) was established in accordance with resolution 2085 (2012) and began its deployment on 21 January 2013.⁷⁵

Subsequently, in accordance with resolution 2100 (2013) of 25 April 2013, the Security Council decided to establish the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and requested the Secretary-General to subsume UNOM into MINUSMA.⁷⁶

⁷⁰ For more information about UNOCA, see <https://unoca.unmissions.org>.

⁷¹ Exchange of letters between the Secretary-General and the President of the Security Council dated 11 December 2009 (S/2009/697) and 30 August 2010 (S/2010/457).

⁷² Letter dated 13 August 2012 from the Secretary-General to the President of the Security Council (S/2012/656). See also *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(b)(ii)(d).

⁷³ For more information about UNPOS, see <http://unpos.unmissions.org>.

⁷⁴ UNPOS completed its mandate on 2 June 2013, and, as described in section A.2(b)(i)(b) of this chapter above, UNSOM was launched on 3 June 2013. It should also be noted that, in resolution 2093 (2013) of 6 March 2013, the Security Council decided that the United Nations Support Office for AMISOM should be integrated within the framework of the new UNSOM.

⁷⁵ Report of the Secretary-General on the situation in Mali (S/2013/189), para. 26. For more information about the establishment of UNOM, see section A.2(b)(i)(a) of this chapter above.

⁷⁶ For more information about MINUSMA, see section A.2(a)(i) of this chapter above.

(c) Other bodies

(i) *Cameroon-Nigeria Mixed Commission*

On 15 November 2002, the Secretary-General established the Cameroon-Nigeria Mixed Commission (CNMC), at the request of the Presidents of Nigeria and Cameroon, to facilitate the implementation of the 10 October 2002 ruling of the International Court of Justice⁷⁷ on the Cameroon-Nigeria boundary dispute.⁷⁸ The mandate of the Mixed Commission included supporting the demarcation of the land boundary and delineation of the maritime boundary, facilitating the withdrawal and transfer of authority along the boundary, addressing the situation of affected populations and making recommendations on confidence-building measures.

The Mixed Commission continued its work in 2013. In a press statement that welcomed the peaceful conclusion of the special transitional regime established by the Greentree Agreement⁷⁹ concerning the Bakassi Peninsula on 13 August 2013,⁸⁰ the Security Council commended the efforts of the Mixed Commission in facilitating the performance of the obligations under the 10 October 2002 Judgment and the demarcating of the land and maritime boundary between Cameroon and Nigeria.

(ii) *Organisation for the Prohibition of Chemical Weapons-United Nations Joint Mission for the Elimination of the Chemical Weapons Programme of the Syrian Arab Republic*

The Organisation for the Prohibition of Chemical Weapons-United Nations Joint Mission for the Elimination of the Chemical Weapons Programme of the Syrian Arab Republic (OPCW-UN Joint Mission) was established on 16 October 2013, based on recommendations developed in close consultations between the United Nations Secretary-General and the OPCW Director-General, for the purposes of achieving the timely elimination of the Syrian chemical weapons programme in the safest and most secure manner possible.

The mandate of the Joint Mission derived from OPCW Executive Council decision EC-M-33/DEC.1 and United Nations Security Council resolution 2118 (2013), both dated 27 September 2013, and followed by recommendations on the setting-up of the Joint Mission presented in a letter dated 7 October 2013 from the United Nations Secretary-General to the President of the Security Council.⁸¹

⁷⁷ *Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea Intervening)*, Judgment, 10 October 2002.

⁷⁸ For more information about CNMC, see <http://unowas.unmissions.org/cameroon-nigeria-mixed-commission/>.

⁷⁹ United Nations, *Treaty Series*, vol. 2542, p. 13. The Greentree Agreement was signed between Cameroon and Nigeria on 12 June 2006 under the auspices of Mr. Kofi Annan, and set the modalities and time frame for the implementation of the 10 October 2002 ruling of the International Court of Justice on the Cameroon-Nigeria boundary dispute. See also letters from the Secretary-General addressed to the President of the Security Council on 20 and 28 June 2006 respectively (S/2006/419 and S/2006/454).

⁸⁰ SC/11094–AFR/2680.

⁸¹ S/2013/591.

As regards the operation of the OPCW and the United Nations within the Joint Mission, the former was to serve as the lead technical agency, conducting inspections and engaging with the Government of the Syrian Arab Republic in verifying chemical weapons and facilities, while the latter was to play a strategic coordination role and serve as an operational enabler for the Mission.⁸²

The Joint Mission's work to accomplish its objectives was set for three phases: Phase I would be focused on establishing an initial presence in Damascus and develop an initial operating capability. Phase II would take place through 1 November 2013 for the OPCW to complete its initial inspections of all Syrian chemical weapons production and storage facilities, and oversee the destruction by the Syrian Arab Republic of all chemical weapons production and mixing and filling equipment. Phase III would take place from 1 November 2013 to 30 June 2014, where the Joint Mission would be expected to support, monitor and verify the destruction of the Syrian chemical weapons programme.⁸³

(iii) *Commission of Inquiry to the Democratic People's Republic of Korea*

In resolution 22/13 of 21 March 2013, the Human Rights Council established the Commission of Inquiry on human rights in the Democratic People's Republic of Korea to investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, with a view to ensuring full accountability, in particular for violations which may amount to crimes against humanity.⁸⁴ Among the violations to be investigated are those pertaining to the right to food, those associated with prison camps, torture and inhuman treatment, arbitrary detention, discrimination, freedom of expression, the right to life, freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other States. The same resolution requested that the commission present a written report to the Council at its twenty-fifth session in March 2014.

(iv) *International Commission of Inquiry for the Central African Republic*

The International Commission of Inquiry for the Central African Republic was established by Security Council resolution 2127 (2013) of 5 December 2013 under Chapter VII of the Charter of the United Nations. Composed of experts in both humanitarian law and human rights law, it was mandated for an initial period of one year to immediately investigate reports of violations of international humanitarian law, international human rights law and abuses of human rights in the Central African Republic by all parties since 1 January 2013, to compile information, to help identify the perpetrators of such violations and abuses, point to their possible criminal responsibility and to help ensure that those responsible were held accountable.

In the same resolution, the Secretary-General was further requested to report to the Security Council on the findings of the commission of inquiry six months and one year after the adoption of the resolution.

⁸² *Ibid.*, p. 3.

⁸³ *Ibid.*, p. 5–6.

⁸⁴ A/HRC/RES/22/13.

(d) Missions of the Security Council⁸⁵**(i) Yemen**

In two letters dated 3 and 25 January 2013 respectively, the President of the Security Council informed the Secretary-General that the members of the Council had decided to send a mission to Yemen on 27 January 2013.⁸⁶

Pursuant to its terms of reference,⁸⁷ the primary purpose of the mission was to reaffirm the continued support of the Security Council for the ongoing political transition process in Yemen, in accordance with the Gulf Cooperation Council (GCC) Initiative and Implementation Mechanism⁸⁸ leading towards elections in February 2014. The mission also sought to, *inter alia*, assess the implementation of Security Council resolution 2051 (2012) of 12 June 2012; consider the security situation and carry out security sector reforms; highlight the Security Council's continued concern about those hindering or interfering in the transition; and express strong support for the role of the international community in implementing the GCC Initiative.

On 19 March 2013, the Security Council published a report of its findings and observations from the mission.⁸⁹ The report noted, *inter alia*, the status of the political transition process,⁹⁰ the status of the security situation and security reform process,⁹¹ and the economic and humanitarian situation.⁹²

(ii) Africa

In a letter dated 18 May 2011, the President of the Security Council informed the Secretary-General that the Council had decided to send a mission to Ethiopia, the Sudan and Kenya from 19 to 26 May 2011.⁹³

The Security Council published its report of the mission on 8 April 2013, providing details of the various visits that took place during the mission.⁹⁴

⁸⁵ The actions of Member States authorized by the Security Council are listed in chronological order according to their date of authorization.

⁸⁶ Exchange of letters between the Secretary-General and President of the Security Council (S/2013/61).

⁸⁷ *Ibid.*, annex. See also the report of the Security Council mission to Yemen, 27 January 2013 (S/2013/173), at para. 2.

⁸⁸ The GCC Initiative and Implementation Mechanism was signed in Riyadh on 23 November 2011 in accordance with Security Council resolutions 2014 (2011) of 21 October 2011 and 2051 (2012) of 12 June 2012.

⁸⁹ Report of the Security Council mission to Yemen, 27 January 2013 (S/2013/173), at para. 1.

⁹⁰ *Ibid.*, paras. 5–10.

⁹¹ *Ibid.*, para. 11–17.

⁹² *Ibid.*, paras. 18–21.

⁹³ S/2011/319. See also the briefing by the Security Council mission to Africa on 6 June 2011 (S/PV.6546) and *United Nations Juridical Yearbook*, 2011, chap. III, sect. A.2(d).

⁹⁴ S/2013/221.

(e) Action of Member States authorized by the Security Council

(i) Authorization by the Security Council in 2013

Central African Republic

By its resolution 2127 (2013) of 5 December 2013, the Security Council authorized the establishment of the African-led International Support Mission in the Central African Republic (MISCA) for a period of twelve months, to be reviewed six months after the adoption of the resolution. The primary responsibility of MISCA, as set out by the Security Council, would be to protect civilians and restore security and public order, through the use of appropriate measures. The Security Council emphasized the need for MISCA, and all military forces in CAR, while carrying out their mandate, to act in full respect of the sovereignty, territorial integrity and unity of CAR and in full compliance with applicable international humanitarian law, human rights law and refugee law, and recalled the importance of training in this regard.

In the same resolution, the Security Council took note of the African Union Peace and Security Council (AU PSC) Communiqué of 13 November 2013⁹⁵ welcoming the proposed strengthening of the French forces to better support MISCA, and authorized the French forces in the CAR, within the limits of their capacities and areas of deployment, and for a temporary period, to take all necessary measures to support MISCA in the discharge of its mandate.

(ii) Changes in authorization and/or extension of time limits in 2013

a. Afghanistan

The International Security and Assistance Force (ISAF) in Afghanistan was initially authorized by Security Council resolution 1386 (2001) of 20 December 2001, as envisaged in Annex 1 to the Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions, signed in Bonn on 5 December 2001,⁹⁶ and Security Council resolution 1510 (2003) of 13 October 2003.

In its resolution 2120 (2013) of 10 October 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the authorization of the International Security Assistance Force (ISAF), as defined in resolutions 1386 (2001) and 1510 (2003), for a period of twelve months until 31 December 2014. The Security Council further authorized Member States participating in ISAF to take all necessary measures to fulfil its mandate and welcomed, *inter alia*, the agreement between the Government of Afghanistan and countries contributing to ISAF to gradually transfer lead security responsibility in Afghanistan to the Afghan Government country-wide by the end of 2014.

b. Bosnia and Herzegovina

In its resolution 1575 (2004) adopted on 22 November 2004, the Security Council, acting under Chapter VII of the Charter of the United Nations, authorized the Member States,

⁹⁵ PSC/PR/COMM.1 (CDVI).

⁹⁶ S/2001/1154.

acting through or in cooperation with the European Union (EU), to establish for an initial planned period of 12 months a multinational stabilization force (EUFOR) as a legal successor to the Stabilization Force (SFOR) under unified command and control and having the main peace stabilization role under the military aspects of the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (collectively, the Peace Agreement).⁹⁷

In resolution 2123 (2013) of 10 December 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed, *inter alia*, its support for the Peace Agreement, as well as for the Dayton Agreement on implementing the Federation of Bosnia and Herzegovina of 10 November 1995,⁹⁸ and called upon the parties to comply strictly with their obligations under those Agreements. The Security Council further authorized the Member States, acting through or in cooperation with the EU, to establish for a further period of twelve months, starting from the day of the adoption of the same resolution, a multinational stabilization force (EUFOR ALTHEA) as a legal successor of SFOR.

c. Somalia⁹⁹

The African Union Mission in Somalia (AMISOM) was initially authorized by the Security Council, acting under Chapter VII of the Charter of the United Nations, in resolution 1744 (2007) of 20 February 2007.¹⁰⁰ In resolution 2093 (2013) of 6 March 2013, the Security Council decided to authorize the Member States of the African Union (AU) to maintain the deployment of AMISOM until 28 February 2014 in order to, *inter alia*, maintain a presence in the four sectors set out in the AMISOM Strategic Concept of 5 January 2012, reduce the threat posed by Al-Shabab and other armed opposition groups in coordination with the Security Forces of the Federal Government of Somalia, and establish conditions for effective and legitimate governance across Somalia. The Security Council further encouraged AMISOM to develop an effective approach to the protection of civilians, as requested by the AU Peace and Security Council.

The authorization was further extended to 31 October 2014 pursuant to resolution 2124 (2013) of 12 November 2013. In the same resolution, the Security Council, *inter alia*, took note of the AU Peace and Security Council's 10 October Communiqué¹⁰¹ on the Joint AU-United Nations Review of AMISOM, agreed with the Secretary-General that conditions in Somalia were not yet appropriate for the deployment of a United Nations peacekeeping operation as set out in the Secretary-General's 14 October 2013 letter,¹⁰² and requested the Secretary-General to keep progress against the benchmarks under continu-

⁹⁷ S/1995/999, annex. The EUFOR mandate had been previously extended by resolutions 1639 (2005), 1722 (2006), 1785 (2007), 1845 (2008), 1895 (2009), 1948 (2010), 2019 (2011) and 2074 (2012).

⁹⁸ S/1995/1021.

⁹⁹ See also the reports of the Secretary-General on Somalia (S/2013/709) and (S/2013/521); and the report of the Secretary-General on Somalia in response to Security Council resolutions 2093 (2013) and 2111 (2013) (letter) (S/2013/606). See section A.2(f)(iv) of this chapter below on sanctions relating to Somalia, and see also with regard to acts of piracy off the coast of Somalia, section A.2(j) of this chapter below.

¹⁰⁰ For more information about AMISOM, see <http://amisom-au.org>.

¹⁰¹ PSC/PR/COMM. (CCCXCIX).

¹⁰² S/2013/606.

ous review, in consultation with the AU, and with a view to creating conducive conditions for the potential deployment of a United Nations Peacekeeping operation and the hand-over of security responsibilities to national authorities.¹⁰³

d. Mali

By its resolution 2085 (2012) of 20 December 2012, the Security Council authorized the deployment of the African-led International Support Mission in Mali (AFISMA) for an initial period of one year.¹⁰⁴

Subsequently, in accordance with resolution 2100 (2013) of 25 April 2013, the Security Council decided to establish the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)¹⁰⁵ and decided that the authority be transferred from AFISMA to MINUSMA on 1 July 2013, including military training, provision of equipment, intelligence and logistical support, at which point MINUSMA should commence the implementation of its mandate for an initial period of 12 months, and requested the Secretary-General to include in MINUSMA, in close coordination with the AU and ECOWAS, AFISMA military and police personnel appropriate to United Nations standards.

e. Republic of the Sudan (Darfur)¹⁰⁶

The African Union-United Nations Hybrid Operation in Darfur (UNAMID) was established and authorized by Security Council resolution 1769 (2007) of 31 July 2007.¹⁰⁷ By resolution 2113 (2013) of 30 July 2013, the Security Council decided to extend the mandate of UNAMID as set out in resolution 1769 (2007) until 31 August 2014. In the same resolution, the Security Council, *inter alia*, emphasized the Chapter VII mandate of UNAMID to deliver its core tasks to protect civilians without prejudice to the primary responsibility of the Government of the Sudan and to ensure the freedom of movement and security of humanitarian workers and personnel of UNAMID. The Security Council further emphasized the importance of UNAMID acting to promote human rights by bringing abuses and violations to the attention of the authorities, and requested the Secretary-General to provide reporting on human rights violations and abuses.

The Security Council also welcomed the Framework for AU and United Nations Facilitation of the Darfur Peace Progress,¹⁰⁸ and the priority given to UNAMID's efforts,

¹⁰³ The Security Council further requested, *inter alia*, that the AU increase AMISOM's force strength from 17,731 to 22,126. It underlined that, in line with the Joint United Nations AU Review of AMISOM, the increases in the force strength were to provide a short-term enhancement of AMISOM's military capacity for a period of 18 to 24 months as part of an overall exit strategy for AMISOM, after which a decrease in AMISOM's force strength would be considered.

¹⁰⁴ See OP 9, and 9(a)-(f), of resolution 2085 (2012).

¹⁰⁵ For more information about MINUSMA, see section A.2(a)(i) of this chapter above.

¹⁰⁶ See also, section A.2(a)(ii)(f) of this chapter above.

¹⁰⁷ For more information about UNAMID, see <http://unamid.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unamid/>. See also the reports of the Secretary-General on UNAMID (S/2013/22, S/2013/225, S/2013/420 and S/2013/607).

¹⁰⁸ The Framework was finalized and transmitted to the Council by way of a letter dated 19 March 2012 from the Secretary-General to the President of the Security Council (S/2012/166), which also contained the guiding principles of the Framework. See also the report of the Secretary-General on

in coordination with the United Nations country team, to support this framework. It further urged the signatory parties to implement the Doha Document for Peace in Darfur¹⁰⁹ in full, including by ensuring that the Darfur Regional Authority, National Human Rights Commission and Office for the Special Prosecutor in Darfur, as well as the Darfur Regional Security Committee are resourced and empowered to carry out their mandates.

f. Libya¹¹⁰

The United Nations Support Mission in Libya (UNSMIL) was established by resolution 2009 (2011) of 16 September 2011 under Chapter VII of the Charter of the United Nations.

In resolution 2095 (2013) 14 March 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNSMIL for a further period of 12 months under the leadership of a Special Representative of the Secretary-General, and decided further that the mandate of UNSMIL, as an integrated special political mission, in full accordance with the principle of national ownership, would be to assist the Libyan Government to define national needs and priorities throughout Libya and to support Libyan efforts to, *inter alia*: (a) manage the process of democratic transition; (b) promote the rule of law and monitor and protect human rights; (c) restore public security; (d) counter illicit proliferation of all arms and related materiel of all types; and (e) coordinate international assistance and build government capacity across all relevant sectors.¹¹¹

(f) Sanctions imposed under Chapter VII of the Charter of the United Nations¹¹²

(i) Democratic People's Republic of Korea

In 2013, the Security Council issued two resolutions concerning military tests performed by the Democratic People's Republic of Korea (DPRK). First, in resolution 2087 (2013) of 22 January 2013, the Security Council condemned the DPRK's launch of 12 December 2012 which used ballistic missile technology and was in violation of resolutions 1718 (2006) and 1874 (2009). The Security Council recalled that the obligation to freeze assets specified in paragraph 8(d) of resolution 1718 (2006) should apply to the individuals and entities listed in annexes I and II of the resolution, and that the measures to prevent travel or transit specified in paragraph 8(e) of resolution 1718 (2006) should apply

UNAMID of 17 April 2012 (S/2012/231), para. 2, and *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(a)(ii)(h).

¹⁰⁹ A/65/914–S/2011/449.

¹¹⁰ See also, section A.2(b)(ii)(g) of this chapter above.

¹¹¹ For a more detailed account of the UNSMIL mandate as defined by the Security Council, see paragraph 7 of resolution 2095 (2013).

¹¹² The sanctions imposed under Chapter VII of the Charter of the United Nations are listed in chronological order according to the date of adoption of the respective Security Council resolutions. For more information about the sanction regimes established by the Security Council, see the Security Council's website relating to subsidiary organs at <http://www.un.org/en/sc/subsidiary/>.

to the individuals listed in annex I. The Security Council further directed the Committee established pursuant to resolution 1718 (2006) to issue an Implementation Assistance Notice regarding situations where a vessel had refused to allow an inspection after such an inspection had been authorized by the vessel's flag state or any DPRK-flagged vessel had refused to be inspected pursuant to paragraph 12 of resolution 1874 (2009).¹¹³

In addition, by resolution 2094 (2013) of 7 March 2013, the Security Council expressed the gravest concern at the nuclear test conducted by the DPRK on 12 February 2013 in violation of resolutions 1718 (2006), 1874 (2009) and the above mentioned resolution, as well the challenge such a test constitutes to the Treaty on Non-Proliferation of Nuclear Weapons and to international efforts aimed at strengthening the global regime of non-proliferation of nuclear weapons, and the danger it posed to peace and stability in the region and beyond. The Security Council, acting under Chapter VII of the Charter of the United Nations and taking measures under its Article 41, decided that the DPRK should not conduct any further launches that use ballistic, missile technology, nuclear tests or any other provocation. It further decided that measures specified in paragraph 8 (*d*) of resolution 1718 (2006) should apply to the individuals and entities listed in annexes I and II of the resolution and to any individuals or entities acting on their behalf or at their direction, and to entities owned or controlled by them.¹¹⁴ The Security Council further decided that, if such an individual were a DPRK national, then States should expel the individual from their territories for the purpose of repatriation to the DPRK, consistent with applicable national and international law.

In the same resolution, the Security Council recalled the creation, pursuant to paragraph 26 of resolution 1874 (2009), of a Panel of Experts, under the direction of the Committee, to carry out the tasks provided for by that paragraph, and decided to extend until 7 April 2014 the Panel's mandate, as renewed by resolution 2050 (2012).

(ii) *Republic of the Sudan*

By resolution 2091 (2013) of 14 February 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, extended until 17 February 2014 the mandate of the Panel of Experts, originally appointed pursuant to Security Council resolution 1591 (2005), in order to assist the Committee of the Security Council with its oversight

¹¹³ The Security Council recalled paragraph 14 of resolution 1874 (2009), as well as the seizure and provisions of resolutions 1718 (2006) and 1874 (2009) and clarified that methods of disposal available to States included, but were not limited to, destruction, rendering inoperable, storage or transferring to another State other than the originating or destination States for disposal. The Security Council further clarified that the measures imposed by resolutions 1718 (2006) and 1874 (2009) prohibited the transfer of any items if a State relevant to a transaction had information that provided reasonable grounds to believe that a designated individual or entity was the originator, intended recipient or facilitator of the item's transfer.

¹¹⁴ The Security Council decided that the measures specified in paragraph 8 (*e*) of resolution 1718 (2006) and the exemptions set forth in paragraph 10 of resolution 1718 (2006) should also apply to any individual who a State determines is working on behalf or at the direction of a designated individual or entity or individual assisting the evasion of sanctions or violating the provisions of resolutions 1718 (2006), 1874 (2009), 2087 (2013), as well as resolution 2094 (2013).

of relevant sanctions measures as well as other tasks set forth in subparagraph 3 (a) of the same resolution.¹¹⁵

In the same resolution, the Security Council requested the Panel of Experts to continue to investigate the role of armed, military, and political groups in attacks against UNAMID personnel in Darfur, and noted that individuals and entities who plan, sponsor, or participate in such attacks constitute a threat to stability in Darfur and may therefore meet the designation criteria for travel bans provided in paragraph 3 (c) of resolution 1591 (2005).

(iii) *Guinea-Bissau*

By resolution 2048 (2012) of 18 May 2012, the Security Council decided, *inter alia*, that all Member States should take necessary measures to prevent the entry into or transit through their territories of individuals listed in the annex of the resolution or designated by the Committee established pursuant to paragraph 9 of the same resolution.¹¹⁶

By resolution 2092 (2013) of 22 February 2013, the Security Council expressed its willingness to consider further action against those involved in drug trafficking and organized crime in Guinea-Bissau in line with paragraphs 6 and 7 of its resolution 2048 (2012).

(iv) *Somalia and Eritrea*

In 2013, the Security Council adopted four resolutions concerning arms embargoes imposed on Somalia and Eritrea. First, by resolution 2093 (2013) of 6 March 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that for a period of twelve months from the adoption of the resolution, the measures imposed in paragraph 5 of resolution 733 (1992)¹¹⁷ should not apply to deliveries of weapons or military equipment or the provision of advice, assistance or training, intended solely for the development of the Security Forces of the Federal Government of Somalia and the provision of security for the Somali people, except in relation to items set out in the annex to the resolution.

Second, by resolution 2111 (2013) of 24 July 2013, the Security Council reaffirmed the arms embargo on Somalia imposed by paragraph 5 of resolution 733 (1992) as elaborated upon in resolution 1425 (2002) and modified by resolution 2093 (2013); it further decided that the supply of items in the annex to the resolution to the Federal Government of Somalia by Member States or international, regional and subregional organizations would require an advance approval by the Security Council Committee pursuant to

¹¹⁵ The Panel of Experts for the Sudan was originally appointed pursuant to Security Council resolution 1591 (2005) with the mandate, *inter alia*, to assist the Committee in monitoring the implementation of the measures concerning the arms embargo set out in paragraph 9 of resolution 1556 (2004), the consolidated travel ban and freezing of assets set out in subparagraphs 3(f) and (g) of resolution 1591 (2005), and to make recommendations to the Committee on actions the Security Council may want to consider.

¹¹⁶ *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(f)(xii).

¹¹⁷ Resolution 733 (1992) implemented a general and complete arms embargo on all deliveries of weapons and military equipment to Somalia, which was further elaborated by resolution 1425 (2002).

resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea¹¹⁸ on a case-by-case basis. The Security Council decided that weapons or military equipment sold or supplied solely for the development of the Security Forces of the Federal Government of Somalia may not be resold to, transferred to, or made available for use by, any individual or entity not in the service of the Security Forces of the Federal Government of Somalia.¹¹⁹

In the same resolution, the Security Council decided that the arms embargo on Somalia should not apply to, *inter alia*, supplies of weapons or military equipment or the provision of assistance, intended solely for the support of or use by the United Nations personnel, including UNSOM and AMISOM. It decided also that the arms embargo on Eritrea should not apply to supplies of non-lethal military equipment intended solely for humanitarian or protective use, as approved on a case-by-case basis in advance by the Committee. The Security Council further reiterated that the Somali authorities should take the necessary measures to prevent the export of charcoal from Somalia and requested that AMISOM support and assist the Somali authorities in doing so, as part of AMISOM's implementation of its mandate set out in paragraph 1 of resolution 2093 (2013); the Security Council reiterated that all Member States should take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia.

Thirdly, and also on the matter of the charcoal trade, by resolution 2124 (2013) of 12 November 2013, the Security Council expressed concern at continuing violations of the Security Council charcoal ban and requested the Secretary-General and his Special Representative to raise awareness amongst relevant Member States of their obligations under the charcoal ban, as set out in resolution 2036 (2012). In the same resolution, the Security Council underlined the importance of the Federal Government of Somalia and Member States complying with all aspects of the arms embargo, including the reporting and notification requirements set out in resolution 2111 (2013).

Finally, in resolution 2125 (2013) of 18 November 2013, concerning the situation with respect to piracy and armed robbery at sea off the coast of Somalia, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that the arms embargo on Somalia imposed by paragraph 5 of resolution 733 (1992)¹²⁰ does not apply

¹¹⁸ The Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia was first created on 24 April 1992 to oversee the general and complete arms embargo imposed by Security Council resolution 733 (1992) and to undertake the tasks set out by the Security Council in paragraph 11 of resolution 751 (1992) and, subsequently, in paragraph 4 of resolution 1356 (2001) and paragraph 11 of resolution 1844 (2008). Following the adoption of resolution 1907 (2009), which imposed a sanctions regime on Eritrea and expanded the Committee's mandate, the Committee changed its name on 26 February 2010 to "Security Council Committee pursuant to resolution 751 (1992) and 1907 (2009) concerning Somalia and Eritrea". The expanded mandate of the Committee is delineated in paragraph 18 of resolution 1907 (2009), paragraph 13 of resolution 2023 (2011) and paragraph 23 of resolution 2036 (2012).

¹¹⁹ The Security Council decided that the Federal Government of Somalia had the primary responsibility to notify the Committee, at least five days in advance, of any deliveries of weapons or military equipment or the provision of assistance intended solely for the Security Forces of the Federal Government of Somalia, as permitted in paragraph 6 of the resolution and excluding the items listed in the annex of the resolution.

¹²⁰ The embargo was further elaborated upon by paragraphs 1 and 2 of resolution 1425 (2002) and modified by paragraphs 33 to 38 of resolution 2093 (2013) of 6 March 2013.

to supplies of weapons and military equipment or the provision of assistance destined for the sole use of Member States, international, regional and subregional organisations undertaking measures cooperating with Somali authorities in the fight against piracy and armed robbery at sea.

(v) *Libya*

By resolution 2095 (2013) of 14 March 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, that supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, should no longer require the approval of a Committee of the Security Council, as previously provided for in paragraph 9(a) of resolution 1970 (2011). It further decided that supplies of non-lethal military equipment, and the provision of any technical assistance, training or financial assistance, when intended solely for security or disarmament assistance to the Libyan Government, should no longer require notification to, or the absence of a negative decision by, the Committee, as previously provided for in paragraph 13(a) of resolution 2009 (2011).

The Security Council further directed the Committee, in consultation with the Libyan authorities, to review continuously the remaining measures concerning asset freezes imposed by resolutions 1970 (2011) and 1973 (2011), as modified by resolution 2009 (2011), with respect to the Libyan Investment Authority (LIA) and the Libyan Africa Investment Portfolio (LAIP). It decided that the Committee should, in consultation with the Libyan Government, lift the designation of these entities as soon as practical to ensure the assets are made available to and for the benefit of the people of Libya.

In the same resolution, the Security Council decided to extend the mandate of the Panel of Experts established by resolution 1973 (2011) and modified by resolution 2040 (2012) for a period of thirteen months, and expressed its intent to review the mandate and take appropriate action regarding further extension no later than twelve months from the adoption of the resolution.¹²¹

(vi) *Democratic Republic of the Congo*

By resolution 2098 (2013) of 28 March 2013, the Security Council reiterated its call on all parties to cooperate fully with the United Nations Organizations Stabilization Mission in the DRC (MONUSCO)¹²² and recalled its decision to extend sanctions measures outlined in paragraph 3 of resolution 2078 (2012) of 28 November 2012¹²³ to individuals and

¹²¹ The Security Council also decided that the Panel should, *inter alia*, carry out the following tasks: (a) assist the Committee in carrying out its mandate as specified in paragraph 24 of resolution 1970 (2011); (b) gather, examine and analyse information from States, relevant United Nations bodies, regional organizations and other interested parties regarding the implementation of the relevant sanctions measures, in particular regarding incidents of non-compliance; and (c) make recommendations on actions that the Security Council, the Committee, the Libyan authorities or other States may consider to improve implementation of the relevant measures.

¹²² For more information about MONUSCO, see section A.2(a)(ii)(e) of this chapter above.

¹²³ See also *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(f)(ii).

entities who plan, sponsor or participate in attacks against MONUSCO peacekeepers until 1 February 2014.

(vii) *Côte d'Ivoire*

By resolution 2101 (2013) of 25 April 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, that, for a period ending on 30 April 2014, all States should take the necessary measures to prevent the direct or indirect supply, sale or transfer to Côte d'Ivoire, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, whether or not originating in their territories. The Security Council also decided that the measures shall not apply to a number of categories of supplies.¹²⁴

In the same resolution, the Security Council decided to renew until 30 April 2014 the financial and travel measures imposed by paragraphs 9 to 12 of resolution 1572 (2004) and paragraph 12 of resolution 1975 (2011), and to renew until 30 April 2014 the measures preventing the importation by any State of all rough diamonds from Côte d'Ivoire imposed by paragraph 6 of resolution 1643 (2005), with a readiness to renew measures in light of progress made towards Kimberly Process implementation.

The Security Council further decided to extend the mandate of the Group of Experts on Côte d'Ivoire established pursuant to paragraph 9 of Security Council resolution 1643 (2005), as set out in paragraph 7 of resolution 1727 (2006),¹²⁵ until 30 April 2014, and requested the Secretary-General to take the necessary measures to support its action. Furthermore, acting under Chapter VII of the Charter of the United Nations, the Security Council in resolution 2112 (2013) of 30 July 2013 decided to extend the mandate of the United Nations Operation in Côte d'Ivoire (UNOCI)¹²⁶ until 30 June 2014.¹²⁷ Specifically, the Security Council noted UNOCI's mandate to monitor the implementation of the arms

¹²⁴ The categories included: (a) supplies intended solely for the support of or use by UNOCI; (b) supplies of non-lethal military equipment intended solely for humanitarian or protective use; (c) supplies of protective clothing; (d) supplies temporarily exported by Côte d'Ivoire to the forces of a State taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility; (e) supplies of non-lethal law enforcement equipment intended to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order; and (f) supplies of arms and other related lethal equipment to the Ivorian security forces, intended solely for support of or use in the Ivorian process of SSR.

¹²⁵ Pursuant to paragraph 7 of resolution 1727 (2006), the Group of Experts was mandated, *inter alia*, to: exchange information with UNOCI and the French forces in the context of their monitoring mandate set out in paragraphs 2 and 12 of resolution 1609 (2005); gather and analyse all relevant information in Côte d'Ivoire and elsewhere, in cooperation with the governments of those countries, on flows of arms and related materiel; and ensure the effective implementation of the measures related to the arms embargo, the import of all rough diamond imposed respectively by paragraph 7 of resolution 1572 (2004) and by paragraph 6 of resolution 1643 (2005). A Midterm report (S/2013/605) of the Group of Experts was submitted in accordance with paragraph 19 of Security Council resolution 2101 (2013).

¹²⁶ For more information about UNOCI, see section A.2(a)(ii)(g) of this chapter above.

¹²⁷ For more information about UNOCI, see <http://www.onuci.org> and <http://www.un.org/en/peacekeeping/missions/unoci/>. See also the special report of the Secretary-General of the United Nations Operation in Côte d'Ivoire (S/2013/197) and the thirty-second progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (S/2013/377).

embargo imposed by paragraph 7 of resolution 1572 (2004) of 15 November 2004, and in cooperation with the Group of Experts established under resolution 1584 (2005) of 1 February 2005.

(viii) *Islamic Republic of Iran*

By resolution 2105 (2013) of 5 June 2013, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided to extend until 9 July 2014 the mandate of the Panel of Experts monitoring sanctions against Iran, as specified in paragraph 29 of resolution 1929 (2010),¹²⁸ and expressed its intent to review the mandate and take appropriate action regarding further extension no later than 9 June 2014.

(ix) *Iraq*

By resolution 2107 (2013) of 27 June 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to terminate the measures in paragraphs 2(c), 2(d) and 3(c) of resolution 686 (1991), paragraph 30 of resolution 687 (1991) and the arrangements set forth in paragraph 14 of resolution 1284 (1999),¹²⁹ and reaffirmed in subsequent relevant resolutions. The measures imposed by those resolutions dealt with the obligation of Iraq to fully cooperate in the repatriation or return of all Kuwaiti and third country nationals or remains, to return all Kuwaiti property, including archives, seized by Iraq.

(x) *Central African Republic*

In resolution 2127 (2013) of 5 December 2013, the Security Council decided that, for an initial period of one year from the date of adoption of the resolution, all Member States should immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the CAR, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types.¹³⁰ The Security Council also decided that the arms embargo should not apply to certain exempted sup-

¹²⁸ By resolution 2105 (2013), the Security Council requested the Secretary-General to create for an initial period of one year, in consultation with the Security Council Committee created pursuant to resolution 1737 (2006), a group of up to eight experts under the direction of the Committee to, *inter alia*, assist the Committee in carrying out its mandate as specified in paragraph 18 of resolution 1737 (2006) and paragraph 28 of the same resolution; gather, examine and analyse information from States, relevant United Nations bodies and other interested parties regarding the implementation of the measures decided in resolutions 1737 (2006), 1747 (2007), 1803 (2008) and the same resolution, in particular incidents of non-compliance; and make recommendations on actions the Security Council, or the Committee or State, may consider to improve implementation of the relevant measures.

¹²⁹ Resolution 1284 (1999) also requested the Secretary-General to report to the Security Council on the compliance by Iraq with the above-mentioned obligations.

¹³⁰ The resolution defined arms and related materiel to include weapons and ammunition, military vehicles and equipment, paramilitary equipment, spare parts for the aforementioned, and technical assistance, training, financial or other assistance related to military activities or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel whether or not originating in their territories.

plies.¹³¹ The Security Council decided that all Member States were authorized to and shall, upon discovery of items prohibited by the resolution, seize, register and dispose items the supply, sale, transfer or export of which is prohibited by the resolution.

The Security Council also expressed its strong intent to swiftly consider imposing targeted measures, including travel bans and assets freezes, against individuals who act to undermine the peace, stability and security, including by engaging in acts that threaten or violate transitional agreements, or by engaging or providing support for actions that threaten or impede the political process or fuel violence, including through violations of human rights and international humanitarian law, the recruitment and use of children in armed conflict in violation of applicable international law, sexual violence, or supporting the illegal armed groups or criminal networks through the illicit exploitation of natural resources, including diamonds, in the CAR, or by violating the arms embargo.

In the same resolution, the Security Council decided to establish a Committee of the Security Council with the mandate, *inter alia*: to monitor the implementation of the above described measures with a view to strengthening, facilitating and improving their implementation; and to review information regarding those individuals who may be engaging in proscribed acts. It further called upon all Member States to report to the Committee within ninety days from the adoption of this resolution on the steps they have taken with a view to implementing the resolution effectively.

(xi) *Liberia and West Africa*

By resolution 2128 (2013) of 10 December 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed that the measures imposed by paragraph 1 of resolution 1532 (2004) relating to the former Liberian President Charles Taylor remained in force, and decided to renew for a period of twelve months the measures on travel imposed by resolution 1521 (2003) and on arms imposed by resolutions 1521 (2003), 1683 (2006), 1731 (2006) and 1961 (2010). The Security Council also decided to review the above measures six months from the adoption of the resolution, with a view to modifying or lifting all or part of the measures of the sanctions regime dependent upon Liberia's progress towards meeting the conditions set out in resolution 1521 (2003) for terminating those measures.

¹³¹ The enumerated exemptions included: (a) supplies intended solely for the support of or use by MICOPAX, MISCA, BINUCA and its guard unit, the AU-RTF, and the French forces deployed in the CAR; (b) supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training; (c) protective clothing, including flak jackets and military helmets; (d) supplies of small arms and other related equipment intended solely for use in international patrols providing security in the Sangha River Tri-national Protected Area; (e) supplies of arms and other related lethal equipment to the CAR security forces intended solely for support of or use in the CAR process of SSR; or (f) other sales or supply of arms and related materiel, or provision of assistance or personnel. Several of the listed exemptions required advance approval by the Committee of the Security Council. For the complete list of exemptions and associated conditions, see paragraph 54 of resolution 2127 (2013).

(g) Terrorism

(i) Security Council

By presidential statement of 15 January 2013,¹³² the Security Council stressed the importance of the continued implementation of the United Nations Global Counter-Terrorism Strategy in an integrated and balanced manner and in all its aspects, and took note of the third review of the United Nations Global Counter-Terrorism Strategy by the General Assembly in 2012¹³³. On behalf of the Security Council, the President, in the same statement, also, *inter alia*, recalled applicable international counter-terrorism instruments, stressed the need for their full implementation, renewed its call to States to consider becoming parties as soon as possible to all relevant international conventions and protocols, and to fully implement their obligations under those to which they are party, and recognized Member States' continuing efforts to conclude negotiations on the Draft Comprehensive Convention on International Terrorism.¹³⁴

(ii) General Assembly

On 16 December 2013, the General Assembly adopted resolution 68/119 entitled "Measures to eliminate international terrorism".¹³⁵

(iii) Security Council counter-terrorism and non-proliferation committees

a. Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities

The 1267 Committee was first established by Security Council resolution 1267 (1999) of 15 October 1999 and set forth a sanctions regime concerning the Taliban. The regime was modified and strengthened by subsequent resolutions, including resolutions 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009) and 1989 (2011) so that the sanctions measures would be applicable to designated individuals and entities associated with Al-Qaida, wherever located.

¹³² S/PRST/2013/1.

¹³³ See *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(g)(i).

¹³⁴ The Security Council further reiterated the obligations of Member States pursuant to resolution 1540 (2004), including the obligation to refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical, or biological weapons and their means of delivery. The Security Council also recalled the crucial role of the Counter Terrorism Committee and its Executive Directorate (CTED) in ensuring the full implementation of resolutions 1373 (2001) and 1624 (2005), and underlined the importance of capacity building and technical assistance with a view to increasing the capabilities of Member States for an effective implementation of its resolutions. The Security Council further reiterated the obligations of Member States pursuant to resolution 1540 (2004), including the obligation to refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical, or biological weapons and their means of delivery. For more information, see the website of the Counter-Terrorism Implementation Task Force at <http://www.un.org/counterterrorism/ctitf/>.

¹³⁵ For more information about resolution 68/119, see section A.16(f)(ii) of this chapter below.

By presidential statement of 15 January 2013, the Security Council, *inter alia*, noted with appreciation the activities undertaken in the area of capacity building by United Nations entities, including the Counter Terrorism Implementation Task Force (CTITF), and recalled the appointment of the Ombudsperson in the Al-Qaida sanctions regime and procedural improvements in the Al-Qaida and Taliban sanctions regimes.¹³⁶

b. Counter-Terrorism Committee

The Counter-Terrorism Committee (CTC) was established pursuant to Security Council resolution 1373 (2001) of 28 September 2001, in the wake of the 11 September terrorist attacks in the United States of America, to bolster the ability of United Nations Member States to prevent terrorist acts both within their borders and across regions.

In resolution 2129 (2013) of 17 December 2013, the Security Council underlined that the overarching goal of the CTC was to ensure the full implementation of resolution 1373 (2001) and recalled the Counter-Terrorism Committee Executive Directorate's (CTED) crucial role in supporting the Committee in the fulfilment of its mandate.

c. 1540 Committee (non-proliferation of weapons of mass destruction to non-State actors)

On 28 April 2004, the Security Council adopted resolution 1540 (2004) by which it decided that all States would refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery; and established a Committee to report on the implementation of the same resolution. The mandate of the Committee was subsequently extended by resolutions 1673 (2006), 1810 (2008) and 1977 (2011) of 20 April 2011 until 25 April 2021.

In a letter dated 26 December 2013,¹³⁷ the Chair of the Committee addressed to the President of the Security Council the review of the implementation of resolution 1540 (2004) for 2013.¹³⁸

It should also be noted that, in resolution 2118 (2013) on the situation in the Middle East, the Security Council decided that Member States should immediately inform

¹³⁶ S/PRST/2013/1.

¹³⁷ S/2013/769.

¹³⁸ In its resolution 1540 (2004), the Security Council expressed its intention to monitor closely the implementation of the resolution and, at the appropriate level, to take further decisions that may be required to that end. On 20 April 2011, the Security Council, noting that the full implementation of resolution 1540 (2004) by all States was a long-term task, unanimously adopted resolution 1977 (2011) extending the mandate of the Security Council Committee established pursuant to resolution 1540 (2004) for 10 years. In paragraph 9 of resolution 1977 (2011), the Security Council decided that the Committee should continue to intensify its efforts to promote the full implementation by all States of resolution 1540 (2004) through its programme of work, which includes the compilation and general examination of information on the status of the implementation by States of resolution 1540 (2004) and on efforts by States at outreach, dialogue, assistance and cooperation.

the Security Council of any violation of resolution 1540 (2004), including acquisition by non-State actors of chemical weapons, their means of delivery and related materials.¹³⁹

(h) Humanitarian law and human rights in the context of peace and security

(i) Children and armed conflict

On 15 May 2013, the Secretary-General published a report on the implementation of the Security Council's resolutions and presidential statements on children and armed conflict¹⁴⁰ as requested in the Council's resolution 2068 (2012) of 19 September 2012.¹⁴¹ Covering the period from January to December 2012, this report, *inter alia*, described emerging challenges regarding the impact of the evolving nature of armed conflict, explored some additional tools to enforce compliance by armed forces and armed groups with child rights obligations, and provided an update on cooperation with regional organizations.¹⁴²

(ii) Sexual violence in conflict¹⁴³

In resolution 2106 (2013) of 24 June 2013, the Security Council took note of the analysis and recommendations contained in the Secretary-General's report of 12 March 2013,¹⁴⁴ and remained deeply concerned over the slow implementation of important aspects of resolution 1960 (2010) of 16 December 2010 which concerned the prevention of sexual violence in armed conflict and post-conflict situations. The Security Council affirmed that sexual violence, when used and commissioned as a method or tactic of war or a widespread or systematic attack against civilian populations, can significantly exacerbate and prolong situations of armed conflict and may impede the restoration of international peace and security.

In the same resolution, the Security Council urged existing sanctions committees to apply targeted sanctions against those who perpetrate and direct sexual violence in conflict, in accordance with the relevant criteria for designation and consistent with resolution 1960 (2010). The Security Council also requested the Secretary-General to continue and strengthen efforts to implement the policy of zero tolerance on sexual exploitation and abuse by United Nations personnel and urged concerned Members States to ensure full accountability including prosecutions. It requested the Secretary-General and relevant United Nations entities to assist national authorities, with the effective participation of women, in addressing sexual violence concerns in disarmament, demobilization and re-integration, security sector reform and justice sector reform initiatives.

¹³⁹ For more information regarding chemical weapons, see section A.3(b) of this chapter below on nuclear disarmament and non-proliferation issues.

¹⁴⁰ A/67/845-S/2013/245.

¹⁴¹ See *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.2(h)(i).

¹⁴² A/67/845-S/2013/245, para. 4.

¹⁴³ See the report of the Secretary-General (S/2013/149).

¹⁴⁴ S/2013/149.

(iii) *Women and peace and security*¹⁴⁵

In resolution 2122 (2013) of 18 October 2013, the Security Council took note with appreciation of the report of the Secretary-General on women and peace and security of 4 September 2013,¹⁴⁶ and reaffirmed that women's and girls' empowerment and gender equality are critical to the maintenance of international peace and security. The Security Council also emphasized that persisting barriers to the full implementation of resolution 1325 (2000)¹⁴⁷ would only be dismantled through dedicated commitment to women's empowerment. The Security Council reiterated its intention to convene a High-Level Review in 2015 to assess progress at the global, regional and national levels in implementing resolution 1325 (2000), renew commitments, and address obstacles and constraints that have emerged in the implementation of resolution 1325 (2000).¹⁴⁸

(i) *Piracy*

On 18 November 2013, the Security Council adopted resolution 2125 (2013), where it welcomed the report of the Secretary-General¹⁴⁹ submitted pursuant to Security Council resolution 2077 (2012) of 21 November 2012 on the implementation of that resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia.

Acting under Chapter VII of the Charter of the United Nations, the Security Council reiterated that it condemned and deplored all acts of piracy and armed robbery at sea off the coast of Somalia. In addition, the Security Council decided to renew its call to States and regional organizations that have the capacity to do so, to take part in the fight against piracy and armed robbery at sea off the coast of Somalia, in accordance with resolution 2125 (2013) and international law; in particular, the Security Council called upon States and regional organizations to seize and dispose of boats, vessels, arms, and other related equipment used in commission of piracy and armed robbery at sea off the coast of Somalia, or for which there are reasonable grounds for suspecting such use. The Security Council also decided to renew the authorizations set out in paragraph 10 of resolution 1846 (2008) of 2 December 2008 and paragraph 6 of resolution 1851 (2008)¹⁵⁰ of

¹⁴⁵ For more information about the legal activities of the United Nations relating to women, see section A.6(e) of this chapter below.

¹⁴⁶ S/2013/525.

¹⁴⁷ In this resolution, the Security Council called upon all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court.

¹⁴⁸ For more information about resolutions 2106 (2013) of 24 June 2013 and 2122 (2013) of 18 October 2013, see section A.6(e) of this chapter below.

¹⁴⁹ S/2013/623.

¹⁵⁰ By these resolutions the Security Council had authorized, for a limited period of 12 months from their respective adoption, States and regional organizations cooperating with the Transitional Federal Government (TFG) in the fight against piracy and armed robbery at sea off the coast of Somalia

16 December 2008 for a further period of twelve months from the date of the adoption of resolution 2125 (2013). It affirmed, however, that the renewed authorizations would apply only with respect to the situation in Somalia and should not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations under the United Nations Convention of the Law of the Sea of 10 December 1982.¹⁵¹ The Security Council also affirmed that such authorizations were renewed only following the receipt of the 12 November 2013 letter from the Permanent Representative of Somalia to the United Nations, which, *inter alia*, expressed the appreciation of Somali authorities to the Security Council for its assistance, requested that the provisions of resolution 2077 (2012) be renewed for an additional twelve months, and conveyed the consent of Somali authorities.

The Security Council further reiterated its decision to continue its consideration of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support, as set forth in resolution 2015 (2011) of 24 October 2011, and the importance of such courts having jurisdiction over not only suspects captured at sea but also anyone who incites or intentionally facilitates piracy operations.¹⁵² Finally, it should be noted that the same resolution also addressed the arms embargo on Somalia imposed by paragraph 5 of resolution 733 (1992) of 23 January 1992.¹⁵³

(j) Transnational organized crime

On 18 December 2013, the President of the Security Council issued a statement in connection with the item “Peace and Security in Africa”, which focused, in part, on the serious threats posed by drug-trafficking and related transnational organized crime to international peace and stability in West Africa and the Sahel region.¹⁵⁴ The President also expressed deep concern regarding the increasing links, in some cases, between drug trafficking and other forms of transnational organized crime in the region, including arms and human trafficking, as well as terrorism. Through the same statement, the Security Council took note with appreciation of the 17 June 2013 report of the Secretary-General on transnational organized crime and illicit drug trafficking in West Africa and the Sahel region,¹⁵⁵ and welcomed his recommendations. In his report, the Secretary-General encouraged

to enter into the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea and to use, within the territorial waters of Somalia, all necessary means to repress acts of piracy and armed robbery at sea. The authorizations were further renewed by paragraph 7 of resolution 1867 (2009), paragraph 7 of resolution 1950 (2010), paragraph 9 of resolution 2020 (2011), and paragraph 12 of resolution 2077 (2012).

¹⁵¹ United Nations, *Treaty Series*, vol. 1833, p. 3.

¹⁵² The Security Council also decided that the arms embargo on Somalia imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon in paragraphs 1 and 2 of resolution 1425 (2002) and modified by paragraphs 33 to 38 of resolution 2093 (2013) does not apply to supplies of weapons and military equipment or the provision of assistance destined for the sole use of Member States.

¹⁵³ For more information regarding the arms embargo on Somalia, see section A.2(f)(iv) of this chapter above.

¹⁵⁴ S/PRST/2013/22.

¹⁵⁵ S/2013/359.

Member States to strengthen their pursuit of effective countermeasures through existing initiatives, most notably the United Nations Office on Drugs and Crime Regional Programme for West Africa 2012–2014, which supported the implementation of the ECOWAS Regional Action Plan 2008–2011,¹⁵⁶ and included important inter-agency initiatives, such as the West Africa Coast Initiative programme. It further urged Member States to adopt a balanced approach to addressing existing security challenges that complements law enforcement efforts with judicial and drug prevention capacity-building, within the framework of the rule of law.

By the same statement, the Security Council called on States that have not yet ratified or implemented the relevant international conventions to do so. The Security Council also underlined the need to strengthen the transnational cooperation of law enforcement agencies, including through the inclusion of maritime security sector reforms and through the adoption of bilateral and regional agreements to facilitate measures, in accordance with international law, against drug trafficking by sea and for the prosecution of suspects engaged in such trafficking, following maritime interdictions on the high seas.

3. Disarmament and related matters¹⁵⁷

(a) Disarmament machinery

(i) *Disarmament Commission*

The United Nations Disarmament Commission (UNDC), a subsidiary organ of the General Assembly with a general mandate on disarmament questions, is comprised all Member States of the United Nations.

The Commission held its organizational session for 2013 in New York on 4 December 2012.¹⁵⁸ The Commission then met in New York from 1 to 19 April 2013 and discussed, *inter alia*, recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons, as well as practical confidence-building measures in the field of conventional weapons.¹⁵⁹

¹⁵⁶ On 28 and 29 October 2008, the Economic Community of West African States (ECOWAS), with support from the United Nations Office on Drugs and Crime (UNODC) and the United Nations Office for West Africa (UNOWA), and in partnership with the European Union, convened a Ministerial Conference in Praia to address the serious threat of drug trafficking to sub regional security. The resulting Political Declaration and Regional Action Plan adopted by the Ministerial Conference and subsequently endorsed at the ECOWAS summit held in Abuja on 19 December 2008 have established the basis for a strong political commitment and a detailed cooperation framework to combat drug trafficking and organized crime in West Africa.

¹⁵⁷ For more information about disarmament and related matters, see *The United Nations Disarmament Yearbook*, vol. 38, 2013 (United Nations publication, Sales No. E.14.IX.7). Also available at the website <https://www.un.org/disarmament/>.

¹⁵⁸ See A/CN.10/PV.329.

¹⁵⁹ See A/CN.10/PV.330–335. From 1 to 3 April, the Disarmament Commission held a general exchange of views on all agenda items. See A/CN.10/PV.330–333. Working Groups I and II held eleven meetings, from 3 to 17 April 2013, to discuss the agenda items entitled “Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons” and “Practical confidence-building measures in the field of conventional weapons”, respectively.

The Commission had before it the annual report of the Conference on Disarmament for 2012,¹⁶⁰ together with all the official records of the sixty-seventh session of the General Assembly relating to disarmament matters, as well as working papers relating to the substantive questions on its agenda.¹⁶¹

On 19 April 2013, the Commission adopted, by consensus, the reports of its subsidiary bodies and the conclusions contained therein. There were no recommendations put forward by the Commission. On the same day, the Commission adopted, as a whole, its report to be submitted to the sixty-eighth session of the General Assembly.¹⁶²

(ii) *Conference on Disarmament*¹⁶³

The Conference on Disarmament was in session from 21 January to 29 March, 13 May to 28 June and 29 July to 13 September 2013, during which time it held 29 informal plenary meetings. On 22 January 2013, the Conference adopted its agenda for the 2013 session, which included, *inter alia*, the items “Cessation of the nuclear arms race and nuclear disarmament”, “Prevention of nuclear war, including all related matters”, “Prevention of an arms race in outer space”, “Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”, “New types of weapons of mass destruction and new systems of such weapons; radiological weapons”, “Comprehensive programme of disarmament” and “Transparency in armaments”. Throughout the 2013 session, successive presidents of the Conference conducted intensive consultations with a view to reaching consensus on a programme of work on the basis of relevant proposals, but no consensus was reached on a programme of work for the 2013 session.¹⁶⁴ On 12 September 2013, the Conference adopted its annual report and transmitted it to the General Assembly for its consideration.¹⁶⁵

(iii) *General Assembly*

In 2013, the General Assembly adopted two resolutions and two decisions concerning institutional activities relating to the disarmament machinery.¹⁶⁶ Of particular note here, by resolution 68/64 entitled “Report of the Conference on Disarmament”, the General Assembly, *inter alia*, reaffirmed the role of the Conference on Disarmament as

¹⁶⁰ *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 42 (A/67/42)*.

¹⁶¹ *Ibid.*, *Sixty-eighth Session, Supplement No. 42 (A/68/42)*, chap. III. B.

¹⁶² *Ibid.*

¹⁶³ The Conference on Disarmament, established in 1979 as the single multilateral disarmament negotiating forum of the international community, was a result of the First Special Session on Disarmament of the United Nations General Assembly in 1978. It succeeded other Geneva-based negotiating fora, which include the Ten-Nation Committee on Disarmament (1960), the Eighteen-Nation Committee on Disarmament (1962–68), and the Conference of the Committee on Disarmament (1969–78).

¹⁶⁴ CD/1963.

¹⁶⁵ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 42 (A/68/42)*.

¹⁶⁶ See General Assembly resolutions 68/63 entitled “Report of the Disarmament Commission” and 68/64 entitled “Report of the Conference on Disarmament”; and decisions 68/519 entitled “Revitalizing the work of the Conference on Disarmament and taking forward multilateral disarmament negotiations” and 68/520 entitled “Proposed programme of work and timetable of the First Committee for 2014”.

the sole multilateral disarmament negotiating forum of the international community. The General Assembly called upon the Conference on Disarmament to further intensify consultations and explore possibilities for overcoming its ongoing deadlock by adopting and implementing a balanced and comprehensive programme of work at the earliest possible date during its 2014 session.

(iv) *Security Council*¹⁶⁷

By presidential statement of 6 August 2013, the Security Council encouraged international and regional cooperation in identifying the origin and transfer of small arms and light weapons in order to prevent their diversion to Al-Qaida and other terrorist groups. The statement also affirmed that the obligation of Member States to enforce Security Council arms embargoes should be coupled with enhanced international and regional cooperation concerning arms exports.¹⁶⁸

(b) Nuclear disarmament and non-proliferation issues

In 2013, several preparatory meetings and conferences were held on nuclear disarmament and non-proliferation matters. On 26 April 2013, the Second Preparatory Meeting for the Third Conference of States Parties and Signatories that establish Nuclear-Weapon-Free Zones and Mongolia was held in Geneva. The Preparatory Meeting was itself stressed as an important milestone along the way to the Third Conference to be held in Vienna in 2015.

The Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, 1968¹⁶⁹ (NPT), also held its second session from 22 April to 3 May 2013 in Geneva, with the participation of 111 States parties to the NPT. This meeting was the second of three sessions to be held prior to the 2015 Review Conference. The Preparatory Committee held 17 meetings at which it addressed substantive and procedural issues related to the NPT and the upcoming Review Conference in 2015.¹⁷⁰ In particular, the Committee considered regional issues, including the implementation of the 1995 resolution on the Middle East, as well as the peaceful use of nuclear energy.

In addition, the International Atomic Energy Agency (IAEA) held its 57th General Conference of Member States from 16 to 20 September 2013 in Vienna. The Conference adopted 17 resolutions and three decisions¹⁷¹ relating to the work of IAEA in key areas, including: measures to strengthen international cooperation in nuclear, radiation, transport and waste safety; the implementation of the NPT safeguards agreement between the Agency and the Democratic People's Republic of Korea; and the application of IAEA safeguards in the Middle East.

¹⁶⁷ For further details on Security Council resolutions, see section 2 of the present chapter.

¹⁶⁸ S/PRST/2013/12. See also section 2 (g) of the present chapter on peace and security.

¹⁶⁹ United Nations, *Treaty Series*, vol. 729, p. 161.

¹⁷⁰ Report of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons on its second session (NPT/CONF.2015/PC.II/12).

¹⁷¹ General Conference resolutions GC(57)/RES/1-17 and decisions GC(57)/DEC/10-12.

Finally, on 27 September 2013, the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty, 1996¹⁷² (CTBT) took place. Foreign ministers and other high-level representatives met at the United Nations Headquarters in New York to discuss concrete measures to facilitate the entry into force of the CTBT. In their Final Declaration, the ratifying States and other States signatories called on all States to refrain from nuclear weapon test explosions or any other nuclear explosions, the development of and use of new nuclear weapon technologies and any action that would undermine the object and purpose and the implementation of the provisions of the CTBT and to maintain all existing moratoria on nuclear test explosions.¹⁷³

(i) *General Assembly*

On 5 December 2013, the General Assembly adopted, upon the recommendation of the First Committee, 15 resolutions and two decisions concerning nuclear weapons and non-proliferation issues,¹⁷⁴ several of which are highlighted below.

The General Assembly adopted a number of resolutions which called for the development of new international instruments on disarmament and non-proliferation matters. In resolution 68/28, the General Assembly, *inter alia*, reaffirmed the urgent need to reach an early agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. It also appealed to all States, especially the nuclear-weapon States, to work actively towards an early agreement on a common approach and, in particular, on a common formula that could be included in an international instrument of a legally binding character.

In resolution 68/32, the General Assembly, *inter alia*, called for the urgent commencement of negotiations in the Conference on Disarmament for the early conclusion of a

¹⁷² A/50/1027.

¹⁷³ For the full text of the Final Declaration, see http://www.ctbto.org/fileadmin/user_upload/Art_14_2013/Statements/Final_Declaration.pdf.

¹⁷⁴ The following General Assembly resolutions were adopted on the recommendation of the First Committee: 68/26 entitled "Consolidation of the regime established by the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)"; 68/27 entitled "Establishment of a nuclear-weapon-free zone in the region of the Middle East"; 68/28 entitled "Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons"; 68/32 entitled "Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament"; 68/35 entitled "Follow-up to nuclear disarmament obligations agreed to at the 1995, 2000 and 2010 Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons"; 68/39 entitled "Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments"; 68/40 entitled "Reducing nuclear danger"; 68/42 entitled "Follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons"; 68/46 entitled "Taking forward multilateral nuclear disarmament negotiations"; 68/47 entitled "Nuclear disarmament"; 68/49 entitled "Treaty on the South-East Asia Nuclear-Weapon-Free Zone (Bangkok Treaty)"; 68/51 entitled "United action towards the total elimination of nuclear weapons"; 68/53 entitled "Prohibition of the dumping of radioactive wastes"; 68/65 entitled "The risk of nuclear proliferation in the Middle East"; and 68/68 entitled "Comprehensive Nuclear-Test-Ban Treaty". The General Assembly also adopted, on the recommendation of the First Committee, decisions 68/517 entitled "Missiles" and 68/518 entitled "Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices". See also General Assembly resolution 68/10 entitled "Report of the International Atomic Energy Agency", adopted on 6 November 2013.

comprehensive convention on nuclear weapons to prohibit their possession, development, production, acquisition, testing, stockpiling, transfer, use or threat of use and to provide for their destruction. The General Assembly decided to convene, no later than 2018, a United Nations high-level international conference on nuclear disarmament to review the progress made in this regard. It also declared 26 September as the International Day for the Total Elimination of Nuclear Weapons.

In resolution 68/42, the General Assembly, *inter alia*, underlined again the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control. It further called upon all States immediately to fulfil that obligation by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination.

In resolution 68/47, entitled “Nuclear Disarmament”, the General Assembly, *inter alia*, called upon the nuclear-weapon States, pending the achievement of the total elimination of nuclear weapons, to agree on an internationally and legally binding instrument on a joint undertaking not to be the first to use nuclear weapons, and called upon all States to conclude an internationally and legally binding instrument on security assurances of non-use and non-threat of use of nuclear weapons against non-nuclear-weapon States. It also called for the full implementation of the action plan as set out in the conclusions and recommendations for follow-on actions of the Final Document of the 2010 Review Conference, particularly the 22-point action plan on nuclear disarmament.

In resolution 68/51, entitled “United action towards the total elimination of nuclear weapons”, the General Assembly, *inter alia*, reaffirmed the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals, leading to nuclear disarmament, to which all States parties to the Treaty on the Non-Proliferation of Nuclear Weapons are committed under article VI thereof. It also reiterated its call for the immediate commencement of negotiation on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices and its early conclusion, and called upon all nuclear-weapon States and States not parties to the Treaty on the Non-Proliferation of Nuclear Weapons to declare and maintain moratoriums on the production of fissile material for any nuclear weapons or other nuclear explosive devices pending the entry into force of the treaty.

Lastly, in resolution 68/53, entitled “Prohibition of the dumping of radioactive wastes”, the General Assembly, *inter alia*, requested the Conference on Disarmament to take radioactive wastes into account in the negotiations for a convention on the prohibition of radioactive weapons. It also appealed to all Member States that have not yet taken the steps necessary to become party to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management¹⁷⁵ to do so as soon as possible.

The General Assembly also addressed the implementation of existing international instruments. In resolution 68/35, entitled “Follow-up to nuclear disarmament obligations

¹⁷⁵ United Nations, *Treaty Series*, vol. 2153, p. 303.

agreed to at the 1995, 2000 and 2010 Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons”, the General Assembly, *inter alia*, determined to pursue practical steps for systematic and progressive efforts to implement article VI and the Treaty on the Non-Proliferation of Nuclear Weapons¹⁷⁶ and paragraphs 3 and 4(c) of the decision on principles and objectives for nuclear non-proliferation and disarmament of the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.¹⁷⁷ It also urged the States parties to the Treaty to follow up on the implementation of the nuclear disarmament obligations under the Treaty agreed to at the 1995, 2000 and 2010 Review Conferences within the framework of review conferences and their preparatory committees.

Similarly, in resolution 68/39, concerning accelerating the implementation of nuclear disarmament commitments towards a nuclear-weapon-free world, the General Assembly, *inter alia*, reiterated that each article of the Treaty on the Non-Proliferation of Nuclear Weapons¹⁷⁸ is binding on the States parties at all times and in all circumstances and that all States parties should be held fully accountable with respect to strict compliance with their obligations under the Treaty, and called upon all States parties to comply fully with all decisions, resolutions and commitments made at the 1995, 2000 and 2010 Review Conferences.

In resolution 68/68, entitled “Comprehensive Nuclear-Test-Ban Treaty”,¹⁷⁹ the General Assembly, *inter alia*, welcomed the contributions by the signatory States to the work of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, in particular its efforts to ensure that the verification regime of the Treaty will be capable of meeting the verification requirements of the Treaty upon its entry into force, in accordance with article IV of the Treaty. It also shared the grave concern of the Security Council about the nuclear test conducted by the DPRK on 12 February 2013, expressed in Council resolution 2094 (2013), and called for full compliance with the obligations under the relevant resolutions. It further urged all States that have not yet signed the Treaty, in particular those whose ratification is needed for its entry into force, to sign and ratify it as soon as possible.

(ii) *Security Council*

In 2013, the Security Council adopted three resolutions relating to nuclear disarmament and non-proliferation issues. Two resolutions related to the mandates of the Panels of Experts established to monitor sanctions measures imposed on the Democratic People’s Republic of Korea (DPRK) and the Islamic Republic of Iran, respectively, while the other resolution, *inter alia*, condemned a 2012 launch using ballistic missile technology by the DPRK.

Concerning the 2012 launch by the DPRK, the Security Council, by resolution 2087 (2013) of 22 January 2013, *inter alia*, condemned the launch and demanded that the DPRK comply with resolutions 1718 (2006) and 1874 (2009) by suspending all activities

¹⁷⁶ *Ibid.*, vol. 729, p. 176.

¹⁷⁷ See 1995 review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, Part I (NPT/CONF.1995/32 (Part I) and Corr.2), annex.

¹⁷⁸ United Nations, *Treaty Series*, vol. 729, p. 176.

¹⁷⁹ The resolution was adopted by a recorded vote of 181 in favour to 1 against, with 3 abstentions.

related to its ballistic missile program. It also called upon all Member States to implement fully their obligations pursuant to resolutions 1718 (2006) and 1874 (2009).

With regard to sanctions monitoring, the Security Council, by resolution 2094 (2013) of 7 March 2013, acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41, the Security Council, decided, *inter alia*, to extend until 7 April 2014 the mandate of the Panel of Experts, which had been created by the Secretary-General pursuant to paragraph 26 of resolution 1874 (2009) to assist in the monitoring of the relevant sanctions measures imposed on the DPRK.¹⁸⁰ Similarly, by resolution 2105 (2013) of 5 June 2013, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided, *inter alia*, to extend until 9 July 2014 the mandate of the Panel of Experts, which had been created by the Secretary-General pursuant to paragraph 29 of resolution 1929 (2010), to assist in the monitoring of the relevant sanctions measures imposed on the Islamic Republic of Iran.

(c) Biological and chemical weapons issues

With regard to biological weapons issues, pursuant to the final document of the Seventh Review Conference of the States Parties¹⁸¹ to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 1972 (Biological Weapons Convention¹⁸²), the Meeting of Experts and the Meeting of States Parties were held in Geneva from 12 to 16 August 2013 and from 9 to 13 December 2013, respectively.¹⁸³

The Meeting of Experts held two sessions devoted to each of the standing agenda items,¹⁸⁴ and two sessions devoted to the biennial item on how to enable fuller participation in the confidence-building measures. At its closing meeting on 16 August 2013, the Meeting of Experts adopted its report by consensus.¹⁸⁵ The Meeting of States Parties considered the work of the Meeting of Experts on the three standing agenda items, the biennial item of how to enable fuller participation in the confidence-building measures, the annual item on progress with universalization of the Convention,¹⁸⁶ and the annual report of the Implementation Support Unit.¹⁸⁷ At its closing meeting on 13 December 2013, the Meeting

¹⁸⁰ For more information regarding sanctions relating to the DPRK and the Islamic Republic of Iran, see section 2(f)(vi)–(vii) above.

¹⁸¹ BWC/CONF.VII/7.

¹⁸² United Nations, *Treaty Series*, vol. 1015, p. 164.

¹⁸³ BWC/CONF.VII/7, chap. III.

¹⁸⁴ The Seventh Review Conference had decided that the following topics should be standing agenda items, which would be addressed by both the Meeting of Experts and the Meeting of States Parties every year from 2012 to 2015: (a) cooperation and assistance, with a particular focus on strengthening cooperation and assistance under article X; (b) review of developments in the field of science and technology related to the Convention; and (c) strengthening national implementation. The Conference had also decided that the item “How to enable fuller participation in the confidence-building measures” would be considered in 2012 and 2013.

¹⁸⁵ BWC/MSP/2013/MX/3.

¹⁸⁶ BWC/MSP/2013/X and Add.X.

¹⁸⁷ *Ibid.*

of States Parties considered arrangements for the Meeting of Experts and the Meeting of States Parties in 2014 and adopted its report by consensus.¹⁸⁸

With regard to chemical weapons, the eighteenth session of the Conference of the States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 1992 (Chemical Weapons Convention¹⁸⁹) was held in The Hague, from 2 to 5 December 2013. The issues considered included, *inter alia*, the status of implementation of the Chemical Weapons Convention, fostering international cooperation for peaceful purposes in the field of chemical activities and ensuring the universality of the Convention. On 5 December, the Conference considered and adopted the report of its eighteenth session.¹⁹⁰

On 27 September 2013, the Executive Council of the Organization for the Prohibition of Chemical Weapons (OPCW) issued a decision on the destruction of Syrian chemical weapons.¹⁹¹ The Executive Council noted, *inter alia*, that the Syrian Arab Republic deposited its instrument of accession to the Convention on 14 September 2013 and declared that the Syrian Arab Republic shall comply with the Security Council's stipulations and observe them faithfully and sincerely. The Security Council also decided that the Syrian Arab Republic shall complete the elimination of all chemical weapons material and equipment in the first half of 2014, including intermediate destruction milestones, to be decided by the Security Council no later than 15 November 2013.¹⁹² In addition, it was decided that the Syrian Arab Republic shall complete as soon as possible and in any case no later than 1 November 2013, the destruction of chemical weapons production and mixing/filling equipment.

(i) *General Assembly*

On 5 December 2013, the General Assembly adopted two resolutions relating to biological and chemical weapons.¹⁹³ By resolution 68/45 entitled "Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction", the General Assembly, *inter alia*, underlined that the full, effective and non-discriminatory implementation of all articles of the Convention is a major contribution to international peace and security through the elimination of existing stockpiles of chemical weapons and the prohibition of their acquisition and use. It also reaffirmed the obligation of States parties to complete the destruction of chemical weapons stockpiles and the destruction or conversion of chemical weapons production facilities in accordance with the provisions of the Convention and the Annex on Implementation and Verification (Verification Annex). Furthermore, all States parties were urged to meet their obligations under the Convention in full and on

¹⁸⁸ BWC/MSP/2012/5.

¹⁸⁹ United Nations, *Treaty Series*, vol. 1974, p. 45.

¹⁹⁰ C-18/5.

¹⁹¹ EC-M-33/DEC.1.

¹⁹² *Ibid.* On 15 November 2013, the Executive Council of the OPCW issued a decision on the "Detailed Requirements for the Destruction of Syrian Chemical Weapons and Syrian Chemical Weapons Production Facilities" (EC-M-34/DEC.1).

¹⁹³ The resolutions were adopted upon the recommendation of the First Committee.

time and to support the Organization for the Prohibition of Chemical Weapons in its implementation activities.

By resolution 68/69 entitled “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction”, the General Assembly noted with appreciation the work of the Implementation Support Unit (“the Unit”) and welcomed the decision of the Seventh Review Conference to renew its mandate and request the Unit to perform tasks mandated by the Sixth Review Conference to support, as appropriate, the implementation by the States parties of the decisions and recommendations of the Seventh Review Conference. Furthermore, the General Assembly encouraged States parties to provide, at least biannually, appropriate information on their implementation of article X of the Convention and to collaborate to offer assistance or training, upon request, in support of the legislative and other implementation measures of States parties needed to ensure their compliance with the Convention.

(ii) *Security Council*

By resolution 2118 (2013) of 27 September 2013, the Security Council, *inter alia*, condemned any use of chemical weapons in the Syrian Arab Republic, in particular the attack on 21 August 2013, in violation of international law. It endorsed the decision of the OPCW Executive Council of 27 September 2013, which contained special procedures for the expeditious destruction of the Syrian Arab Republic’s chemical weapons program and stringent verification thereof and called for its full implementation in the most expedient and safest manner. It decided that the Syrian Arab Republic shall comply with all aspects of the decision of the OPCW Executive Council of 27 September 2013 and that Member States shall inform immediately the Security Council of any violation of resolution 1540 (2004). It further decided that, in the event of non-compliance with the resolution, including unauthorized transfer of chemical weapons, or any use of chemical weapons by anyone in the Syrian Arab Republic, to impose measures under Chapter VII of the United Nations Charter. The Security Council also expressed its strong conviction that those individuals responsible for the use of chemical weapons in the Syrian Arab Republic should be held accountable.

(iii) *United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic*

On 12 December 2013, the Secretary-General transmitted the report of the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic on the alleged use of chemical weapons in the Ghouta area of Damascus on 21 August 2013¹⁹⁴ simultaneously to the Security Council and the General Assembly. The United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic was established by the Secretary-General based on his authority under General Assembly resolution 42/37 C and Security Council resolution 620 (1988). On the basis of the analysis of the evidence gathered during the investigation between April and November 2013 and the laboratory results obtained, the

¹⁹⁴ A/67/997-S/2013/553.

Mission concluded that chemical weapons had been used in the ongoing conflict in the Syrian Arab Republic, not only in the Ghouta area of Damascus on 21 August 2013 as concluded in the Secretary-General's report¹⁹⁵, but also on a smaller scale in Jobar on 24 August 2013, Saraqueb on 29 April 2013, Ashrafiyah Sahnaya on 25 August 2013 and Khan Al Asal on 19 March 2013.

(d) Conventional weapons issues

There were several legal developments on conventional weapons issues in 2013. Most notable was the work of the United Nations Conference on an Arms Trade Treaty and the adoption of the Arms Trade Treaty, which sought to establish international standards for regulating or improving the regulation of the international trade in conventional arms. Relevant developments also occurred in relation to several other weapons, including anti-personnel mines and improvised explosive devices, as well as other international conferences.

(i) *International Trade in Conventional Arms*

The United Nations Conference on an Arms Trade Treaty was held from 18 to 28 March 2013 at the United Nations Headquarters in New York. At its 14th meeting, on 26 March, the Conference established a Drafting Committee to conduct a technical review of the President of the Conference's final draft text of the Treaty. At its 17th meeting, on 28 March, the President proposed the draft text of the Arms Trade Treaty for the Conference's adoption.¹⁹⁶ The draft text, however, was not adopted by the Conference.¹⁹⁷ On 28 March, the Conference adopted its report by consensus.¹⁹⁸

On 2 April 2013, the General Assembly, with a recorded vote of 154 in favour to 3, with 23 abstentions, adopted the Arms Trade Treaty (ATT),¹⁹⁹ which sought to regulate the international trade in conventional arms, from small arms to battle tanks, combat aircraft and warships. By resolution 68/31, the General Assembly welcomed the adoption of the ATT,²⁰⁰ and noted that the Treaty was opened for signature at United Nations Headquarters in New York on 3 June 2013, and would remain open for signature thereafter until its entry into force. The General Assembly called upon all States that had not yet done so to sign and, thereafter, according to their respective constitutional processes, ratify, accept or approve the Treaty at the earliest possible date.

By resolution 2117 (2013), the Security Council acknowledged the adoption of the Arms Trade Treaty and noted that threats arising from the illicit transfer and misuse of small arms and light weapons in some regions of the world continued to pose threats to

¹⁹⁵ *Ibid.*

¹⁹⁶ A/CONF.217/2013/L.3.

¹⁹⁷ The President of the Conference proposed for the Conference's adoption by consensus draft decision A/CONF.217/2013/L.3, to which a draft text of the Arms Trade Treaty was annexed. The President concluded that there was no consensus and the decision was not adopted. See A/CONF.217/2013/2.

¹⁹⁸ A/CONF.217/2013/2.

¹⁹⁹ General Assembly resolution 234B of 2 April 2013.

²⁰⁰ See resolution 67/234B.

international peace and security. Accordingly, the Security Council, *inter alia*, called on Member States subject to Council-mandated arms embargoes to implement and enforce the embargo, reaffirmed its decision that States shall eliminate the supply of weapons, including small arms and light weapons to terrorists, and called for States to support weapons collection, disarmament, demobilization and reintegration of ex-combatants.

(ii) *Other conventional weapons issues*

In addition to its work relating to the ATT, on 5 December 2013, the General Assembly adopted five other resolutions dealing with conventional arms issues.²⁰¹ Notably, regarding the illicit trade of small arms and light weapons, the General Assembly, in its resolution 68/48, *inter alia*, welcomed the inclusion of small arms and light weapons in the scope of the ATT, and recalled its endorsement of the outcome of the Second United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects.²⁰² It also encouraged all relevant initiatives, including those of the United Nations, other international organizations, regional and subregional organizations, non-governmental organizations and civil society, for the successful implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.²⁰³

Also of note is resolution 68/66, entitled “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”, by which the General Assembly called upon all States that had not yet done so to take all measures to become parties, as soon as possible, to the Convention, 1980,²⁰⁴ and the Protocols thereto.²⁰⁵ The General Assembly further called upon all States parties to the Convention that had not yet done so to express their consent to be bound by the Protocols to the Convention and the amendment extending the scope of the Convention and the Protocols thereto to include armed conflicts of a non-international character.²⁰⁶ The General Assembly noted that, in its final report, the Meeting

²⁰¹ General Assembly resolutions: 68/30 entitled “Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction”; 68/31 entitled “The Arms Trade Treaty”; 68/34 entitled “Assistance to States for Curbing the Illicit Traffic in Small Arms and Light Weapons and Collecting Them”; 68/48 entitled “The Illicit Trade in Small Arms and Light Weapons in all its Aspects”; 68/52 entitled “Problems arising from the Accumulation of Conventional Ammunition Stockpiles in Surplus”; 68/66 entitled “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”. The resolutions were adopted on the recommendation of the First Committee.

²⁰² General Assembly resolution 68/48 of 5 December 2013, preamble and para. 4. See also A/CONF.192/2012/RC/4, annexes I and II.

²⁰³ General Assembly resolution 68/48 of 5 December 2013, *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, New York, 9–20 July 2001 (A/CONF.192/15), chap. IV, para. 24.

²⁰⁴ United Nations, *Treaty Series*, vol. 1342, p. 137.

²⁰⁵ *Ibid.*, vol. 2024, p. 163, vol. 2048, p. 93, vol. 2399, p. 100.

²⁰⁶ United Nations, *Treaty Series*, vol. 2260, p. 82.

of the High Contracting Parties to the Convention held in Geneva on 15 and 16 November 2012 did not make any recommendation or decision regarding the continuation of discussions on mines other than anti-personnel mines.

(iii) *Other international conferences and meetings*

In addition to the United Nations Conference on an Arms Trade Treaty, a number of other international conferences and meetings addressed conventional weapons issues in 2013.

The third Inter-sessional Meeting to the Convention on Cluster Munitions took place in Geneva, Switzerland, from 15 to 18 April 2013. The informal meeting, whose objective was to strengthen Member States' ability to implement the Convention on Cluster Munitions, considered, *inter alia*, issues relating to the national implementation measures of the Convention, transparency measures, clearance and risk reduction, as well as victim assistance and the universalization of the treaty.

The Meeting of the High Contracting Parties 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, 1980²⁰⁷ (Convention on Conventional Weapons) was held in Geneva on 14 and 15 November 2013. The Meeting considered, *inter alia*, the report on promoting universality of the Convention and its Protocols,²⁰⁸ which is in response to the request for "the CCW Implementation Support Unit to continue to report annually to the Meeting of the High Contracting Parties on the efforts undertaken towards and progress made on universalization".²⁰⁹ The Meeting also welcomed the report of the CCW Sponsorship Programme,²¹⁰ the report of the Implementation Support Unit,²¹¹ and the report of the estimated costs of the 2014 Meeting of the High Contracting Parties.²¹² On 15 November, the Meeting adopted its final report.²¹³

With regard to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996 (Amended Protocol II)²¹⁴ annexed to the Convention on Conventional Weapons, the fifteenth Annual Conference of the High Contracting Parties to Amended Protocol II was held on 13 November 2013 in Geneva. The Conference, *inter alia*, reviewed the operation and status of the Protocol and considered issues arising from improvised explosive devices, including efforts to promote international humanitarian law compliance. It also took note of the reports on the operation and status of the Protocol and considered matters arising from reports by High

²⁰⁷ *Ibid.*, vol. 1342, p. 137.

²⁰⁸ CCW/MSP/2013/4.

²⁰⁹ Final declaration, Final document of the Fourth Review Conference, CCW/CONF.IV/4/Add.1, para. 9, p. 11.

²¹⁰ CCW/MSP/2013/3/Add.1.

²¹¹ CCW/MSP/2013/5.

²¹² CCW/MSP/2013/6.

²¹³ CCW/MSP/2013/2.

²¹⁴ United Nations, *Treaty Series*, vol. 2048, p. 93.

Contracting Parties, according to article 13 (4) of the Amended Protocol and the development of technologies to protect civilians against the indiscriminate effects of mines.

The 2013 Meeting of Experts relating to the Protocol on Explosive Remnants of War (Protocol V)²¹⁵ was held from 10 to 12 April 2013 in Geneva. The main focus of the Meeting of Experts was on the following issues: Generic Preventive Measures; national reporting; article 4; clearance and victim assistance. The Seventh Conference of the High Contracting Parties to Protocol V was held in Geneva on 11 and 12 November 2013, to consider, *inter alia*, the work of the Meeting of Experts.²¹⁶

The Thirteenth Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, 1997 (Mine-Ban Convention)²¹⁷ was held in Geneva from 2 to 5 December 2013. The Meeting considered, *inter alia*, the Geneva Progress report on the challenges that have been encountered and the work that remains in meeting the Cartagena Action Plan commitments prior to the Convention's Third Review Conference 2014,²¹⁸ as well as the reports presented by the President of the Twelfth Meeting of the States Parties concerning issues pertaining to extensions to article 5 deadlines.²¹⁹ It also evaluated the activities of the implementation support unit²²⁰ and considered the general status and operation of the Mine-Ban Convention. At its final plenary session, on 5 December 2013, the Meeting adopted its report.²²¹

(e) Regional disarmament activities of the United Nations

(i) *Africa*

In 2013, several United Nations bodies engaged in regional disarmament activities in Africa. First, the United Nations Office of Disarmament Affairs (UNODA), through the United Nations Regional Centre for Peace and Disarmament in Africa (UNREC), and in partnership with the International Action Network on Small Arms (IANSA) organized a two-day seminar in Addis Ababa, from 7 to 8 March 2013, to prepare the effective participation of African Member States and to deepen their understanding on relevant issues associated with the United Nations final negotiations conference on the Arms Trade Treaty.²²²

²¹⁵ *Ibid.*, vol. 2399, p. 100.

²¹⁶ At its fourth plenary meeting, the Conference adopted its final document (CCW/PV/CONF/2013/11).

²¹⁷ United Nations, *Treaty Series*, vol. 2056, p. 211.

²¹⁸ APLC/MSP.13/2013/WP.9.

²¹⁹ APLC/MSP.13/2013/5. Under article 5(1), each State party agrees to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for the State party. United Nations, *Treaty Series*, vol. 2056, p. 211.

²²⁰ APLC/MSP.13/2013/3.

²²¹ APLC/MSP.13/2013/2.

²²² For more information, see report of the Secretary-General: United Nations Regional Centre for Peace and Disarmament in Africa (A/68/114).

In addition to its work on small arms, UNREC also worked on providing substantive input to the African regional seminar on the universalization of the Convention on Cluster Munitions, assisting in the elaboration of a national plan of action on small arms for the period 2012–2016; facilitating the development of the African common position on the Arms Trade Treaty, the harmonization of legislation on small arms, and the African Security Sector Reform Programme.²²³

Moreover, the United Nations Regional Office for Central Africa, in its role as the secretariat of the United Nations Standing Advisory Committee for Security Questions in Central Africa (UNSAC), organized the thirty-sixth and thirty-seventh ministerial meetings of UNSAC.²²⁴ Of particular note, UNSAC adopted the Kigali Declaration,²²⁵ which called on national stakeholders to work together for a successful transition process in the Central African Republic,²²⁶ and called upon all States members of UNSAC to support the Central African Republic in its efforts to prevent the illegal proliferation of and cross-border trafficking in small arms and light weapons.²²⁷

(ii) *Asia and the Pacific*

The United Nations Regional Centre for Peace, Disarmament and Development in Asia and the Pacific (UNRCPD) focused its activities in 2013 on promoting the implementation of global disarmament and non-proliferation instruments; enhancing regional dialogue and confidence-building in the areas of disarmament, non-proliferation and regional security; and outreach and advocacy.²²⁸ The Regional Centre also organized a seminar facilitating regional dialogue on key issues regarding the Arms Trade Treaty and its negotiation, held in Kuala Lumpur, on 26 and 27 February 2013, prior to the final United Nations Conference on the Treaty.²²⁹

(iii) *Latin America and the Caribbean*

The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) focused its activities in 2013 on supporting States in combating the illicit trafficking in small arms, light weapons, ammunition and

²²³ *Ibid.*

²²⁴ For more information, see report of the Secretary-General entitled “Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa” (A/68/384).

²²⁵ See Kigali Declaration, annex to *ibid.* The thirty-sixth ministerial meeting was held from 20 to 23 August 2013 in Kigali.

²²⁶ Following the seizure of power by the Seleka rebel coalition in 2013, a transition process was taking place in the Central African Republic.

²²⁷ A/68/384, annex.

²²⁸ For more information, see report of the Secretary-General on the United Nations Regional Centre for Peace, Disarmament and Development in Asia and the Pacific (A/68/112).

²²⁹ On 14 and 15 December 2013, the Centre also held the Twelfth Annual United Nations-Republic of Korea Joint Conference on Disarmament and Non-proliferation Issues, hosted by the Republic of Korea, to address the theme “Non-proliferation Regime in the 21st Century: Challenges and the Way Forward”. For more information, see <http://unrcpd.org/event/rok-un-joint-conference/>.

explosives, which posed serious threats to public security in the region. UN-LiREC provided, upon request, capacity-building assistance, training, legal support, technical assistance and outreach and advocacy functions to ensure the national implementation of global and regional instruments in the areas of disarmament, arms control and non-proliferation.

(iv) *General Assembly*

On 5 December 2013, the General Assembly adopted eight resolutions dealing with regional disarmament.²³⁰ Seven of the resolutions concerned regional disarmament activities and the other related to the Declaration of the Indian Ocean as a zone of peace. Two of the resolutions are of particular note.

By resolution 68/55, entitled “Confidence-building measures in the regional and sub-regional context”, the General Assembly, *inter alia*, called upon Member States to refrain from the use or threat of use of force in accordance with the purposes and principles of the Charter of the United Nations. It also urged States to comply strictly with all bilateral, regional and international agreements, including arms control and disarmament agreements, to which they are party.

In resolution 68/62, entitled “Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa”, the General Assembly, *inter alia*, welcomed the adoption of the Code of Conduct concerning the Prevention and Repression of Piracy, Armed Robbery against Ships, and Illegal Maritime Activity in West and Central Africa, which defined the regional maritime security strategy and paved the way for a legally binding instrument. It also requested the United Nations Regional Office for Central Africa to facilitate the efforts undertaken by the States members of the Standing Advisory Committee, in particular for their execution of the Implementation Plan for the Kinshasa Convention.²³¹

(f) **Outer space (disarmament aspects)**

The Group of Governmental Experts on Transparency and Confidence-building Measures in Outer Space Activities²³² recommended specific measures on possible transparency and confidence-building measures in outer space activities that could be adopted voluntarily by States on a unilateral, bilateral, regional and multilateral basis, including

²³⁰ The following General Assembly resolutions were adopted on the recommendation of the First Committee: 68/24 entitled “Implementation of the Declaration of the Indian Ocean as a Zone of Peace”; 68/54 entitled “Regional disarmament”; 68/55 entitled “Confidence-building measures in the regional and subregional context”; 68/59 entitled “United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific”; 68/60 entitled “United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean”; 68/61 entitled “United Nations Regional Centre for Peace and Disarmament in Africa”; 68/62 entitled “Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa” and 68/67 entitled “Strengthening of security and cooperation in the Mediterranean region”.

²³¹ See A/65/717–S/2011/53, annex.

²³² The Group of Governmental Experts, which was established pursuant to General Assembly resolution 65/68, held its second and third session in Geneva and in New York from 1 to 5 April 2013 and from 8 to 12 July 2013.

information exchange on space activities, risk reduction notifications, contact and visits to space launch sites and facilities and consultative mechanisms.²³³

Of particular relevance to the question of weapons in outer space, is the text of a joint statement by the Ministers of Foreign Affairs of Indonesia and the Russian Federation declaring that their respective Member States would not be the first to place weapons of any kind in outer space which was addressed to the Secretary-General of the Conference on Disarmament.²³⁴

General Assembly

By resolution 68/29 on the “Prevention of an arms race in outer space”, the General Assembly, *inter alia*, called upon all States to contribute actively to the objective of the peaceful use of outer space and of the prevention of an arms race in outer space as well as to refrain from actions contrary to that objective and to the relevant existing treaties in the interest of maintaining international peace and security and promoting international cooperation. The General Assembly also reiterated that the Conference on Disarmament, as the sole multilateral disarmament negotiating forum, has the primary role in the negotiation of a multilateral agreement or agreements, as appropriate, on the prevention of an arms race in outer space in all its aspects. It invited the Conference on Disarmament to establish a working group under the agenda item “Prevention of an arms race in outer space” as early as possible during its 2014 session.²³⁵

Regarding the issue of transparency and confidence-building measures in outer space activities, the General Assembly adopted resolution 68/50, which, *inter alia*, encouraged Member States to review and implement, to the greatest extent practicable, the proposed transparency and confidence-building measures contained in the report of the Group of Governmental Experts on Transparency and Confidence-building Measures in Outer Space Activities,²³⁶ through relevant national mechanisms, on a voluntary basis and in a manner consistent with the national interest of Member States.

(g) Other disarmament measures and international security

General Assembly

In 2013, the General Assembly adopted seven resolutions and one decision concerning other disarmament measures and international security,²³⁷ two of which are of particular note here.

²³³ Note on the first session of the Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space Activities, document A/68/189.

²³⁴ “Letter dated 29 July 2013 from the Permanent Representatives of Indonesia and the Russian Federation addressed to the Secretary-General of the Conference on Disarmament transmitting the text of the joint statement by the Ministers of Foreign Affairs of Indonesia and the Russian Federation to declare that they will not, in any way, be the first to place weapons of any kind in outer space, signed in Bandar Sery Begawan on 1st July 2013”, CD/1954. The Conference on Disarmament held one plenary meeting on the item entitled “Prevention of an arms race in outer space”, CD/PV.1283.

²³⁵ General Assembly resolution 68/29 of 5 December 2013.

²³⁶ A/68/189.

²³⁷ The following General Assembly resolutions were adopted upon the recommendation of the First Committee: 68/33 entitled “Women, disarmament, non-proliferation and arms control”; 68/36

By resolution 68/38, entitled “Promotion of multilateralism in the area of disarmament and non-proliferation”, the General Assembly, *inter alia*, called upon all Member States to renew and fulfil their individual and collective commitments to multilateral cooperation as an important means of pursuing and achieving their common objectives in the area of disarmament and non-proliferation. It also requested the States parties to the relevant instruments on weapons of mass destruction to consult and cooperate among themselves in resolving their concerns with regard to cases of non-compliance as well as on implementation, in accordance with the procedures defined in those instruments, and to refrain from resorting or threatening to resort to unilateral actions or directing unverified non-compliance accusations against one another to resolve their concerns.

In addition, by resolution 68/41, entitled “Measure to prevent terrorists from acquiring weapons of mass destruction”, the General Assembly, *inter alia*, appealed to all Member States to consider early accession to and ratification of the International Convention for the Suppression of acts of Nuclear Terrorism.²³⁸ It further urged all Member States to take and strengthen national measures, as appropriate, to prevent terrorists from acquiring weapons of mass destruction, their means of delivery and materials and technologies related to their manufacture.

4. Legal aspects of peaceful uses of outer space

(a) Legal Subcommittee on the Peaceful Uses of Outer Space

The Legal Subcommittee on the Peaceful Uses of Outer Space held its fifty-second session at the United Nations Office in Vienna from 8 to 19 April 2013.²³⁹ The Legal Subcommittee addressed a number of matters of relevance, including the status and application of United Nations treaties on outer space; the definition and delimitation of outer space; matters specific to space assets arising from the Convention on International Interests in Mobile Equipment; space debris mitigation measures; and the peaceful use and exploration of outer space.²⁴⁰

With regard to United Nations treaties on outer space, it should be noted that the Committee, *inter alia*, reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space.²⁴¹ The Subcommittee also welcomed reports from Member States regarding their progress towards becoming parties to the

entitled “Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control”; 68/37 entitled “Relationship between disarmament and development”; 68/38 entitled “Promotion of multilateralism in the area of disarmament and non-proliferation”; 68/41 entitled “Measures to prevent terrorists from acquiring weapons of mass destruction”; 68/43 entitled “Transparency in armaments”; 68/44 entitled “National legislation on transfer of arms, military equipment and dual-use goods and technology”. Decision 68/516 entitled “Role of science and technology in the context of international security and disarmament”.

²³⁸ United Nations, *Treaty Series*, vol. 2445, p. 89.

²³⁹ For the report of the Legal Subcommittee, see A/AC.105/1045.

²⁴⁰ *Ibid.*, para. 3.

²⁴¹ See report of the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, A/AC.105/1045, annex I.

five United Nations treaties,²⁴² and views were exchanged on the sufficiency of the treaties going forward.²⁴³ The Subcommittee endorsed the recommendation that the mandate of the Working Group be extended for one additional year, and it was agreed that the Subcommittee, at its fifty-third session in 2014, would review the need to extend the mandate of the Working Group beyond that period.

Regarding matters related to the definition and delimitation of outer space and the character and utilization of geostationary orbit, the Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space. The Working Group provided a report on its meetings,²⁴⁴ which was endorsed by the Subcommittee. The Subcommittee agreed to reconvene the Working Group on Matters Relating to the Definition and Delimitation of Outer Space at its fifty-third session.

Concerning the agenda item entitled “Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment”,²⁴⁵ the Subcommittee noted that the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets,²⁴⁶ adopted at a diplomatic conference held in Berlin from 27 February to 9 March 2012, had been signed by Burkina Faso, Germany, Saudi Arabia and Zimbabwe and that, in order for it to enter into force, 10 ratifications, acceptances, approvals or accessions were needed, as well as certification by the supervisory authority confirming that the international registry for space assets was fully operational.²⁴⁷

Under the agenda item “General exchange of information on legal mechanisms relating to space debris mitigation measures”, the Subcommittee, *inter alia*, noted with satisfaction that some States were implementing space debris mitigation measures consistent with the Space Debris Mitigation Guidelines of the Committee (2007) and/or with the Inter-Agency Space Debris Coordination Committee (IADC) Space Debris Mitigation Guidelines and that other States had developed their own space debris mitigation standards based on those guidelines. The Subcommittee also noted that some States were using the IADC Space Debris Mitigation Guidelines, the European Code of Conduct for Space Debris Mitigation and International Organization for Standardization (ISO) standard 24113 (Space systems: space debris mitigation requirements) as references in their regulatory frameworks established for national space activities.²⁴⁸

²⁴² A/AC.105/1045, para. 38.

²⁴³ *Ibid.*, paras. 39–50. The five United Nations treaties under consideration were: Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, United Nations, *Treaty Series*, vol. 610, p. 205; Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, United Nations, *Treaty Series*, vol. 672, p. 119; Convention on International Liability for Damage Caused by Space Objects, United Nations, *Treaty Series*, vol. 961, p. 187; Convention on Registration of Objects Launched into Outer Space, United Nations, *Treaty Series*, vol. 1023, p. 15; and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, United Nations, *Treaty Series*, vol. 1363, p. 3.

²⁴⁴ See report of the Chair of the Working Group on the Definition and Delimitation of Outer Space, A/AC.105/1045, annex II.

²⁴⁵ *Ibid.*, paras. 107–114.

²⁴⁶ United Nations, *Treaty Series*, vol. 2307, p. 285.

²⁴⁷ A/AC.105/1045, para. 111.

²⁴⁸ *Ibid.*, para. 138.

Regarding the agenda item entitled “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space”, the Subcommittee considered the revised draft set of recommendations on national legislation relevant to the peaceful exploration and use of outer space,²⁴⁹ agreed on the text of the set of recommendations, as amended, and recommended that the text be submitted as a separate draft resolution for consideration by the General Assembly at its sixty-eighth session.²⁵⁰

Concerning future work, the Subcommittee noted the proposal by Japan, and co-sponsored by Austria, Canada, France, Nigeria and the United States,²⁵¹ that the Subcommittee should include on its agenda a new item entitled “General exchange of information on practices in relation to non-legally binding instruments for outer space activities”.²⁵² The Subcommittee agreed that the agenda item entitled “Examination and review of the developments concerning the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets” should be discontinued as an item for discussion. It also agreed that the representative of the International Institute for the Unification of Private Law (UNIDROIT) should be invited to update the Subcommittee on developments relating to the Protocol under the agenda item entitled “Information on the activities of international intergovernmental and non-governmental organizations relating to space law”.²⁵³

The Committee on the Peaceful Uses of Outer Space held its fifty-sixth session in Vienna from 12 to 21 June 2013. The Committee took note of the Legal Subcommittee’s report and endorsed the recommendations contained therein.²⁵⁴

(b) General Assembly

In 2013, the General Assembly adopted three resolutions relating to the legal aspects of the peaceful uses of outer space.²⁵⁵ Of particular note, in its resolution 68/75 of 11 December 2013 on international cooperation in the peaceful uses of outer space, the General Assembly endorsed the report of the Committee on the Peaceful Uses of Outer Space and, *inter alia*, agreed that the Legal Subcommittee, at its fifty-third session, should consider the substantive items and reconvene the working groups recommended by the Committee,²⁵⁶ taking into account the concerns of all countries, in particular those of

²⁴⁹ A/AC.105/C.2/L.289.

²⁵⁰ See Set of Recommendations on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, for Submission as a separate draft resolution for consideration by the General Assembly at its sixty-eighth session, A/AC.105/1045, annex III.

²⁵¹ A/AC.105/C.2/L.291.

²⁵² A/AC.105/1045, para. 179.

²⁵³ *Ibid.*, para. 183.

²⁵⁴ For the report of the Committee on the Peaceful use of Outer Space, see *Official records of the General Assembly, Sixty-eighth Session, Supplement No. 20 (A/68/20)*.

²⁵⁵ General Assembly resolutions 68/50 of 5 December 2013 entitled “Transparency and confidence-building measures in outer space activities”; 68/74 of 11 December 2013 entitled “Recommendations on national legislation relevant to the peaceful exploration and use of outer space”; and 68/75 of 11 December 2013 entitled “International cooperation in the peaceful uses of outer space”.

²⁵⁶ A/68/20, paras. 251–255.

developing countries. Furthermore, the General Assembly urged States that had not yet become parties to the international treaties governing the uses of outer space to give consideration to ratifying or acceding to those treaties in accordance with their domestic law, as well as incorporating them in their national legislation.

The General Assembly also adopted resolution 68/50 of 5 December 2013 on transparency and confidence-building measures in outer space activities, as well as resolution 68/74 of 11 December 2013 on recommendations on national legislation relevant to the peaceful exploration and use of outer space.

5. Human rights²⁵⁷

(a) Sessions of the United Nations human rights bodies and treaty bodies

(i) *Human Rights Council*

The Human Rights Council, established in 2006,²⁵⁸ meets as a quasi-standing body in three annual regular sessions and additional special sessions as needed. Reporting to the General Assembly, its agenda and programme of work provide the opportunity to discuss all thematic human rights issues and human rights situations that require the attention of the General Assembly.

The Human Rights Council's mandate includes the review on a periodic basis of the fulfilment of the human rights obligations of all Member States, including the members of the Council, over a cycle of four years through the Universal Periodic Review (UPR).²⁵⁹ The Council also assumed the thirty-eight country and thematic special procedures existing under its predecessor, the Commission on Human Rights, while reviewing the mandate and criteria for the establishment of these special procedures.²⁶⁰ In addition, the Council has adopted a confidential complaint procedure, based on the "1503 procedure" employed by the Commission, which allows individuals and organizations to continue to

²⁵⁷ This section covers the resolutions adopted, if any, by the Security Council, the General Assembly and the Economic and Social Council. It also includes a selective coverage of the legal activities of the Human Rights Council, in particular activities of Special Rapporteurs and selected resolutions on specific human rights issues. Other legal developments in human rights may be found under the section in the present chapter entitled "Peace and security". The present section does not cover resolutions addressing human rights issues arising in particular States, nor does it cover in detail the legal activities of the treaty bodies (namely, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination Against Women, the Committee Against Torture, the Committee on the Rights of the Child, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Committee on the Rights of Persons with Disabilities). Detailed information and documents relating to human rights are available on the website of the Office of the United Nations High Commissioner for Human Rights at <http://www.ohchr.org>.

²⁵⁸ General Assembly resolution 60/251 of 15 March 2006. For further details on its establishment, see the *United Nations Juridical Yearbook*, 2006, chapter III, section 5.

²⁵⁹ The first universal periodic review (UPR) cycle covered the period 2008–2011. The second universal periodic review cycle commenced in 2012 and will run through 2016. For a list of States included and calendar of review sessions, see the section on the UPR at <http://www.ohchr.org/en/hrbodies/hrc/pages/hrcindex.aspx>.

²⁶⁰ Human Rights Council decision 1/102 of 30 June 2006.

bring complaints revealing a consistent pattern of gross and reliably attested violations of human rights.²⁶¹

In 2013, the Human Rights Council held its twenty-second, twenty-third and twenty-fourth regular sessions.²⁶²

(ii) *Human Rights Council Advisory Committee*

The Human Rights Council Advisory Committee was established pursuant to Human Rights Council resolution 5/1 of 18 June 2007.²⁶³ The Advisory Committee is composed of eighteen experts, and functions as a think-tank for the Council, working under its direction and providing expertise in the manner and form requested by the Council, focusing mainly on studies and research-based advice, suggestions for further enhancing its procedural efficiency, as well as further research proposals within the scope of the work set out by the Council. The Advisory Committee held its tenth session from 18 to 22 February 2013 and its eleventh session from 12 to 16 August 2013 in Geneva.²⁶⁴

(iii) *Human Rights Committee*

The Human Rights Committee was established under the International Covenant on Civil and Political Rights, 1966²⁶⁵ to monitor the implementation of the Covenant and its Optional Protocols²⁶⁶ in the territory of States parties. The Committee held its 107th session in New York from 11 to 28 March 2013, and its 108th and 109th sessions in Geneva from 8 to 26 July 2013 and from 14 October to 1 November 2013, respectively.²⁶⁷

(iv) *Committee on Economic, Social and Cultural Rights*

The Committee on Economic, Social and Cultural Rights was established by the Economic and Social Council²⁶⁸ to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights, 1966²⁶⁹ by its States parties. The

²⁶¹ More detailed information on the mandate, work and methods of the Human Rights Council is available at the homepage of the Human Rights Council at <http://www.ohchr.org>.

²⁶² For the reports of the twenty-second and twenty-third sessions, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 53 (A/68/53)*. For the report of the twenty-fourth session, see *ibid.*, *Supplement No. 53A (A/68/53/Add.1)*.

²⁶³ The Human Rights Council Advisory Committee replaced the Sub-Commission on the Promotion and Protection of Human Rights as the main subsidiary body of the Human Rights Council.

²⁶⁴ For the reports of the Advisory Committee on its tenth and eleventh sessions, see *A/HRC/AC/10/3* and *A/HRC/AC/11/2*, respectively.

²⁶⁵ United Nations, *Treaty Series*, vol. 999, p. 171.

²⁶⁶ Optional Protocol to the International Covenant on Civil and Political Rights, *ibid.*; and Second Optional Protocol to the International Covenant on Civil and Political Rights, *ibid.*, vol. 1642, p. 414.

²⁶⁷ For the report of the 107th session, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 40 (A/68/40)*, vols. I and II. For the report of the 108th and 109th sessions, see *ibid.*, *Sixty-ninth Session, Supplement No. 40 (A/69/40)*, vols. I and II.

²⁶⁸ Economic and Social Council resolution 1985/17 of 28 May 1985.

²⁶⁹ United Nations, *Treaty Series*, vol. 993, p. 3.

Committee held its fiftieth and fifty-first sessions in Geneva from 29 April to 17 May and from 4 to 29 November 2013, respectively.²⁷⁰

(v) *Committee on the Elimination of Racial Discrimination*

The Committee on the Elimination of Racial Discrimination was established under the International Convention on the Elimination of All Forms of Racial Discrimination, 1966²⁷¹ to monitor the implementation of this Convention by its States parties. The Committee held its eighty-second and eighty-third sessions in Geneva from 11 February to 1 March and 12 to 30 August 2013, respectively.²⁷²

(vi) *Committee on the Elimination of Discrimination against Women*

The Committee on the Elimination of Discrimination against Women was established under the Convention on the Elimination of All Forms of Discrimination against Women, 1979²⁷³ to monitor the implementation of this Convention by its States parties. The Committee held its fifty-fourth session in Geneva from 11 February to 1 March 2013, its fifty-fifth session in New York from 8 to 26 July 2013, and its fifty-sixth session in Geneva from 13 September to 18 October 2013.²⁷⁴

(vii) *Committee against Torture*

The Committee against Torture was established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984²⁷⁵ to monitor the implementation of the Convention by its States parties. In 2013, the Committee held its fiftieth and fifty-first sessions in Geneva from 6 May to 31 May and from 28 October to 22 November, respectively.²⁷⁶ The Subcommittee on Prevention of Torture, established in October 2006 under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,²⁷⁷ held its nineteenth, twentieth and twenty-first sessions from 18 to 22 February, from 17 to 21 June and from 11 to 15 November 2013, respectively.

²⁷⁰ See *Official Records of the Economic and Social Council 2014, Supplement No. 2, E/2014/22*.

²⁷¹ United Nations, *Treaty Series*, vol. 660, p. 195.

²⁷² For the report of the eighty-second session, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 18 (A/68/18)*. For the report of the eighty-third session, see *ibid.*, *Sixty-ninth Session, Supplement No. 18 (A/69/18)*.

²⁷³ United Nations, *Treaty Series*, vol. 1249, p. 13.

²⁷⁴ For the report of the fifty-fourth session, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 38 (A/68/38)*. For the report of the fifty-fifth, fifty-sixth and fifty-seventh sessions, see *ibid.*, *Sixty-ninth Session, Supplement No. 38 (A/69/38)*.

²⁷⁵ United Nations, *Treaty Series*, vol. 1465, p. 85.

²⁷⁶ For the report of the fiftieth session, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 44 (A/68/44)*. For the report of the fifty-first session, see *ibid.*, *Sixty-ninth Session, Supplement No. 44 (A/69/44)*.

²⁷⁷ United Nations, *Treaty Series*, vol. 2375, p. 237.

(viii) *Committee on the Rights of the Child*

The Committee on the Rights of the Child was established under the Convention on the Rights of the Child, 1989²⁷⁸ to monitor the implementation of this Convention by its States parties. The Committee held its sixty-second, sixty-third and sixty-fourth sessions in Geneva, from 14 January to 1 February, from 27 May to 14 June, and from 16 September to 4 October 2013, respectively.²⁷⁹

(ix) *Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families*

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families was established under the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990,²⁸⁰ to monitor the implementation of this Convention by its States parties in their territories. In 2013, the Committee held its eighteenth and nineteenth sessions in Geneva from 15 to 26 April and from 9 to 13 September, respectively.²⁸¹

(x) *Committee on the Rights of Persons with Disabilities*

The Committee on the Rights of Persons with Disabilities is the body of independent experts established under the Convention on the Rights of Persons with Disabilities, 2006²⁸² and its 2006 Optional Protocol²⁸³ to monitor the implementation of this Convention and Optional Protocol by States parties. The Committee meets in Geneva and holds two regular sessions per year. The Committee held its ninth session from 15 to 19 April 2013, and its tenth session from 2 to 13 September 2013.²⁸⁴

(xi) *Committee on Enforced Disappearances*

The Committee on Enforced Disappearances was established under the International Convention for the Protection of All Persons from Enforced Disappearance, 2006²⁸⁵ to monitor the implementation of the Convention by its States parties. The Committee held

²⁷⁸ *Ibid.*, vol. 1577, p. 3.

²⁷⁹ For the report of the sixty-second, sixty-third, and sixty-fourth sessions, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 41 (A/69/41)*.

²⁸⁰ United Nations, *Treaty Series*, vol. 2220, p. 3.

²⁸¹ For the report of the eighteenth session, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 48 (A/68/48)*. For the report of the nineteenth session, see *ibid.*, *Sixty-ninth Session, Supplement No. 48 (A/69/48)*.

²⁸² United Nations, *Treaty Series*, vol. 2515, p. 3.

²⁸³ *Ibid.*, vol. 2518, p. 283.

²⁸⁴ For the reports of the ninth and tenth sessions, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 55 (A/70/55)*.

²⁸⁵ General Assembly resolution 61/177 of 20 December 2006, annex.

its fourth and fifth sessions in Geneva from 8 to 19 April and from 4 to 15 November 2013, respectively.²⁸⁶

(b) Racism, racial discrimination, xenophobia and all forms of discrimination

(i) Human Rights Council

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, submitted two reports to the Human Rights Council during 2013. The first report²⁸⁷ addressed the human rights and democratic challenges that extremist political parties, movements and groups, as well as similar extremist ideological movements continued to pose. The second report focused on the role of education in preventing racism, racial discrimination, xenophobia and related intolerance in line with the provisions of the Durban Declaration and Programme of Action.²⁸⁸

On 13 June 2013, the Human Rights Council adopted, without a vote, the report on the Effective Implementation of the Durban Declaration and Programme of Action on its tenth session²⁸⁹, submitted by the Intergovernmental Working Group in accordance with Human Rights Council resolution 11/12 and decision 3/103.²⁹⁰ The Group, *inter alia*, stressed the critical role of political parties and political leaders in combating racism, racial discrimination and xenophobia and related intolerance and urged them to engage with the civil society in this fight.

On 22 March 2013, the Human Rights Council adopted resolution 22/31, entitled “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief”, without a vote, in which the Council, *inter alia*, appreciated the report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred and the Rabat Plan of Action contained therein, and encouraged States and relevant stakeholders to take effective measures to implement its recommendations and conclusions.

On 27 September 2013, the Human Rights Council adopted resolution 24/26, entitled “From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance”.²⁹¹ In the resolution, the Council, *inter alia*, took note of the report of the Intergovernmental Working Group on the Effective

²⁸⁶ For the report of the fourth session, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 56 (A/68/56)*. For the report of the fifth session, see *ibid.*, *Sixty-ninth Session, Supplement No. 56 (A/69/56)*.

²⁸⁷ A/HRC/23/24. The report was submitted pursuant to General Assembly resolution 67/154 of 20 December 2012 and was entitled “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the implementation of General Assembly resolution 67/154”.

²⁸⁸ A/HRC/23/56.

²⁸⁹ A/HRC/16/64.

²⁹⁰ A/HRC/DEC/3/103.

²⁹¹ The resolution was adopted by a vote of 32 in favour to 2 against, with 13 abstentions.

Implementation of the Durban Declaration and Programme of Action,²⁹² and decided that the Working Group should convene its twelfth session from 6 to 17 October 2014.

(ii) *General Assembly*

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, submitted two reports to the General Assembly. In the first report,²⁹³ the Special Rapporteur addressed the implementation of General Assembly resolution 67/154 of 20 December 2012. The Special Rapporteur stressed, *inter alia*, that any commemorative celebration of the Nazi Waffen SS organization and its crimes against humanity, doing injustice to the memory of the victims of crimes against humanity, should be prohibited by States and affirmed that failure by States to effectively address such practices was incompatible with the obligations of States Members of the United Nations. He also recalled that any legislative or constitutional measures adopted with a view to countering extremist political parties, movements and groups, including neo-Nazis and skinhead groups and similar extremist ideological movements, should be in conformity with the relevant international human rights standards and thus urged States to fully respect and implement their obligations under article 4 of the International Convention on the Elimination of All forms of Racial Discrimination and articles 19 to 22 of the International Covenant on Civil and Political Rights.

In his second report to the General Assembly,²⁹⁴ submitted pursuant to General Assembly resolution 67/155 of 20 December 2012, entitled “Contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, the Special Rapporteur focused on the intersection between discrimination and poverty and discussed the manifestation of poverty and racism in the areas of economic and social rights. He therefore invited Member States to adopt comprehensive approaches for tackling the intersection of poverty and discrimination which is prevalent around the world. He also recalled the overarching prohibition of discrimination on national, racial, ethnic, religious or other grounds according to international human rights law, and recommended the States to review legislation and policies which may directly or indirectly discriminate against particular groups and individuals.

The Secretary-General also submitted two reports to the General Assembly. The first report,²⁹⁵ entitled “Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”, submitted in follow-up to General Assembly resolution 67/155, summarized information received from various actors. The Secretary-General concluded, *inter alia*, that Member States and other stakeholders are invited to participate actively in the deliberations on the Durban follow-up mechanisms and to implement the recommendations emanating therefrom.

²⁹² A/HRC/23/19.

²⁹³ A/68/329.

²⁹⁴ A/68/333.

²⁹⁵ A/68/564.

The second report,²⁹⁶ entitled “How to make the International Decade for People of African Descent effective”, took into consideration the responses to the questionnaire circulated in March and April 2013 to Member States, requesting inputs for its elaboration from United Nations bodies, programmes and funds and the specialized agencies, regional organizations, and civil society. It stressed that a decade would ensure the effective implementation of the crucial provisions laid out in the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action and other relevant international instruments and introduced practical steps, at the national, regional and international levels, to be taken to make the Decade effective.

On 18 December 2013, the General Assembly adopted resolution 68/150 entitled “Combating glorification of Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”.²⁹⁷ The General Assembly expressed deep concern about the glorification, in any form, of the Nazi movement, neo-Nazism and former members of the Waffen SS organizations and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement participants in national liberation movements. It reaffirmed the relevant provisions of the Durban Declaration²⁹⁸ and of the outcome document of the Durban Review Conference,²⁹⁹ in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice and stated that those phenomena could never be justified in any instance or in any circumstances.

On the same day, the General Assembly adopted resolution 68/151 entitled “Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”.³⁰⁰ The General Assembly reaffirmed, *inter alia*, the paramount importance of universal adherence to and full and effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination,³⁰¹ adopted by the General Assembly on 21 December 1965, to address the scourges of racism and racial discrimination. It also expressed grave concern that the universal ratification of the Convention had not yet been reached and called upon those States that had not done so to accede to the Convention.

²⁹⁶ A/67/879.

²⁹⁷ The resolution was adopted on the recommendation of the Third Committee, by a recorded vote of 135 in favour to 4 against, with 51 abstentions.

²⁹⁸ A/CONF.189/12 and Corr.1, chap. I.

²⁹⁹ A/CONF.211/8, chap. I.

³⁰⁰ The resolution was adopted on the recommendation of the Third Committee, by a recorded vote of 169 in favour to 1 against, with 14 abstentions.

³⁰¹ United Nations, *Treaty Series*, vol. 660, p. 195.

(c) Right to development and poverty reduction

(i) *Human Rights Council*³⁰²

The Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona, submitted her report to the Human Rights Council.³⁰³ The report, focusing on the right to participation of people living in poverty, presented the human rights approach to participation and a framework based on human rights for how to include people living in poverty in the design, implementation and evaluation of policies and programmes in a meaningful and effective way, taking into account the obstacles they face.

On 26 September 2013, the Human Rights Council adopted resolution 24/4, entitled “The right to development”,³⁰⁴ in which it, *inter alia*, took note of the report of the Secretary-General and the United Nations High Commissioner for Human Rights on the right of development³⁰⁵ and the report of the Working Group on the Right to Development on its fourteenth session.³⁰⁶

(ii) *General Assembly*³⁰⁷

In 2013, there were two reports and two resolutions arising from the work of the General Assembly on the right to development and poverty reduction which are of particular relevance. First, in accordance with Human Rights Council resolution 17/13 of 17 June 2011, the Secretary-General submitted the report of the Special Rapporteur on extreme poverty and human rights to the General Assembly.³⁰⁸ The report identified unpaid care work as a major human rights issue and analyzed the relationship between unpaid care and poverty and inequality and women’s rights. It also stressed that the international human rights framework and the obligations and accountability of States must be an important source of guidance in the recognition, reduction and redistribution of unpaid care work.

In addition, the Secretary-General submitted, along with the United Nations High Commissioner for Human Rights, a consolidated report to the General Assembly entitled “The right to development”,³⁰⁹ summarising the activities undertaken by the Office of the United Nations High Commissioner for Human Rights and United Nations human rights mechanisms with regard to the promotion and realization of the right to development covering the period from July 2012 to May 2013.

³⁰² See also resolution 22/12 of 19 March 2013 entitled “The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation” and the report of the Working Group on the Right to Development on its fourteenth session (Geneva, 13–17 May 2013) (A/HRC/24/37).

³⁰³ A/HRC/23/36.

³⁰⁴ A/HRC/27/5.

³⁰⁵ A/HRC/24/27.

³⁰⁶ A/HRC/24/37.

³⁰⁷ See also resolutions 68/37 entitled “Relationship between disarmament and development” and 68/135 entitled “Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly”.

³⁰⁸ A/68/293.

³⁰⁹ A/HRC/24/27.

The General Assembly also adopted two resolutions of particular relevance on this topic. On 20 December 2013, the General Assembly adopted resolution 68/158 entitled “The right to development”.³¹⁰ The General Assembly, *inter alia*, called for the immediate, full and effective implementation of the recommendations adopted by the Working Group on the right to development at its fourteenth session³¹¹ by the Office of the United Nations High Commissioner for Human Rights and other relevant actors. It further welcomed the launching, in the Working Group on the right to development, of the process for considering, revising and refining the draft right to development criteria and corresponding operational subcriteria,³¹² with the first reading of the draft criteria and operational subcriteria.

On the same day, the General Assembly adopted resolution 68/226 entitled “Eradication of poverty and other development issues: implementation of the Second United Nations Decade for the Eradication of Poverty (2008–2017)”,³¹³ in which it reaffirmed that poverty eradication was the greatest global challenge facing the world and that the objective of the Second United Nations Decade for the Eradication of Poverty was to support the follow-up to the implementation of the internationally agreed development goals, including the Millennium Development Goals. It also called upon Member States and relevant stakeholders to address poverty eradication in the elaboration of the post-2005 development agenda.

(d) Right of peoples to self-determination

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

a. Human Rights Council

On 22 March 2013, the Human Rights Council adopted resolution 22/27 entitled “Right of the Palestinian people to self-determination”.³¹⁴ The Council reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity, and to establish their sovereign, independent, democratic and viable contiguous State. It also urged all Member States and relevant bodies of the United Nations System to support and assist the Palestinian people in the early realization of their right to self-determination.

b. General Assembly

On 18 December 2013, the General Assembly adopted two resolutions³¹⁵ concerning the right of peoples to self-determination.

³¹⁰ The resolution was adopted on the recommendation of the Third Committee, by a recorded vote of 158 in favour to 4 against, with 28 abstentions.

³¹¹ A/HRC/24/37.

³¹² A/HRC/15/WG.2/TF/2/Add.2.

³¹³ The resolution was adopted on the recommendation of the Second Committee, without a vote.

³¹⁴ The resolution was adopted by a recorded vote of 46 in favour to 14 against, with 0 abstentions.

³¹⁵ General Assembly resolutions 68/153 and 68/154 of 18 December 2013. The resolutions were adopted upon the recommendation of the Fourth Committee,

In resolution 68/153,³¹⁶ entitled “Universal realization of the right of peoples to self-determination”, the General Assembly declared its firm opposition to acts of foreign military intervention, aggression and occupation, since such acts have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world. It further called upon those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned. The General Assembly also took note of the report of the Secretary-General on the right of peoples to self-determination.³¹⁷

On the same day, the General Assembly adopted resolution 68/154, entitled “The Right of the Palestinian people to self-determination”.³¹⁸ The General Assembly, *inter alia*, welcomed the resumption of negotiations within the Middle East peace process, based on the relevant resolutions of the United Nations, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative³¹⁹ and the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict. It also reaffirmed the right of the Palestinian people to self-determination, including the right to an independent State of Palestine.

(ii) *Mercenaries*

a. Human Rights Council

On 1 July 2013, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination submitted a report to the Human Rights Council;³²⁰ the report discussed trends and differences in regulatory approaches in 13 African countries. The Working Group found that, while there are common elements in laws of these countries, the diverse contexts at the national level affect the way in which private military and/or security companies (PMSCs) are regulated, and the regulatory approach of each country significantly varies. It reiterated the need for effective regulation of the activities of PMSCs. The Working Group further reiterated its view that a comprehensive, legally binding international regulatory instrument in this area is the best way to ensure adequate protection of human rights.

The Human Rights Council also adopted a resolution on the topic. On 26 September 2013, the Council adopted resolution 24/13, entitled “The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”.³²¹ The Council, *inter alia*, condemned mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat

³¹⁶ The resolution was adopted without a vote.

³¹⁷ A/68/318.

³¹⁸ The resolution was adopted on the recommendation of the Third Committee, by a record vote of 178 in favour to 7 against, with 4 abstentions.

³¹⁹ A/56/1026-S/2002/932, annex II, resolution 14/221.

³²⁰ A/HRC/24/45.

³²¹ The resolution was adopted by a recorded vote of 31 in favour to 15 against, with 1 abstention.

that they pose to the integrity of and respect for the constitutional order of these countries and the exercise of the right to self-determination of their peoples. The Council requested all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, and to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes. It also decided to renew, for a period of three years, the mandate of the Working Group on the use of mercenaries.

b. General Assembly

On 18 December 2013, the General Assembly adopted resolution 68/152 entitled “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”.³²² The General Assembly, *inter alia*, took note with appreciation of the latest report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.³²³ It condemned any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries. The General Assembly called upon States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with national law and applicable bilateral or international treaties. It further called upon Member States to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials.

(e) Economic, social and cultural rights

Human Rights Council

There were a number of developments relating to economic, social and cultural rights in 2013.

In accordance with Human Rights Council resolution 19/5 of 22 March 2012, in 2013 the Secretary-General submitted a report on the “Question of the realization in all countries of economic, social and cultural rights”.³²⁴ The report addressed, *inter alia*, the normative framework of women’s economic, social and cultural rights, recalling the main achievements of treaty bodies in clarifying the content of those rights. It also concluded that a comprehensive and collaborative approach from treaty bodies and special procedures was likely to yield better results in this area.

In addition, on 21 March 2013, the Human Rights Council adopted resolution 22/5, entitled “Question of the realization in all countries of economic, social and cultural rights”. The Council, *inter alia*, welcomed the entry into force of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 5 May 2013, and encouraged all States that have not yet signed and ratified the Optional Protocol to consider

³²² The resolution was adopted on the recommendation of the Third Committee, by a record vote of 128 in favour to 55 against, with 8 abstentions.

³²³ See A/68/339.

³²⁴ A/HRC/25/31.

doing so and to consider making declarations under articles 10 and 11. It also underlined that States parties should pay particular attention to the mutual reinforcement of the rights and obligations contained in the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women.

(i) *Right to food*

a. **Human Rights Council**

Both the Special Rapporteur on the right to food, Mr. Olivier De Schutter, and the Human Rights Council Advisory Committee submitted reports on this subject to the Council.

The report of the Special Rapporteur³²⁵ addressed threats to women's right to food, and examined the obstacles women face in access to employment, social protection and the productive resources needed for food production, food processing and value chain development. It recommended that States effectively respond to women and girls' needs and priorities in their food security strategies. It also concluded that States' obligation to remove all discriminatory provisions in the law, and to combat discrimination that had its source in social and cultural norms, was an immediate obligation that had to be complied with without delay.

The first report of the Advisory Committee, entitled "Final Study of the Human Rights Council Advisory Committee on rural women and the right to food",³²⁶ examined the right to food of rural women by underlining the international legal framework applicable to rural women, analyzing the patterns of discrimination harming them, and proposing strategies and policies for their legal protection. And in the second report, entitled "Final Study of the Advisory Committee on the promotion of human rights of the urban poor: strategies and best practices",³²⁷ the Committee examined the situation of the urban poor and their enjoyment of the right to food, including strategies to improve their protection and best practices. It also concluded that as the global urban population continued to grow at a rapid pace, the need to focus attention on ensuring their full enjoyment of basic human rights must become a priority for the future at the local, national, regional and international levels, with a special focus on female-headed households and temporary or seasonal workers.

By resolution 22/9, entitled "The right to food", the Human Rights Council, *inter alia*, recognized that the commitments made at the World Food Summit in 1996 to halve the number of undernourished people were not being fulfilled, and urged all States and international financial and development institutions, as well as the relevant United Nations agencies and funds, to give priority to and provide the necessary funding for realizing the aim of halving by 2015 the number, or at least the proportion, of people who suffer from hunger, as stated in Millennium Development Goal 1, as well as the right to food, as set out in the Rome Declaration on World Food Security and the United Nations Millennium

³²⁵ A/HRC/22/50.

³²⁶ A/HRC/22/72.

³²⁷ A/HRC/22/61.

Declaration. The Council called upon States parties to the International Covenant on Economic, Social and Cultural Rights to fulfil their obligations under article 2, paragraph 1, and article 11, paragraph 2 thereof, in particular with regard to the right to adequate food. It also decided to extend the mandate of the Special Rapporteur on the right to food for a period of three years.

b. General Assembly

On 20 September 2013, the Secretary General transmitted to the General Assembly an interim report of the Special Rapporteur on the right to food, in accordance with Assembly resolution 67/174. The report outlined the contours of an emerging global right to food movement. The Special Rapporteur encouraged States to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the entry into force of which would further encourage the development of a jurisprudence protecting the right to food. He further encouraged the Food and Agriculture Organization of the United Nations (FAO) Committee on World Food Security to serve as a catalyst to accelerate progress towards the establishment of legal, institutional and policy frameworks that are conducive to the full realization of the right to food for all, and to use the review of the implementation of the Right to Food Guidelines at its forty-first session in 2014 to encourage all Member States to make effective use of the right to food to eradicate hunger and malnutrition.

On 18 December 2013, the General Assembly adopted resolution 68/177 entitled “The right to food”.³²⁸ The General Assembly, *inter alia*, took note with appreciation of the interim report of the Special Rapporteur on the right to food.³²⁹ It reaffirmed the right of everyone to have access to safe, sufficient and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger, so as to be able to fully develop and maintain his or her physical and mental capacities. It further reaffirmed that the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the FAO in November 2004³³⁰ represent a practical tool to promote the realization of the right to food for all and contribute to the achievement of food security.

(ii) *Right to education*

a. Human Rights Council

The Special Rapporteur on the right to education, Mr. Kishore Singh, submitted his annual report to the Human Rights Council.³³¹ The report focused on the justiciability of the right to education, and examined questions related to enforcement of the right to education and judicial and quasi-judicial mechanisms. The Special Rapporteur underlined the important role that adjudication plays in the effective realization of the right to education. He concluded that international, regional and national jurisprudence had demonstrated

³²⁸ The resolution was adopted without a vote, on the recommendation of the Third Committee.

³²⁹ A/68/288.

³³⁰ E/CN.4/2005/131, annex.

³³¹ A/HRC/23/35.

that the right to education was a legally enforceable right and provided recommendations aimed at making the justiciability and enforcement of the right to education and its enforcement more efficacious.

On 13 June 2013, the Human Rights Council adopted resolution 23/4 entitled “The right to education: follow-up to Human Rights Council resolution 8/4”.³³² The Council, *inter alia*, reaffirmed the human right to education and urged States to give full effect to the right to education by promoting its justiciability.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the right to education,³³³ which focused on recent developments with respect to the post-2015 development agenda using a rights-based approach to education. It also analyzed education goals and provided necessary implementation strategies with a focus on action at the national level.

(iii) *Right to adequate standard of living, including adequate housing and to be free of adverse effects of toxic waste*

a. Human Rights Council

The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Raquel Rolnik, submitted a report to the Human Rights Council³³⁴ in which she elaborated upon the concept of security of tenure as a component of the right to adequate living. In the context of a global tenure insecurity crisis, she discussed existing guidance under international human rights law, raising questions regarding the precise nature of States’ obligations with respect to ensuring security of tenure. After examining the wide range of existing tenure arrangements and the prevalent focus in policy and practice on one form of tenure, namely individual freehold, she further discussed selected operational and policy challenges pertaining to securing tenure. The Special Rapporteur recommended that security of tenure should be clearly articulated and grounded in the international human rights framework and expressed in a variety of tenure forms.

b. General Assembly

The Secretary-General transmitted to the General Assembly the annual report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, in accordance with Human Rights Council resolution 15/8.³³⁵ The report, *inter alia*, analyzed two alternative housing policies, rental and collective housing, which can play a key role in the promotion of the enjoyment of the right of adequate housing for those living in poverty.

³³² The resolution was adopted without a vote.

³³³ A/68/294.

³³⁴ A/HRC/22/46.

³³⁵ A/68/289.

The Special Rapporteur called for a paradigm shift from the financialization of housing to a human rights-based approach, and recommended that States promote various forms of tenure, including private and public rental, as well as collective tenure.

(iv) *Access to safe drinking water and sanitation*

a. **Human Rights Council**

The Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque, submitted a report to the Human Rights Council,³³⁶ which focused on sustainability in the realization of the human rights to water and sanitation. The Special Rapporteur examined how the rights to water and sanitation can and must be met for present and future generations. After highlighting the challenges to sustainability and particularly aggravated risks in times of economic and financial crisis, she explained how the normative content and principles of the human rights to water and sanitation contribute to ensuring sustainability. She considered sustainability to be a fundamental human rights principle essential for realizing the human rights to water and sanitation and provided recommendations in this regard.

On 27 September 2013, the Human Rights Council adopted resolution 24/18 entitled “The human right to safe drinking water and sanitation”.³³⁷ The Council noted the recommendation contained in the report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda³³⁸ commissioned by the Secretary-General, listing water and sanitation among the indicative goals in the post-2015 development agenda, and also took note of the report of the Secretary-General entitled “A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015”, in which the Secretary-General recognized the human right to safe drinking water and sanitation as one of the foundations for a decent life.³³⁹ It decided to extend, for a period of three years, the mandate of the Special Rapporteur on the human right to safe drinking water and sanitation as set out in Human Rights Council resolutions 7/22 and 16/2.

b. **General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the human right to safe drinking water and sanitation,³⁴⁰ which focused on the issue of managing wastewater and curbing water pollution. The Special Rapporteur stressed the value of integrating human rights into wastewater management and water pollution control in order to address challenges in the legislative, regulatory and institutional frameworks. She also considered it mandatory to integrate human rights holistically into the post-2015 development agenda.

³³⁶ A/HRC/24/44.

³³⁷ The resolution was adopted without a vote.

³³⁸ “A new global partnership: eradicate poverty and transform economies through sustainable development”.

³³⁹ A/68/202, para. 11.

³⁴⁰ A/68/264.

On 18 December 2013, the General Assembly adopted resolution 68/157 entitled “The human right to safe drinking water and sanitation”.³⁴¹ The General Assembly, *inter alia*, reaffirmed the recognition of the right to safe drinking water and sanitation as a human right that was essential for the full enjoyment of life and all human rights. It further reaffirmed that States have the primary responsibility to ensure the full realization of all human rights and called upon States to give due consideration to the human right to safe drinking water and sanitation, and the principles of equality and non-discrimination, in the elaboration of the post-2015 development agenda.

(v) *Right to health*

a. **Human Rights Council**

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Anand Grover, submitted two reports to the Human Rights Council at its twenty-third session.

In his first report, the Special Rapporteur considered issues concerning the right to health of migrant workers.³⁴² The report focused on low-skilled migrant workers as well as irregular migrant workers, and outlined the responsibility of States as well as of non-State actors to respect, protect and fulfil the right to health of migrant workers. The Special Rapporteur also explored a number of substantive issues in this regard, including the sending State’s responsibility to provide access to information to migrant workers and to regulate recruitment agencies, right to health concerns regarding immigration policies; the mental health of migrant workers, as well as the issue of women migrant workers and their right to sexual and reproductive health. The report provided a set of recommendations aimed at ensuring that the enjoyment of the right to health of all migrant workers was respected, protected and fulfilled.

In his second report,³⁴³ the Special Rapporteur identified and analyzed challenges and good practices with respect to access to medicines in the context of the right-to-health framework. The report employed the key elements of availability, accessibility, acceptability and quality in examining national and international determinants of access to medicines. The Special Rapporteur concluded with specific recommendations for promoting access to medicines in accordance with the framework of the right to health.

On 13 June 2013, the Human Rights Council adopted resolution 23/14 entitled “Access to medicines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.³⁴⁴ The Council, *inter alia*, recognized that access to medicines was one of the fundamental elements in achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. It also stressed the responsibility of States to ensure the highest attainable level of health for all, including through access, without discrimina-

³⁴¹ The resolution was adopted without a vote.

³⁴² A/HRC/23/41.

³⁴³ A/HRC/23/42.

³⁴⁴ The resolution was adopted by a recorded vote of 31 in favour to none against, with 16 abstentions.

tion, to medicines, in particular essential medicines, that are affordable, safe, efficacious and of quality.

On 26 September 2013, the Human Rights Council also adopted resolution 24/6 entitled “The right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.³⁴⁵ It decided to extend the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health for a further period of three years.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, which focused on the right-to-health obligations of States and non-State actors with respect to persons affected by and/or involved in conflict situations.³⁴⁶ The Special Rapporteur addressed the availability, accessibility and acceptability of health facilities, goods and services during and after conflict. The report emphasized the importance of effective participation of affected communities and putting forward a set of recommendations on concrete and continuous steps towards the full realization of the right to health of persons affected by conflict situations.

(vi) *Cultural rights*

a. Human Rights Council

The Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed, submitted a report to the Human Rights Council entitled “The right to freedom of artistic expression and creativity”, in which she addressed laws and regulations restricting artistic freedoms, as well as economic and financial issues significantly impacting on such freedoms.³⁴⁷ The Special Rapporteur reflected upon the growing worldwide concern that artistic voices have been or are being silenced by various means and in different ways. She called upon States to critically review their legislation and practices imposing restrictions on the right to freedom of artistic expression and creativity, taking into consideration relevant international human rights law provisions and in cooperation with representatives of independent associations of artists and human rights organizations.

On 13 June 2013, the Human Rights Council adopted resolution 23/10 entitled “Promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity”.³⁴⁸ The Council reaffirmed, *inter alia*, that cultural rights are an integral part of human rights, which are universal, indivisible, interrelated and interdependent. It further reaffirmed that States have the responsibility to promote and protect cultural rights and that these rights should be guaranteed for all, without discrimination. The Council

³⁴⁵ The resolution was adopted without a vote.

³⁴⁶ A/68/297.

³⁴⁷ A/HRC/23/34. The mandate of the Special Rapporteur was established by resolution 19/6 of the Human Rights Council entitled “Mandate of the Special Rapporteur in the field of cultural rights”.

³⁴⁸ The resolution was adopted without a vote.

emphasized that the universal promotion and protection of human rights, including cultural rights, and respect for cultural diversity should reinforce each other.

b. General Assembly

The Special Rapporteur in the field of cultural rights submitted a report to the General Assembly,³⁴⁹ which focused on the issue of the writing and teaching of history, with a particular focus on history textbooks. The report identified the circumstances under which the official historical narrative promoted by the State in school becomes problematic from the perspective of human rights and peace. The Special Rapporteur concluded that the right of children to develop their own historical perspective throughout their education was to be considered an integral part of the right to education and proposed a set of recommendations to ensure a multi-perspective approach to teaching history. She recommended, *inter alia*, that States fully implement international provisions regarding international cooperation in the area of culture and education, in particular article 28 (3) of the Convention on the Rights of the Child and article 15 (4) of the International Covenant on Economic, Social and Cultural Rights.

(f) Civil and political rights

(i) Torture

a. Human Rights Council

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan E. Méndez, submitted a report to the Human Rights Council.³⁵⁰ The report, *inter alia*, focused on certain forms of abuses in health-care settings that may cross a threshold of mistreatment that is tantamount to torture or cruel, inhuman or degrading treatment or punishment. More particularly, it identified the policies that promote these practices and existing protection gaps.

On 22 March 2013, the Human Rights Council adopted resolution 22/21 entitled “Torture and other cruel, inhuman or degrading treatment or punishment: rehabilitation of torture victims”.³⁵¹ It recalled, *inter alia*, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)³⁵² as a valuable tool in efforts to prevent and combat torture, and the updated set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity.³⁵³ The Council called upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. It further urged all States that have not yet become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

³⁴⁹ A/68/296.

³⁵⁰ A/HRC/22/53.

³⁵¹ The resolution was adopted without a vote.

³⁵² A/HRC/RES/22/21.

³⁵³ E/CN.4/2005/102/Add.1.

or Punishment³⁵⁴ to do so, and to give early consideration to signing and ratifying the Optional Protocol thereto³⁵⁵ as a matter of priority.

b. General Assembly

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan Mendez, presented his interim report to the General Assembly, which focused on targeted areas of the review of the open-ended intergovernmental Expert Group on the Standard Minimum Rules for the Treatment of Prisoners³⁵⁶. In this report, the Special Rapporteur pointed out that the Standard Minimum Rules are considered to be among the most important soft-law instruments for the interpretation of various aspects of the rights of prisoners. He also indicated that the ongoing review process is an opportunity to enhance understanding of the scope and nature of the prohibition against torture and other ill-treatment, the contexts and consequences in which they occur and effective measures to prevent them. The Special Rapporteur called upon all States to spare no effort to ensure the full and effective implementation of all fundamental principles that are contained in international treaties, regional and international jurisprudence and instruments, and informed by up-to-date guidelines and standards such as the Standard Minimum Rules.

On 18 December 2013, the General Assembly adopted resolution 68/156 entitled “Torture and other cruel, inhuman or degrading treatment or punishment”.³⁵⁷ The General Assembly, *inter alia*, called upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³⁵⁸ to fulfil their obligation to designate or establish national preventive mechanisms that are truly independent, properly resourced and effective. It further called upon States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³⁵⁹ to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encouraged other States to do likewise, bearing in mind the need to fight impunity. The General Assembly urged all States that have not yet done so to become parties to the Convention and to give early consideration to signing and ratifying the Optional Protocol thereto as a matter of priority.

(ii) *Arbitrary detention and extrajudicial, summary and arbitrary execution*

a. Human Rights Council

On 26 September 2013, the Human Rights Council adopted resolution 24/7 entitled “Arbitrary detention”.³⁶⁰ The Human Rights Council, *inter alia*, encouraged all States to take appropriate measures to ensure that their legislation, regulations and practices remained

³⁵⁴ United Nations, *Treaty Series*, vol. 1465, p. 85.

³⁵⁵ *Ibid.*, vol. 2375, p. 237.

³⁵⁶ A/67/279.

³⁵⁷ The resolution was adopted on the recommendation of the Third Committee, without a vote.

³⁵⁸ United Nations, *Treaty Series*, vol. 2375, p. 237.

³⁵⁹ *Ibid.*, vol. 1465, p. 85.

³⁶⁰ The resolution was adopted without a vote.

in conformity with relevant international standards and the applicable international legal instruments. It also decided to extend the mandate of the Working Group on Arbitrary Detention for a further period of three years, in accordance with resolutions 1991/42 of 5 March 1991 and 1997/50 of 15 April 1997 of the Commission on Human Rights and resolution 6/4 of 28 September 2007 of the Human Rights Council.

The Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Christof Heyns, submitted his report to the Human Rights Council,³⁶¹ in which he, *inter alia*, focused on lethal autonomous robotics (LARs) and the protection of life. In this connection, he, *inter alia*, considered that LARs are weapon systems that, once activated, can select and engage targets without further human intervention. He underlined that they raise far-reaching concerns about the protection of life during war and peace and that this includes the question of the extent to which they can be programmed to comply with the requirements of international humanitarian law and the standards protecting life under international human rights law. He also emphasized that their deployment may be unacceptable because no adequate system of legal accountability can be devised, and because robots should not have the power of life and death over human beings. The Special Rapporteur thus recommended that States establish national moratoria on aspects of LARs, and called for the establishment of a high-level panel on LARs to articulate a policy for the international community on the issue.

b. General Assembly

The Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Christof Heyns, submitted his report to the General Assembly,³⁶² in which he considered the use of lethal force through armed drones from the perspective of the protection of the right to life. The Special Rapporteur also examined the ways in which the constitutive regimes of international law, including international human rights law, international humanitarian law and the law on the inter-state use of force, regulate the use of armed drones. Lastly, he recommended that States using armed drones must recognize the extra-territorial applicability of human rights treaties, in addition to the global applicability of the right to life on the basis of customary law and the general principles of international law, including during armed conflict. He further recommended that States on whose territory armed drones are used must continue to honour their own human rights obligation and recognize that they cannot consent to the violation of human rights or international humanitarian law by foreign States.

(iii) *Enforced disappearances and missing persons*

a. Human Rights Council

The Working Group on Enforced or Involuntary Disappearances³⁶³ has adopted the practice of producing post-session documents to allow the translation of reporting on its

³⁶¹ A/HRC/23/47.

³⁶² A/68/382.

³⁶³ The Working Group was established by the Commission on Human Rights by way of resolution 20 (XXXVI) of 29 February 1980 entitled "Question of missing and disappeared persons", para. 1.

activities, including all relevant country-specific information on enforced disappearances around the world since its ninety-eighth session. In 2013, the Working Group submitted two post-session documents³⁶⁴ to the Human Rights Council, reflecting communications and cases examined by the Working Group during its ninety-ninth session, which was held from 11 to 15 March, and its hundredth session, held from 15 to 19 July.

b. General Assembly

On 18 December 2013, the General Assembly adopted resolution 68/166 entitled “International Convention for the Protection of All Persons from Enforced Disappearance”³⁶⁵, by which it, *inter alia*, welcomed the report of the Secretary-General on this item³⁶⁶ and took note with interest of all the general comments of the Working Group on Enforced or Involuntary Disappearances³⁶⁷, including the most recent ones on children³⁶⁸ and women³⁶⁹ affected by enforced disappearance. It recognized the importance of the International Convention for the Protection of All Persons from Enforced Disappearance³⁷⁰, the ratification and the implementation of which it encouraged. It also recognized the importance of the Declaration on the Protection of All Persons from Enforced Disappearance³⁷¹ as a body of principles for all States designed to punish enforced disappearance, to prevent their commission, and to help victims of such acts and their families to seek fair, prompt and adequate reparation.

(iv) *Integration of human rights of women and a gender perspective*³⁷²

a. Human Rights Council

The Working Group on the issue of discrimination against women in law and in practice³⁷³ submitted a report to the Human Rights Council,³⁷⁴ which identified issues that were deemed critical to address in eliminating the structural and social underpinnings of gender discrimination in political and public life, and presented a framework to eliminate discrimination in law, with some examples of best practices. The recommendations of the

³⁶⁴ See A/HRC/WGEID/99/1 and A/HRC/WGEID/100/1.

³⁶⁵ The resolution was adopted on the recommendation of the Third Committee, without a vote.

³⁶⁶ A/68/210.

³⁶⁷ The Working Group was established by the Commission on Human Rights by way of resolution 20 (XXXVI) of 29 February 1980 entitled “Question of missing and disappeared persons”, para. 1.

³⁶⁸ A/HRC/WGEID/98/1 and Corr.1.

³⁶⁹ A/HRC/WGEID/98/2.

³⁷⁰ The Convention was adopted by General Assembly resolution 61/177 of 20 December 2006. For the text, see United Nations, *Treaty Series*, vol. 2716, p. 3.

³⁷¹ General Assembly resolution 47/133.

³⁷² For more information on developments regarding the rights of women, see section 6 of this chapter.

³⁷³ The Working Group was established by way of Human Rights Council resolution 15/23 of 1 October 2010 entitled “Elimination of discrimination against women”, para. 18. The resolution was adopted without a vote.

³⁷⁴ A/HRC/23/50.

Working Group outlined a road map for next-generation efforts to achieve substantive gender equality in political and public life.

Also in 2013, the Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, submitted a report to the Human Rights Council,³⁷⁵ in which she focused on the topic of State responsibility for eliminating violence against women. The Special Rapporteur stressed that the due diligence standard serves as a tool for rights holders to hold States accountable, by providing an assessment framework for ascertaining what constitutes effective fulfilment of a State's obligations, and for analysing its actions or omissions. She concluded that systemic due diligence refers to the obligations States must take to ensure a holistic and sustained model of prevention, protection, punishment and reparations for acts of violence against women.

The Human Rights Council adopted resolution 23/25 entitled "Accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence".³⁷⁶ The Council, *inter alia*, urged States to ensure that national laws and policies are in compliance with their international human rights obligations and are non-discriminatory by, *inter alia*, permitting prosecution of marital rape and repealing provisions that require corroboration of testimony, enable perpetrators of rape to escape prosecution and punishment by marrying their victim, and subject victims of sexual violence to prosecution for moral crimes or defamation.³⁷⁷

b. General Assembly

The Secretary-General transmitted the report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, entitled "Pathways to, conditions and consequences of incarceration for women" to the General Assembly.³⁷⁸ The report examined the causes, conditions and consequences of women's incarceration and illustrated that there was a strong link between violence against women and women's incarceration, whether prior to, during or after incarceration. The Special Rapporteur also concluded that the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders³⁷⁹ (the Bangkok Rules), which established for the first time standards that relate specifically to women prisoners, offenders and accused persons, recognized that the international law principle of non-discrimination requires States to address the particular challenges that women confront in the criminal justice and penitentiary systems.

On 18 December 2013, the General Assembly adopted resolution 68/191, entitled "Taking action against gender-related killing of women and girls".³⁸⁰ The General Assembly,

³⁷⁵ A/HRC/23/49.

³⁷⁶ The resolution was adopted without a vote.

³⁷⁷ The Human Rights Council also decided to extend the mandate of the Special Rapporteur on violence against women, its cause and consequence, as set out by the Human Rights Council in its resolution 16/7, for a period of three years.

³⁷⁸ A/68/340.

³⁷⁹ General Assembly resolution 65/229 of 21 December 2010, annex. The resolution was adopted without a vote.

³⁸⁰ The resolution was adopted on the recommendation of the Third Committee, without a vote.

inter alia, urged Member States to consider undertaking institutional initiatives, as appropriate, to improve the prevention of gender-related killing of women and girls and the provision of legal protection, including appropriate remedies, reparation and compensation, to the victims of such crimes, in accordance with applicable national and international law and taking into account, as appropriate, the Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power.³⁸¹

(v) *Trafficking*

a. Human Rights Council

The Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, submitted her annual report to the Human Rights Council,³⁸² in which she provided an overview of the activities undertaken and a thematic analysis of a human rights-based approach to discourage the demand that fosters all forms of exploitation of persons, especially women and children. The Special Rapporteur examined the role of such demand in fostering exploitation and trafficking in persons, and provided an overview of various international and regional legal and policy frameworks and initiatives, as well as different approaches and measures undertaken by States and other stakeholders. She also drew attention to some of the challenges that had arisen in integrating a human rights-based approach, and provided a set of recommendations for addressing them.

On 13 June 2013, the Human Rights Council adopted resolution 23/5 entitled “Trafficking in persons, especially women and children: efforts to combat human trafficking in supply chains of businesses”.³⁸³ The Council, *inter alia*, reiterated that all States have the obligation, under international law, to exercise due diligence to prevent and combat trafficking in persons under international law. It called upon States that have not yet done so to consider signing and ratifying, and for States parties to implement, relevant United Nations legal instruments, such as the United Nations Convention against Transnational Organized Crime³⁸⁴ and the Protocols thereto³⁸⁵, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children³⁸⁶. It further urged States to consider signing and ratifying the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.³⁸⁷

b. General Assembly

The Secretary-General transmitted the report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, to the

³⁸¹ Resolution 40/34, annex.

³⁸² A/HRC/23/48.

³⁸³ The resolution was adopted without a vote.

³⁸⁴ United Nations, *Treaty Series*, vol. 2225, p. 209.

³⁸⁵ *Ibid.*, vol. 2237, p. 319; and vol. 2241, p. 507.

³⁸⁶ *Ibid.*, vol. 2237, p. 319.

³⁸⁷ PRNo.15A, adopted during the 100th session of the International Labour Organization on 16 June 2011 in Geneva.

General Assembly.³⁸⁸ The report included a thematic analysis of the issue of trafficking in persons for the removal of organs, in which the Special Rapporteur examined exploitation of persons who are compelled by need or force to provide organs for transplantation to people within their own countries or to foreigners. She concluded that trafficking in persons for the removal of organs is, first and foremost, a violation of human rights and all States have an international legal obligation, arising through the application of trafficking in persons laws and through international human rights law, to prevent it, to prosecute offenders and to protect and assist victims. She further recommended that the international human rights system, including the treaty bodies, should be encouraged to take up the issue of trafficking in persons for the removal of organs where warranted.

On 18 December 2013, the General Assembly adopted resolution 68/192, entitled “Improving the coordination of efforts against trafficking in persons”.³⁸⁹ The General Assembly, *inter alia*, took note of the report of the Secretary-General on this item.³⁹⁰ It urged Member States that have not yet done so to consider ratifying or acceding to, as a matter of priority, the United Nations Convention against Transnational Organized Crime³⁹¹, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children³⁹², taking into consideration the central role of those instruments in the fight against trafficking in persons. The General Assembly also urged States parties to those instruments to implement them fully and effectively.

(vi) *Freedom of religion, belief and expression*

a. Human Rights Council

The Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt, submitted a report to the Human Rights Council which gave an overview of the mandate activities since the submission of his previous report³⁹³ and focused on the need to respect and protect freedom of religion or belief of persons belonging to religious minorities.³⁹⁴ He emphasized that the rights of persons belonging to religious minorities should be consistently interpreted and implemented from a human rights perspective. The Special Rapporteur further pointed out that, in keeping with the principle of normative universalism, the rights of persons belonging to religious minorities cannot be confined to the members of certain predefined groups. Instead, they should be open to all persons who live *de facto* in the situation of a minority and are in need of special protection to facilitate a free and non-discriminatory development of their individual and communitarian identities. The Special Rapporteur further described patterns of typical violations of freedom of religion or belief of persons belonging to religious minorities perpetrated by States and/or non-State actors which showed various problems that required concerted action. The report

³⁸⁸ A/68/256.

³⁸⁹ The resolution was adopted on the recommendation of the Third Committee, without a vote.

³⁹⁰ A/68/127.

³⁹¹ United Nations, *Treaty Series*, vol. 2225, p. 209.

³⁹² *Ibid.*, vol. 2237, p. 319.

³⁹³ A/HRC/19/60.

³⁹⁴ A/HRC/22/51.

concluded with a set of recommendations concerning general policies, domestic legal provisions, administration and procedures, education, media, interreligious communication and awareness-raising in protecting and promoting the freedom of religion or belief of persons belonging to religious minorities.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, submitted a report to the Human Rights Council which analyzed the implications of States' surveillance of communications on the exercise of the human rights to privacy and to freedom of opinion and expression.³⁹⁵ While considering the impact of significant technological advances in communications, the report underlined the urgent need to further study new modalities of surveillance and to revise national laws regulating these practices in line with human rights standards. The Special Rapporteur also concluded that, in order to meet their human rights obligations, States must ensure that the rights to freedom of expression and privacy are at the heart of their communications surveillance framework.

On 22 March 2013, the Human Rights Council adopted resolution 22/20 entitled "Freedom of religion or belief".³⁹⁶ The Human Rights Council, *inter alia*, emphasized that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing, and stressed further the role that these rights can play in the fight against all forms of intolerance and discrimination based on religion or belief. The Human Rights Council further emphasized that States should exercise due diligence to prevent, investigate and punish acts of violence against persons belonging to religious minorities, regardless of the perpetrator, and that failure to do so might constitute a human rights violation.³⁹⁷

b. General Assembly

The Secretary-General transmitted two reports on this topic to the General Assembly: first, the interim report of the Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt, entitled "Elimination of all forms of religious intolerance".³⁹⁸ In his report, the Special Rapporteur focused on the relationship between freedom of religion or belief and equality between men and women. While the impression that those two rights allegedly constitute two essentially contradictory human rights norms seemed to be widely shared, the Special Rapporteur emphasized the significance of upholding a holistic perspective in conformity with the formula coined at the World Conference on Human Rights that "[a]ll human rights are universal, indivisible and interdependent and interrelated" and he formulated a number of practical recommendations addressed to States and other stakeholders.

Secondly, the Secretary-General transmitted the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,

³⁹⁵ A/HRC/23/40.

³⁹⁶ The resolution was adopted without a vote.

³⁹⁷ The Council also decided to extend the mandate of the Special Rapporteur for a further period of three years and invited the Special Rapporteur to discharge his mandate in accordance with paragraph 18 of Human Rights Council resolution 6/37.

³⁹⁸ A/68/290.

Mr. Frank La Rue, in which he explored the right to access information.³⁹⁹ While emphasizing its interrelationships with the right to truth and the permissible limitations to access to information, he looked into principles that could guide the design and implementation of laws on access to information and examined common obstacles noted in existing practice. The Special Rapporteur concluded that the right to access information on human rights violations, as enshrined by the right to freedom of expression, should be considered to be part of the right to truth in all circumstances. He also made recommendations for the better translation of international human rights standards into national law and practices that promote access to information.

In 2013, the General Assembly adopted two resolutions relating to the freedom of religion or belief.⁴⁰⁰ In resolution 68/169 entitled “Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief”, the General Assembly, *inter alia*, took note of the report of the Secretary-General on steps taken by States to combat intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief.⁴⁰¹ It also urged States to take effective measures, as set forth in the resolution and consistent with their obligations under international human rights law, to address and combat incidents of religious intolerance, discrimination and related violence, as well as of negative stereotyping of individuals on the basis of religion or belief.

In resolution 68/170, entitled “Freedom of religion or belief”, the General Assembly, *inter alia*, stressed that everyone has the right to freedom of thought, conscience and religion or belief, which includes the freedom to have, or not to have, or to adopt a religion or belief of one’s own choice, and the freedom, either alone or in community with others and in public or private, to manifest one’s religion or belief in teaching, practice, worship and observance, including the right to change one’s religion or belief. The General Assembly also emphasized that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing, and stressed further the role that these rights can play in the fight against all forms of intolerance and of discrimination based on religion or belief.

(g) Rights of the Child

(i) Human Rights Council

Developments in the work of the Human Rights Council in this area related to, *inter alia*, child mortality and health, forced marriages, and the rights of children of parents sentenced to the death penalty.

The Special Representative of the Secretary-General on Violence against Children, Ms. Marta Santos Pais, submitted her annual report to the Human Rights Council. The report highlighted crucial results achieved and progress promoted in the protection of

³⁹⁹ A/68/362.

⁴⁰⁰ The resolutions were both adopted on the recommendation of the Third Committee, without a vote.

⁴⁰¹ A/68/546.

children from violence, identifying efforts required to sustain and scale up achievements made, and informing a strategic future agenda.

The Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Leila Zerrougui, submitted her annual report to the Human Rights Council.⁴⁰² The report covered the period from May 2012 to December 2013 and outlined the activities undertaken in discharging her mandate, including information on her field visits and the progress achieved with regard to developing and implementing action plans. The Special Representative also set out a series of recommendations addressed to States parties to the Convention on the Rights of the Child, 1998,⁴⁰³ to States under the review of the Human Rights Council universal periodic review mechanism, to the Human Rights Council and to Member States to further the protection of children's rights.

On the issue of child mortality, pursuant to Human Rights Council resolution 22/32 of 22 March 2013,⁴⁰⁴ the Secretary-General transmitted the study of the World Health Organization entitled "Study by the World Health Organization on mortality among children under five years of age as a human rights concern" to the Human Rights Council on 9 September 2013.⁴⁰⁵ The study, *inter alia*, identified the human rights dimensions of under-five mortality within the existing international legal framework, and recommended ways in which the Human Rights Council can support the articulation and adoption of a human-rights-based approach to eliminating preventable under-five mortality. In resolution 24/11 of 26 September 2013 entitled "Preventable mortality and morbidity of children under five years of age as a human rights concern",⁴⁰⁶ the Human Rights Council welcomed the WHO report's discussion of under-five mortality as a human rights concern, and recognized that a human-rights-based approach to reduce and eliminate preventable child mortality and morbidity is underpinned by the principles of, *inter alia*, equality and non-discrimination, participation, the best interests of the child, international cooperation and accountability.

The Human Rights Council also addressed child health in resolution 22/32 of 22 March 2013 entitled "Rights of the child: the right of the child to the enjoyment of the highest attainable standard of health".⁴⁰⁷ The Human Rights Council, *inter alia*, acknowledged that the Convention on the Rights of the Child⁴⁰⁸ is the most universally ratified human rights treaty, and urged States that have not yet done so to become parties to the Convention and the first two Optional Protocols thereto⁴⁰⁹, and to consider signing and ratifying the third Optional Protocol thereto⁴¹⁰, and further urged States parties to

⁴⁰² A/HRC/25/46.

⁴⁰³ United Nations, *Treaty Series*, vol. 1577, p. 3.

⁴⁰⁴ Entitled "Rights of the child: the right of the child to the enjoyment of the highest attainable standard of health".

⁴⁰⁵ A/HRC/24/60.

⁴⁰⁶ The resolution was adopted without a vote.

⁴⁰⁷ The resolution was adopted without a vote.

⁴⁰⁸ United Nations, *Treaty Series*, vol. 1577, p. 3.

⁴⁰⁹ *Ibid.*, vol. 2173, p. 222; and vol. 2171, p. 227.

⁴¹⁰ For the text of the Optional Protocol, see General Assembly resolution 66/138 of 19 December 2011 entitled "Optional Protocol to the Convention on the Rights of the Child on a communications procedure", annex. The resolution was adopted without a vote.

withdraw reservations incompatible with the object and purpose of the Convention and the Optional Protocols thereto. It also called upon all States and other parties to armed conflict to fully respect international humanitarian law, and condemned all violations of applicable international law committed against children in armed conflict. It further called on parties to armed conflict to respect the prohibition under international humanitarian law of attacks on schools and hospitals and to facilitate humanitarian access to children in conflict-affected areas.

On the issue of early and forced marriage, in resolution 24/23 of 27 September 2013 entitled “Strengthening efforts to prevent and eliminate child, early and forced marriage: challenges, achievements, best practices and implementation gaps”,⁴¹¹ the Human Rights Council recalled States’ human rights obligations and commitments to prevent and eliminate the practice of child, early and forced marriage, which disproportionately affects women and girls.

Finally, the Human Rights Council adopted resolution 22/11 of 10 April 2013 entitled “Panel on the human rights of children of parents sentenced to the death penalty or executed”.⁴¹² In this resolution, the Human Rights Council expressed deep concern at the negative impact of the imposition and carrying out of the death penalty on the human rights of children of parents sentenced to the death penalty or executed. In this regard, the Council called upon States to provide those children or, where appropriate, giving due consideration to the best interests of the child, another member of the family, with access to their parents and to all relevant information about the situation of their parents.

(ii) *General Assembly*

The Special Representative of the Secretary-General on Violence against Children, Ms. Marta Santos Pais, submitted her annual report to the General Assembly,⁴¹³ which provided information on the activities undertaken in the fulfilment of her mandate, including information on her field visits and on the progress achieved and the challenges remaining on the violence against children agenda.

The Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Leila Zerrougui, also submitted her annual report to the General Assembly,⁴¹⁴ which provided an overview of progress on the children and armed conflict agenda, followed by an account of new developments. The Special Representative urged Member States that have not done so to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict⁴¹⁵ and to enact effective national legislation and policies to criminalize the recruitment and use of children by armed forces.

In 2013, the General Assembly adopted four resolutions relating to the rights of the child.⁴¹⁶ Two of those resolutions are particularly relevant here.

⁴¹¹ The resolution was adopted without a vote.

⁴¹² The resolution was adopted without a vote.

⁴¹³ A/68/274.

⁴¹⁴ A/68/267.

⁴¹⁵ United Nations, *Treaty Series*, vol. 2173, p. 222.

⁴¹⁶ General Assembly resolutions 68/145 entitled “Strengthening collaboration on child protection within the United Nations system”; 68/146 entitled “The girl child”; 68/147 entitled “Rights of the

In resolution 68/146,⁴¹⁷ entitled “The girl child”, the General Assembly urged, *inter alia*, the need for the full and urgent implementation of the rights of the girl child as provided to her under human rights instruments and urged States to consider signing and ratifying or acceding to the Convention on the Rights of the Child,⁴¹⁸ the Convention on the Elimination of All Forms of Discrimination against Women,⁴¹⁹ the Convention on the Rights of Persons with Disabilities⁴²⁰ and the Optional Protocols thereto⁴²¹ as a matter of priority. The General Assembly also urged all States that have not yet ratified or acceded to the Minimum Age Convention, 1973 (No. 138),⁴²² and the Worst Forms of Child Labour Convention, 1999 (No. 182)⁴²³ of the International Labour Organization to consider doing so. It further urged Member States, the United Nations and other international, regional and subregional organizations, as well as civil society, including non-governmental organizations, the private sector and the media, to fully and effectively implement the relevant provisions of the United Nations Global Plan of Action to Combat Trafficking in Persons.⁴²⁴

In resolution 68/147, entitled “Rights of the child”, the General Assembly reaffirmed that the general principles of, *inter alia*, the best interests of the child, non-discrimination, participation and survival and development, provide the framework for all actions concerning children.⁴²⁵ It urged States that have not yet done so to become parties to the Convention on the Rights of the Child,⁴²⁶ the Optional Protocol thereto on the sale of children, child prostitution and child pornography⁴²⁷ and the Optional Protocol thereto on the involvement of children in armed conflict,⁴²⁸ and to fully implement them by, *inter alia*, putting in place effective national legislation, policies and action plans, and strengthening relevant governmental structures for children. It also recalled, in accordance with international humanitarian law, that indiscriminate attacks against civilians, including children, are prohibited and that children shall not be the object of attack.

child”; and 68/189 entitled “Model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice”. These resolutions were adopted without a vote.

⁴¹⁷ The resolution was adopted without a vote.

⁴¹⁸ United Nations, *Treaty Series*, vol. 1577, p. 3.

⁴¹⁹ *Ibid.*, vol. 1249, p. 13.

⁴²⁰ *Ibid.*, vol. 2515, p. 3.

⁴²¹ *Ibid.*, vol. 2518, p. 283.

⁴²² *Ibid.*, vol. 1015, p. 297.

⁴²³ *Ibid.*, vol. 2133, No. 37245.

⁴²⁴ General Assembly resolution 64/293 of 30 July 2010, annex. The resolution was adopted without a vote.

⁴²⁵ The resolution was adopted without a vote.

⁴²⁶ United Nations, *Treaty Series*, vol. 1577, p. 3.

⁴²⁷ *Ibid.*, vol. 2171, p. 227.

⁴²⁸ *Ibid.*, vol. 2173, p. 222.

(iii) *Security Council*

On 17 June 2013, the President of the Security Council made a statement in connection with the Security Council's consideration of the item entitled "Children and armed conflict".⁴²⁹ The Security Council reiterated, *inter alia*, its commitment to address the widespread impact of armed conflict on children. It reiterated its strong condemnation of all violations of applicable international law involving the recruitment and use of children by parties to armed conflict. The Security Council condemned all other violations of international law, including international humanitarian law, human rights law and refugee law, committed against children in situations of armed conflict. It also stressed that ending impunity and holding perpetrators accountable is a crucial element in halting and preventing violations and abuses committed against children and recalled the primary responsibility of States in that regard.

(h) **Migrants**(i) *Human Rights Council*

The Special Rapporteur on the human rights of migrants, Mr. François Crépeau, submitted his report to the Human Rights Council.⁴³⁰ The thematic part of the report focused on the management of the external borders of the European Union and its impact on the human rights of migrants. By analyzing the European Union's approach to the management of its external borders, such as securitization of migration and border control, the Special Rapporteur pointed out that migration policies based on deterrence are fundamentally at odds with human rights obligations and called for an approach which would be in accordance with legal obligations under international human rights law.

On 14 June 2013, the Human Rights Council adopted resolution 23/20 entitled "Human rights of migrants".⁴³¹ The Human Rights Council, *inter alia*, reaffirmed that States have the duty to comply with their obligations under international law, including human rights law, while exercising their sovereign right to enact and implement migration and border security measures. The Human Rights Council called upon States that have not yet done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁴³² as a matter of priority.

(ii) *General Assembly*

The Secretary-General transmitted the annual report of the Special Rapporteur on human rights of migrants, Mr. François Crépeau, to the General Assembly.⁴³³ The thematic section of the report was dedicated to global migration governance and explored the need for a strengthened institutional framework based on human rights. He further

⁴²⁹ S/PRST/2013/8.

⁴³⁰ A/HRC/23/46.

⁴³¹ The resolution was adopted without a vote.

⁴³² United Nations, *Treaty Series*, vol. 2220, p. 3.

⁴³³ A/68/283.

recommended that States should consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,⁴³⁴ as well as other relevant treaties.

On 18 December 2013, the General Assembly adopted resolution 68/179 entitled “Protection of migrants”.⁴³⁵ The General Assembly, *inter alia*, reaffirmed the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migration status. The General Assembly further reaffirmed emphatically the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations,⁴³⁶ in particular with regard to the right of all foreign nationals, regardless of their migration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention.

(i) Internally displaced persons

(i) *Human Rights Council*

The Special Rapporteur on the human rights of internally displaced persons, Mr. Chaloka Beyani, submitted a report to the Human Rights Council which provided a thematic analysis of the particular situation of internally displaced women.⁴³⁷ In this regard, he, *inter alia*, underscored the importance of finding practical solutions to key issues and made recommendations in line with the Guiding Principles on Internal Displacement and other relevant standards.

On 13 June 2013, the Human Rights Council adopted resolution 23/8 entitled “Mandate of the Special Rapporteur on the human rights of internally displaced persons”. The Human Rights Council, *inter alia*, called upon States to provide, as set forth in the Guiding Principles on Internal Displacement⁴³⁸, national laws and policies that comprehensively protect the human rights of internally displaced persons, and adequately address the specific needs of internally displaced women and girls. It decided to extend the mandate of the Special Rapporteur on the human rights of internally displaced persons for a period of three years. The Human Rights Council also welcomed the adoption, entry into force and ongoing process of ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa⁴³⁹ (the “Kampala

⁴³⁴ United Nations, *Treaty Series*, vol. 2220, p. 3.

⁴³⁵ The resolution was adopted on the recommendation of the Third Committee, without a vote.

⁴³⁶ United Nations, *Treaty Series*, vol. 596, p. 261.

⁴³⁷ A/HRC/23/44.

⁴³⁸ The text of the Guiding Principles can be found in General Assembly resolution 46/182 of 19 December 1991 entitled “Strengthening of the coordination of humanitarian emergency assistance of the United Nations”, annex. The resolution was adopted without a vote.

⁴³⁹ Also known as the “Kampala Convention”, the Convention was adopted by the Special Summit of the African Union held in Kampala, Uganda, on 23 October 2009. For more information about the Convention, see <https://www.au.int/web/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa>.

Convention”) and encouraged other regional mechanisms to consider the development of similar regional normative frameworks for the protection of internally displaced persons.

(ii) *General Assembly*

The Secretary-General transmitted the annual report of the Special Rapporteur on the human rights of internally displaced persons to the General Assembly.⁴⁴⁰ The Special Rapporteur outlined the major activities undertaken during the period from August 2012 to July 2013, and addressed the role of humanitarian and development actors in achieving durable solutions for internally displaced persons through peacebuilding in the aftermath of conflict. He concluded that States bear the primary responsibility for finding durable solutions for internally displaced persons and made recommendations based on the Guiding Principles on Internal Displacement as well as relevant aspects of the Kampala Convention, the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons⁴⁴¹ and the Secretary-General’s Framework.

The General Assembly adopted resolution 68/180 entitled “Protection of and assistance to internally displaced persons”. The General Assembly, *inter alia*, recognized that Member States have the primary responsibility to promote durable solutions for their internally displaced persons, and encouraged the international community to meet the needs of internally displaced persons on the basis of solidarity, the principles of international cooperation and the Guiding Principles on International Displacement.⁴⁴² It further recognized those Guiding Principles as an important international framework for the protection of internally displaced persons and encouraged all relevant actors to make use of them when dealing with situations of internal displacement.

(j) *Minorities*

(i) *Human Rights Council*

On 21 March 2013, the Human Rights Council adopted resolution 22/4, entitled “Rights of persons belonging to national or ethnic, religious and linguistic minorities”. The Human Rights Council, *inter alia*, urged States to undertake initiatives to ensure that persons belonging to national or ethnic, religious and linguistic minorities are aware of and able to exercise their rights as set out in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities⁴⁴³ and other international human rights obligations and commitments. It called upon States to effectively follow up on accepted UPR recommendations relating to the rights of persons belonging to national or

⁴⁴⁰ A/68/225.

⁴⁴¹ A/HRC/13/21/Add.4.

⁴⁴² E/CN.4/1998/53/Add.2, annex.

⁴⁴³ The text of the Declaration can be found in General Assembly resolution 47/135 of 18 December 1992, annex. The resolution was adopted without a vote.

ethnic, religious and linguistic minorities, and further encouraged States parties to give serious consideration to the follow-up to treaty body recommendations on the matter.⁴⁴⁴

(ii) *General Assembly*

The Independent Expert on minority issues, Ms. Rita Izsák, presented her report to the General Assembly, focusing on minority rights-based approaches to the protection and promotion of the rights of religious minorities.⁴⁴⁵ She considered that, globally, the rights of religious minorities were poorly implemented in practice and the wider collective rights of religious minorities were frequently neglected by Governments. She recommended that all States should fully implement the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities⁴⁴⁶ with due and dedicated attention to the situation of religious minorities present in the country.

The Secretary-General also submitted a report on the subject of minority rights to the General Assembly. Pursuant to General Assembly resolution 66/166 of 19 December 2011,⁴⁴⁷ the report, entitled “Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”⁴⁴⁸, marked the twentieth anniversary of the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The report provided an outline of activities undertaken to promote the implementation of the Declaration and highlighted effective practices and challenges that should be addressed in strengthening implementation at the national, regional and international levels. He concluded that States should further strive to meet their legal obligations to protect minorities in line with international human rights law.

On 18 December 2013, the General Assembly adopted resolution 68/172 entitled “Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”.⁴⁴⁹ The General Assembly, *inter alia*, reaffirmed the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law, as proclaimed in the Declaration,⁴⁵⁰ and drew attention to the relevant provisions of the

⁴⁴⁴ It should also be noted that the Forum on Minority Issues held its sixth session in 2013 and focused on issues relating to religious minorities. The Forum’s approach has been to give priority to the identification of positive and effective practices that have been implemented by countries in different regions to protect and promote the rights of persons belonging to religious minorities, with a particular emphasis on promoting dialogue, understanding and constructive exchange among minority and majority faith groups (A/HRC/FMI/2013/2).

⁴⁴⁵ A/68/268.

⁴⁴⁶ General Assembly resolution 47/135 of 18 December 1992, annex. The resolution was adopted without a vote.

⁴⁴⁷ The resolution was adopted without a vote.

⁴⁴⁸ A/68/304.

⁴⁴⁹ The resolution was adopted without a vote.

⁴⁵⁰ Resolution 47/135, annex.

Durban Declaration and Programme of Action,⁴⁵¹ including the provisions on forms of multiple discrimination. It also urged States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, including through the encouragement of conditions for the promotion of their identity, the provision of adequate education and the facilitation of their participation in all aspects of the political, economic, social, religious and cultural life of society and in the economic progress and development of their country, without discrimination, and to apply a gender perspective while doing so.

(k) Indigenous issues

(i) *Human Rights Council*

In 2013, notable developments in this area arose from the work of the United Nations Commissioner for Human Rights, the Special Rapporteur on the rights of indigenous peoples, the Expert Mechanism on the Rights of Indigenous Peoples.

Pursuant to resolution 21/24, the United Nations Commissioner for Human Rights submitted a report on the rights of indigenous peoples to the Human Rights Council.⁴⁵² The report focused on some illustrative examples of the OHCHR activities and initiatives undertaken at Headquarters and by field presence that contributed to the full application of the rights of indigenous peoples. The report emphasized that the rights of indigenous peoples had remained a priority and that the Office had further strengthened its work to advance the rights of indigenous peoples at the country level and increased its efforts to give practical guidance on the content of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples⁴⁵³ to various key stakeholders ranging from parliamentarians to national human rights institutions.

The Special Rapporteur on the rights of indigenous peoples, Mr. James Anaya, presented his final thematic report to the Human Rights Council, which addressed the human rights concerns of indigenous peoples relating to extractive industries.⁴⁵⁴ In the report, the Special Rapporteur sought to further advance understanding of the content and implications of relevant international human rights standards, identifying and building upon points of consensus that he had found in relation to those standards. He stressed that just as indigenous peoples have the right to pursue their own initiatives for resource extraction, as part of their right to self-determination and to set their own strategies for development, they have the right to decline to pursue such initiatives in favour of other initiatives for their sustainable development. He further stressed that companies should conduct due diligence by identifying and assessing any actual or potential adverse human rights impacts of a resource extraction project, to ensure that their actions would not violate or be complicit in the violation of indigenous peoples' rights.

⁴⁵¹ See A/CONF.189/12 and Corr.1, chap. I.

⁴⁵² A/HRC/24/26.

⁴⁵³ The text of the Declaration can be found in General Assembly resolution 61/295 of 13 September 2007, annex. The resolution was adopted by a recorded vote of 143 in favour to 4 against, with 11 abstentions.

⁴⁵⁴ A/HRC/24/41.

There were also several relevant developments that arose from the Expert Mechanism on the Rights of Indigenous Peoples,⁴⁵⁵ which held its sixth session from 8 to 12 July 2013.⁴⁵⁶ The Expert Mechanism adopted, *inter alia*, its study and advice on access to justice in the promotion and protection of the rights of indigenous peoples,⁴⁵⁷ as well as its report on the summary of responses to the questionnaire seeking the views of States and indigenous peoples on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples.⁴⁵⁸ The Expert Mechanism also submitted its study, entitled “Access to justice in the promotion and protection of the rights of indigenous peoples”, to the Human Rights Council pursuant to resolution 21/24.⁴⁵⁹ The study outlined the right to access to justice as applied to indigenous peoples, including analysis of its relationship to the rights of indigenous peoples to self-determination, non-discrimination and culture. It also examined access to justice issues relevant to indigenous women, children and youth and persons with disabilities, as well as the potential of truth and reconciliation processes to promote access to justice for indigenous peoples.

The Human Rights Council adopted two resolutions on indigenous rights.⁴⁶⁰ By resolution 24/9, entitled “Human rights and indigenous peoples: mandate of the Special Rapporteur on the rights of indigenous peoples”, the Human Rights Council, *inter alia*, decided to extend the mandate of the Special Rapporteur on the rights of indigenous peoples for a period of three years. By resolution 24/10, entitled “Human rights and indigenous peoples”, the Human Rights Council, *inter alia*, reaffirmed that the UPR, together with the United Nations treaty bodies, were important mechanisms for the promotion and protection of human rights, and, in that regard, encouraged effective follow-up to accepted UPR recommendations concerning indigenous peoples, as well as treaty body recommendations on the matter. It also welcomed the sixth anniversary of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples⁴⁶¹, and encouraged States that have endorsed it to adopt measures to pursue the objective of the Declaration in consultation and cooperation with indigenous peoples, where appropriate.

⁴⁵⁵ In its resolution 6/36, the Human Rights Council established the Expert Mechanism on the Rights of Indigenous Peoples as a subsidiary body to assist the Council in the implementation of its mandate by providing it with thematic expertise on the rights of indigenous peoples. The Council also decided that the thematic expertise would focus mainly on studies and research-based advice and the mechanism could suggest proposals to it for its consideration and approval.

⁴⁵⁶ A/HRC/24/49.

⁴⁵⁷ A/HRC/EMRIP/2013/2.

⁴⁵⁸ A/HRC/EMRIP/2013/3.

⁴⁵⁹ A/HRC/24/50.

⁴⁶⁰ The resolution was adopted without a vote.

⁴⁶¹ The text of the Declaration can be found in General Assembly resolution 61/295 of 13 September 2007, annex. The resolution was adopted by a recorded vote of 143 in favour to 4 against, with 11 abstentions.

(ii) *General Assembly*

By resolution 68/149, entitled “Rights of indigenous peoples”,⁴⁶² the General Assembly, *inter alia*, encouraged those States that had not yet ratified or acceded to the Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989, to consider doing so and to consider supporting the United Nations Declaration on the Rights of Indigenous Peoples.⁴⁶³

(I) **Terrorism and human rights**⁴⁶⁴(i) *Human Rights Council*

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Ben Emmerson, submitted a report to the Human Rights Council.⁴⁶⁵ The Special Rapporteur set out framework principles for securing the right to truth and the principle of accountability for gross or systematic human rights violations committed by public officials while countering terrorism. He recommended that States should prosecute those individuals found to have participated in secretly detaining persons and in any unlawful acts perpetrated during such detention without delay and, where found guilty, to give sentences commensurate with the gravity of the acts perpetrated.

On 21 March 2013, the Human Rights Council adopted resolution 22/8 entitled “Protection of human rights and fundamental freedoms while countering terrorism: mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism”. The Council decided to extend the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for a period of three years in the same terms as provided for by the Human Rights Council in its resolution 15/15 of 30 September 2010⁴⁶⁶ under the same title as resolution 22/8.

(ii) *General Assembly*

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism also submitted a report to the General Assembly.⁴⁶⁷ The Special Rapporteur discussed the use of remotely piloted aircraft in extraterritorial lethal counter-terrorism operations, including in the context of asymmetrical armed conflict. He also set out a framework for examining the factual and legal issues by reference to the principles laid down in the United Nations Global Counter-

⁴⁶² The resolution was adopted on the recommendation of the Third Committee, without a vote.

⁴⁶³ The text of the Declaration can be found in General Assembly resolution 61/295 of 13 September 2007, annex. The resolution was adopted by a recorded vote of 143 in favour to 4 against, with 11 abstentions.

⁴⁶⁴ For further information on terrorism, see sections 2 (g) and 16 (f) of this chapter.

⁴⁶⁵ A/HRC/22/52.

⁴⁶⁶ The resolution was adopted without a vote.

⁴⁶⁷ A/68/389.

Terrorism Strategy.⁴⁶⁸ The Special Rapporteur reaffirmed that States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law. He confirmed that, if used in strict compliance with the principles of international humanitarian law, remotely piloted aircraft are capable of reducing the risk of civilian casualties in armed conflict by significantly improving the situational awareness of military commanders.

The Secretary-General also submitted a report on “Protecting human rights and fundamental freedoms while countering terrorism” to the General Assembly on 19 July 2013.⁴⁶⁹ The Secretary-General referred to recent developments within the United Nations system in relation to human rights and counter-terrorism, including in support of the implementation of the United Nations Global Counter-Terrorism Strategy, the Counter-Terrorism Committee Executive Directorate, the Human Rights Council, the United Nations human rights treaty bodies and the Office of the High Commissioner for Human Rights. He concluded that in line with their commitments under the Strategy, Member States should promote respect for and compliance with human rights and the rule of law as part of holistic and effective counter-terrorism strategies at the national and regional levels.

On 18 December 2013, the General Assembly adopted resolution 68/178 entitled “Protection of human rights and fundamental freedoms while countering terrorism”.⁴⁷⁰ The General Assembly, *inter alia*, reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law. It also reaffirmed the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,⁴⁷¹ to respect certain rights as non-derogable in any circumstances. The General Assembly urged States, while countering terrorism, to ensure that any measures taken or means employed to counter terrorism, including the use of remotely piloted aircraft, comply with their obligations under international law, including the Charter of the United Nations, human rights law and international humanitarian law, in particular the principles of distinction and proportionality. It further urged all States that have not yet done so to sign, ratify or accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁴⁷² and encouraged States to consider ratifying as a matter of priority the Optional Protocol thereto,⁴⁷³ the implementation of which would make a significant contribution in support of the rule of law in countering terrorism.

⁴⁶⁸ General Assembly resolution 60/288 of 8 September 2006. The resolution, together with its annex, would constitute the Strategy (see para. 2), and was adopted without a vote.

⁴⁶⁹ A/68/298.

⁴⁷⁰ The resolution was adopted on the recommendation of the Third Committee, without a vote.

⁴⁷¹ See resolution 2200 A (XXI), annex.

⁴⁷² United Nations, *Treaty Series*, vol. 1465, p. 112.

⁴⁷³ *Ibid.*, vol. 2375, p. 237.

(m) Promotion and protection of human rights

(i) International cooperation and universal instruments

a. Human Rights Council

On 13 June 2013, the Human Rights Council adopted resolution 23/3 entitled “Enhancement of international cooperation in the field of human rights”.⁴⁷⁴ The Human Rights Council, *inter alia*, reaffirmed that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, objectivity and transparency, in a manner consistent with the purposes and principles set out in the Charter. The Human Rights Council urged all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance. The Human Rights Council further urged States to take necessary measures to enhance bilateral, regional and international cooperation aimed at addressing the adverse impact of consecutive and compounded global crises, such as financial and economic crises, food crises, climate change and natural disasters, on the full enjoyment of human rights. The Human Rights Council also welcomed the report of the Independent Expert on human rights and international solidarity⁴⁷⁵ and reiterated its request to the Independent Expert to continue work in the preparation of a draft declaration on the rights of peoples and individuals to international solidarity and in further developing guidelines, standards, norms and principle with a view of promoting and protecting this right by addressing, *inter alia*, existing and emerging obstacles to its realization.

b. General Assembly

In accordance with Human Rights Council resolution 21/10 of 27 September 2012 entitled “Human rights and international solidarity”,⁴⁷⁶ the Independent Expert on human rights and international solidarity submitted a report on 23 July 2013⁴⁷⁷, providing an introduction to the mandate of human rights and international solidarity, and featuring a summary of activities undertaken by the Independent Expert since Human Rights Council resolutions 18/5 of 29 September 2011 and 23/12 of 13 June 2013, both entitled “Human rights and international solidarity”.

On 18 December 2013, the General Assembly adopted resolution 68/160 entitled “Enhancement of international cooperation in the field of human rights”.⁴⁷⁸ The General Assembly, *inter alia*, reaffirmed that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, objectivity and transparency, in a manner consistent with

⁴⁷⁴ The resolution was adopted without a vote,

⁴⁷⁵ A/HRD/23/45 and Add.1.

⁴⁷⁶ The resolution was adopted by a recorded vote of 35 in favour to 12 against. See also *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.5(m)(a).

⁴⁷⁷ A/68/176.

⁴⁷⁸ The resolution was adopted on the recommendation of the Third Committee, without a vote.

the purposes and principles set out in the Charter. It also called upon Member States, the specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encouraged non-governmental organizations to contribute actively to this endeavour.

(ii) *National human rights institutions in the promotion and protection of human rights*

a. **Human Rights Council**

On 13 June 2013, the Human Rights Council adopted resolution 23/17 entitled “National institutions for the promotion and protection of human rights”. The Human Rights Council, *inter alia*, recognized that, in accordance with the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,⁴⁷⁹ it was the right of each State to choose the framework for national institutions that was best suited to its particular needs at the national level in order to promote human rights in accordance with international human rights standards. It encouraged Member States to establish effective, independent and pluralistic national institutions or, where they already existed, to strengthen them for the promotion and protection of all human rights and fundamental freedoms for all, as outlined in the Vienna Declaration, and to do so in accordance with the Paris Principles⁴⁸⁰.

b. **General Assembly**

On 18 December 2013, the General Assembly adopted resolution 68/171 entitled “National institutions for the promotion and protection of human rights”.⁴⁸¹ The General Assembly, *inter alia*, reaffirmed the importance of the development of effective, independent and pluralistic national institutions for the promotion and protection of human rights, in accordance with the Paris Principles.⁴⁸² It recognized again that, in accordance with the Vienna Declaration and Programme of Action,⁴⁸³ it was the right of each State to choose the framework for national institutions that was best suited to its particular needs at the national level in order to promote human rights in accordance with international human rights standards. The General Assembly further encouraged national human rights institutions compliant with the Paris Principles to continue to participate in and to contribute to deliberations on all relevant United Nations mechanisms and processes in

⁴⁷⁹ A/CONF.157/24 (Part I).

⁴⁸⁰ General Assembly resolution 48/134 of 20 December 1993, annex. The resolution was adopted without a vote.

⁴⁸¹ The resolution was adopted without a vote. In 2012, the related General Assembly resolution 67/163 of 20 December 2012 was entitled “The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights”; see *United Nations Juridical Yearbook*, 2012, chap. III, sect. A.5(m)(ii).

⁴⁸² General Assembly resolution 48/134 of 20 December 1993, annex. The resolution was adopted without a vote.

⁴⁸³ A/CONF.157/24 (Part I).

accordance with their respective mandates, including the discussions on the post-2015 development agenda.

(iii) *The right to promote and protect universally recognized human rights*

a. Human Rights Council

The Special Rapporteur on the situation of human rights defenders, Ms. Margaret Sekaggya, submitted her annual report to the Human Rights Council.⁴⁸⁴ The Special Rapporteur focused on the main tools at her disposal, lessons learned and challenges in the discharge of her functions. The Special Rapporteur also elaborated on the main elements that in her view were necessary for defenders to be able to operate in a safe and enabling environment.

On 21 March 2013, the Human Rights Council adopted resolution 22/6 entitled “Protecting human rights defenders”. The Human Rights Council stressed that legislation affecting the activities of human rights defenders and its application must be consistent with international human rights law, including the International Covenant on Civil and Political Rights⁴⁸⁵ and the International Covenant on Economic, Social and Cultural Rights⁴⁸⁶, and guided by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and, in this regard, condemned the imposition of any limitations on the work and activities of human rights defenders enforced in contravention of international human rights law. It also called upon States to ensure that legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law.

b. General Assembly

On 5 August 2013, the Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the situation of human rights defenders, Ms. Margaret Sekaggya, entitled “Situation of human rights defenders” which focused on the relationship between large-scale development projects and the activities of human rights defenders.⁴⁸⁷ She set out a human rights-based approach to development projects that she believed would allow for the meaningful and safe participation of human rights defenders at all stages of development projects. She recommended that States should ensure that the rights of freedom of expression, association and peaceful assembly are respected by allowing those affected by large-scale development projects to express concern and discontent.

On 18 December 2013, the General Assembly adopted resolution 68/181 entitled “Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders”.⁴⁸⁸ The

⁴⁸⁴ A/HRC/25/55.

⁴⁸⁵ United Nations, *Treaty Series*, vol. 999, p. 171.

⁴⁸⁶ *Ibid.*, vol. 993, p. 3.

⁴⁸⁷ A/68/262.

⁴⁸⁸ The resolution was adopted without a vote.

General Assembly, *inter alia*, stressed that respect and support for the activities of human rights defenders, including women human rights defenders, were essential to the overall enjoyment of human rights, and condemned all human rights violations and abuses committed against persons engaged in promoting and defending human rights and fundamental freedoms. The General Assembly called upon States to ensure that human rights defenders, including women human rights defenders, can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law.

(n) Persons with disabilities⁴⁸⁹

Human Rights Council

On 21 March 2013, the Human Rights Council adopted resolution 22/3 entitled “The work and employment of persons with disabilities”.⁴⁹⁰ The Human Rights Council, *inter alia*, called upon those States and regional integration organizations that have not yet ratified or acceded to the Convention on the Rights of Persons with Disabilities⁴⁹¹ and its Optional Protocol⁴⁹² to consider doing so as a matter of priority. It also called upon States parties to ensure that persons with disabilities can effectively and fully enjoy the right to work on an equal basis with others, including the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. The Human Rights Council further encouraged States that have ratified the Convention and have submitted one or more reservations to it to initiate a process to review regularly the effect and continued relevance of such reservations, and to consider the possibility of withdrawing them.

(o) Contemporary forms of slavery

Human Rights Council

The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Gulnara Shahinian, presented her report to the Human Rights Council.⁴⁹³ The Special Rapporteur focused on challenges and lessons learned in combating slavery, in which she highlighted various challenges that need to be addressed in order to combat contemporary forms of slavery. She also put forward recommendations for governments, United Nations agencies and civil society organizations to tackle such challenges.

On 26 September 2013, the Human Rights Council adopted resolution 24/3 entitled “Special Rapporteur on contemporary forms of slavery”. The Human Rights Council, *inter alia*, decided that the Special Rapporteur shall examine and report on all contemporary forms of slavery and slavery-like practices, but in particular those defined in the Slavery

⁴⁸⁹ See also Economic and Council resolution 2012/11 of 26 July 2012 entitled “Mainstreaming disability in the development agenda”.

⁴⁹⁰ The resolution was adopted without a vote.

⁴⁹¹ United Nations, *Treaty Series*, vol. 2515, p. 3.

⁴⁹² *Ibid.*, vol. 2518, p. 283.

⁴⁹³ A/HRC/24/43.

Convention of 1926⁴⁹⁴ and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956,⁴⁹⁵ as well as all other issues covered previously by the Working Group on Contemporary Forms of Slavery. It further decided that the Special Rapporteur shall promote the effective application of relevant international norms and standards on slavery and request, receive and exchange information on contemporary forms of slavery from governments, treaty bodies, special procedures, specialized agencies, intergovernmental organizations, non-governmental organizations and other relevant sources, including on slavery practices and, as appropriate and in line with the current practice, respond effectively to reliable information on alleged human rights violations with a view to protecting the human rights of victims of slavery and preventing violations.

(p) Other

- (i) *Effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights*

a. Human Rights Council

The Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr. Cephas Lumina, submitted an interim report entitled “The negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights” to the Human Rights Council.⁴⁹⁶ The interim report provided an overview of the different types of illicit financial flows, including details on the countries from which such funds originate and where they are held, as well as current initiatives to curb illicit financial flows.

The Independent Expert further submitted his report entitled “An assessment of the human rights impact of international debt relief initiatives” to the Human Rights Council.⁴⁹⁷ In addition to assessing what the initiatives have achieved in terms of poverty reduction, development and human rights, the report urged that the completion of the Heavily Indebted Poor Countries Initiative provided an opportunity to address the shortcomings of the existing debt relief mechanisms and to devise new strategies that fully address the underlying causes of the debt crisis, including human rights-based debt relief strategies. The report recommended that States should commit to internationally agreed standards on responsible lending and borrowing, which would be binding on States and financial institutions (international and domestic) alike and should, in this regard, implement the Guiding Principles on Foreign Debt and Human Rights⁴⁹⁸ and support the adoption of the UNCTAD Draft Principles on Promoting Responsible Sovereign Lending and Borrowing⁴⁹⁹.

⁴⁹⁴ United Nations, *Treaty Series*, vol. 212, p. 17.

⁴⁹⁵ *Ibid.*, vol. 266, p. 3.

⁴⁹⁶ A/HRC/22/42.

⁴⁹⁷ A/HRC/23/37.

⁴⁹⁸ A/HRC/20/23, annex.

⁴⁹⁹ UNCTAD/GDS/DDF/2012/Misc.1.

On 13 June 2013, the Human Rights Council adopted resolution 23/11 entitled “The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights”.⁵⁰⁰ The Human Rights Council, *inter alia*, recalled that every State has the primary responsibility to promote the economic, social and cultural development of its people and, to that end, has the right and responsibility to choose its means and goals of development and should not be subject to external specific prescriptions for economic policy. It called for an intensification of efforts to devise effective and equitable mechanisms to cancel or reduce substantially the foreign debt burden of all developing countries, in particular those severely affected by the devastation of natural disasters, such as tsunamis and hurricanes, and by armed conflicts.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Independent Expert entitled “Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights”,⁵⁰¹ which focused on some reflections on the post-2015 global partnership for development. The Independent Expert argued that the partnership was characterized by several weaknesses, including lack of alignment with the international human rights framework; lack of clear, quantitative and time-bound targets and indicators; and significant accountability deficits, which have impeded its achievement. He further argued that fully implementing a human rights-based approach—with its emphasis on equality, non-discrimination, participation and accountability—could help to assure a more inclusive, equitable and sustainable post-2015 global development framework.

(ii) *Human rights and unilateral coercive measures*

a. Human Rights Council

On 27 September 2013, the Human Rights Council adopted resolution 24/14 entitled “Human rights and unilateral coercive measures”.⁵⁰² The Human Rights Council, *inter alia*, called upon all States to stop adopting, maintaining or implementing unilateral coercive measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development. It also reiterated its call to Member States that have initiated such measures to abide by the principles of international law, and to commit themselves to their obligations and responsibilities by putting an immediate end to such measures.

⁵⁰⁰ The resolution was adopted by a recorded vote of 30 in favour to 15 against, with 2 abstentions.

⁵⁰¹ A/68/542.

⁵⁰² The resolution was adopted by a recorded vote of 31 in favour to 15 against, with 1 abstention.

b. General Assembly

On 18 December 2013, the General Assembly adopted resolution 68/162 entitled “Human rights and unilateral coercive measures”.⁵⁰³ The General Assembly, *inter alia*, urged all States to not adopt any unilateral measures not in accordance with international law and the Charter, particularly where such measures impede the full achievement of economic and social development by the population of the affected countries.

(iii) *Human rights and the environment*⁵⁰⁴

Human Rights Council

The Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Mr. John H. Knox, submitted his preliminary report to the Human Rights Council at its twenty-second session. In his report, the Independent Expert presented some of the outstanding issues relevant to the relationship between human rights and the environment and described the current and planned programme of activities. He noted that his priority was to provide greater conceptual clarity to the application of human rights obligations related to the environment, and intended to take an evidence-based approach to determining the nature, scope and content of such obligations. The Independent Expert concluded that clarification of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment was necessary in order for States and others to comply at every level from the local to the global.

(iv) *Business and human rights*

a. Human Rights Council

The Working Group on the issue of human rights and transnational corporations and other business enterprises⁵⁰⁵ submitted its report to the Human Rights Council.⁵⁰⁶ The report outlined new developments in the field of business and human rights, including the deeper alignment between global governance frameworks and the Guiding Principles on Business and Human Rights,⁵⁰⁷ the call by the Human Rights Council for the United Nations system as a whole to integrate the business and human rights

⁵⁰³ The resolution was adopted on the recommendation of the Third Committee, by a recorded vote of 135 in favour to 55 against.

⁵⁰⁴ For more information on the environment, see section 8 of this chapter.

⁵⁰⁵ The Working Group on the issue of human rights and transnational corporations and other business enterprises was established by way of Human Rights Council resolution 17/4 of 16 June 2011 entitled “Human rights and transnational corporations and other business enterprises”, and is required to report annually to the Human Rights Council and the General Assembly (see para. 6). See also *United Nations Juridical Yearbook*, 2011, chapter III, section A.5(p)(iv)(a) for further information about the resolution. The Working Group held its fourth, fifth and sixth sessions in Geneva from 11 to 15 February 2013, 17 to 21 June 2013, and 25 to 29 November 2013 respectively. For more information about the 2013 sessions, see <http://www.ohchr.org/EN/Issues/Business/Pages/2013Sessions.aspx>.

⁵⁰⁶ A/HRC/23/32.

⁵⁰⁷ A/HRC/17/31, annex.

agenda into its work, and the need for the post-2015 development framework to integrate the Guiding Principles. It also outlined the key trends and challenges identified during the 2012 Forum on Business and Human Rights⁵⁰⁸ and further outlined priorities for action and recommendations for States, business enterprises, the United Nations system, inter-governmental organizations including regional organizations, and other stakeholders.

b. General Assembly

The Secretary-General transmitted the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises entitled “Human rights and transnational corporations and other business enterprises” to the General Assembly. The report focused on how the Guiding Principles on Business and Human Rights⁵⁰⁹ could bring clarity to the roles and responsibilities of States, business enterprises and indigenous peoples when addressing the adverse impact of business-related activities on the rights of indigenous peoples.⁵¹⁰ It identified gaps in implementation and challenges with regard to the State duty to protect against business-related human rights abuses, the corporate responsibility to respect human rights and the corresponding obligations relating to access to effective remedies.

6. Women⁵¹¹

(a) United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)

UN-Women was established by the General Assembly pursuant to resolution 64/289 of 2 July 2010 as a composite entity to function as a secretariat with the additional role of leading, coordinating and promoting the accountability of the United Nations system in its work on gender equality and the empowerment of women.⁵¹²

⁵⁰⁸ The Forum on Business and Human Rights was established by way of Human Rights Council resolution 17/4 of 16 June 2011 entitled “Human rights and transnational corporations and other business enterprises” to discuss trends and challenges in the implementation of the Guiding Principles (see para. 12). See also *United Nations Juridical Yearbook*, 2011, chapter III, section A.5(p)(iv)(a) for further information about the resolution. The Forum held its 2013 Forum from 2 to 4 December 2013 (see A/HRC/FBHR/2013/4 for the summary of discussion of the 2013 Forum). For more information about the Forum, see <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx>.

⁵⁰⁹ A/HRC/17/31, annex.

⁵¹⁰ A/68/279.

⁵¹¹ This section covers the Security Council, the General Assembly, the Economic and Social Council, and the Commission on the Status of Women and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). Selected resolutions and decisions are highlighted. For more detailed information and documents regarding this topic generally, see the website of UN-Women at <http://www.unwomen.org>.

⁵¹² It consolidated the mandates and functions of the Office of the Special Adviser on Gender Issues and Advancement of Women, the Division for the Advancement of Women, the United Nations Development Fund for Women (UNIFEM) and the International Research and Training Institute for the Advancement of Women.

The Executive Board of UN-Women held three meeting sessions in New York in 2013,⁵¹³ during which it adopted seven decisions.⁵¹⁴ Two of these decisions are highlighted below.

By its decision 2013/4 of 27 June 2013, entitled “Report on the evaluation function, 2012”, the Executive Board, *inter alia*, welcomed the leadership of UN-Women in coordinating the implementation of the System-wide Action Plan on Gender Equality and the Empowerment of Women, and called on UN-Women to further promote the use of joint evaluations⁵¹⁵ for gender equality and for women’s empowerment.

By its decision 2013/5 of 18 September 2013, the Executive Board welcomed the consultative efforts of UN-Women to update the strategic plan of 2011–2013⁵¹⁶ and endorsed the UN-Women strategic plan 2014–2017. In this regard, the Executive Board requested the Under-Secretary-General/Executive Director to submit to the Executive Board, beginning at its annual session in 2015, an annual progress report on the implementation of the strategic plan 2014–2017, and to provide updates at its regular sessions in 2015, 2016 and 2017.⁵¹⁷

(b) Commission on the Status of Women

The Commission on the Status of Women was established by the Economic and Social Council in its resolution 11 (II) 21 June 1946 as a functional commission to deal with questions relating to gender equality and the advancement of women. It is the principal global policy-making body in this field and prepares recommendations for and reports to the Economic and Social Council on the promotion of women’s rights in political, economic, civil, social and educational fields.

The Commission held its fifty-seventh session in New York from 4 March to 15 March 2013.⁵¹⁸ In accordance with the multi-year programme of work adopted by the Economic

⁵¹³ See the reports of the Executive Board of UN-Women: report of the first regular session, held from 23 to 24 January 2013 and on 8 February 2013 (UNW/2013/2); report of the annual session, held from 25 June to 27 June 2013 (UNW/2013/5); and the report of the second regular session, held from 16 September to 18 September 2013 (UNW/2013/10).

⁵¹⁴ Decision 2013/1 entitled “Report on operational activities”; decision 2013/2 entitled “Road map towards an integrated budget, beginning 2014, and update on cost recovery”; decision 2013/3 entitled “Report of the Under-Secretary-General/Executive Director on progress made on the strategic plan, 2011–2013”; decision 2013/4 entitled “Report on the evaluation function, 2012”; decision 2013/5 entitled “Strategic plan, 2014–2017”; decision 2013/6 entitled “Integrated budget for the biennium 2014–2015”; and decision 2013/7 entitled “Report on internal audit and investigation activities for the period from 1 January to 31 December 2012 and the report of the Audit Advisory Committee for the period from 25 October 2012 to 31 May 2013”.

⁵¹⁵ Joint evaluations are co-commissioned and managed by UN-Women and at least one other organization, with each organization having decision-making power with respect to the evaluation process.

⁵¹⁶ See *United Nations Juridical Yearbook*, 2012, chap. III, sect. 6(a).

⁵¹⁷ Decision 2013/5, para. 6.

⁵¹⁸ Commission on the Status of Women, report on the fifty-seventh session (4 March–15 March 2013), *Official Records of the Economic and Social Council, 2013 Supplement No. 7 (E/2013/27 and E/CN.6/2013/11)*.

and Social Council,⁵¹⁹ the priority theme of the Commission was “Elimination and prevention of all forms of violence against women and girls”, and progress was evaluated in the implementation of the agreed conclusions from the fifty-third session on “The equal sharing of responsibilities between women and men, including caregiving in the context of HIV/AIDS”⁵²⁰.

Of particular note, the Commission adopted conclusions on the elimination and prevention of all forms of violence against women and girls on 15 March 2013.⁵²¹ The Commission, *inter alia*, welcomed the progress made in addressing violence against women and girls, including through the adoption of relevant laws and policies and the implementation of preventive measures. The Commission also recognized that despite progress made, significant gaps and challenges remain in fulfilling commitments and bridging the implementation gap in addressing the scourge of violence against women and girls. The Commission thus urged governments and other relevant stakeholders to take actions such as strengthening implementation of legal and policy frameworks and accountability, addressing structural and underlying causes and risk factors so as to prevent violence against women and girls, strengthening multisectoral services, programmes and responses to violence against women and girls, and improving the research, analysis, and collection of data on the issue.

(c) Economic and Social Council

On 24 and 25 July 2013, the Economic and Social Council adopted four resolutions relating to gender equality, gender mainstreaming and empowerment of women.⁵²² One of the resolutions is highlighted below.

In resolution 2013/16, entitled “Mainstreaming a gender perspective into all policies and programmes in the United Nations system”, the Economic and Social Council, *inter alia*, welcomed the report of the Secretary-General on the subject,⁵²³ and appreciated that it was the first report on gender mainstreaming to provide a systemic and comprehensive approach to data collection through the United Nations system. It also welcomed the recommendations contained in the report, and called for further and continued efforts to mainstream a gender perspective into all policies and programmes of the United Nations, in accordance with all relevant United Nations resolutions, in particular those of the Economic and Social Council. The Economic and Social Council further noted with appreciation the important work of UN-Women in promoting more effective and coherent gender mainstreaming across the United Nations, as well as its role in leading, coordinating and promoting the accountability of the United Nations system in its work on gender

⁵¹⁹ Economic and Social Council resolution 2009/15 of 28 July 2009.

⁵²⁰ E/2009/27–E/CN.6/2009/15, chap. I, sect. A.

⁵²¹ E/2013/27–E/CN.6/2013/11.

⁵²² Economic and Social Council resolutions 2013/16 entitled “Mainstreaming a gender perspective into all policies and programmes in the United Nations system”; 2013/17 entitled “Situation of and assistance to Palestinian women”; 2013/18 entitled “Future organization and methods of work of the Commission on the Status of Women”; and 2013/36 entitled “Taking action against gender-related killing of women and girls”.

⁵²³ E/2013/71.

equality and the empowerment of women, as established by the General Assembly in its resolution 64/289. The Commission also recognized the role of UN-Women in assisting Member States upon their request.

(d) General Assembly

In 2013, the General Assembly adopted a number of resolutions on gender rights issues. The General Assembly in particular adopted three resolutions on gender equality and economic development issues,⁵²⁴ three resolutions on matters relating to gender-based violence,⁵²⁵ as well as resolutions on gender equality in decision-making processes and the rights of female children.⁵²⁶

On the issue of gender equality and economic development, by resolution 68/139, entitled “Improvement of the situation of women in rural areas”, the General Assembly, *inter alia*, urged Member States, in collaboration with the organizations of the United Nations system, and civil society, as appropriate, to attach greater importance to the improvement of the situation of rural women, including indigenous women, in their national, regional and global development strategies by, among other things, designing and implementing national policies and legal frameworks that promote and protect the enjoyment by rural women and girls of all human rights and fundamental freedoms, and creating an environment that does not tolerate violations or abuses of their rights, including domestic violence, sexual violence and all other forms of gender-based violence.

In addition, General Assembly resolution 68/140⁵²⁷ on the follow-up to the Fourth World Conference on Women called for, *inter alia*, gender equality and women’s empowerment to be considered a priority in the elaboration of the post-2015 development agenda, and for the integration of a gender perspective into the new development framework. The General Assembly further encouraged increased efforts by governments and the United Nations system to enhance accountability for the implementation of commitments to gender equality and the empowerment of women at the international, regional, national and local levels, including through improved monitoring and reporting on progress in relation to policies, strategies, resource allocations and programmes. The General Assembly also called upon States parties to comply fully with their obligations under the Convention

⁵²⁴ General Assembly resolutions 68/139 entitled “Improvement of the situation of women in rural areas”; 68/140 entitled “Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly”; and 68/227 entitled “Women in development”.

⁵²⁵ General Assembly resolutions 68/137 entitled “Violence against women migrant workers”; 68/181 entitled “Promotion of the Declaration on the Right and the Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders”; and 68/191 entitled “Taking action against gender-related killing of women and girls”.

⁵²⁶ General Assembly resolutions 68/33 entitled “Women, disarmament, non-proliferation and arms-control”; and 68/146 entitled “The girl child”.

⁵²⁷ The full title of resolution 68/140 was “Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly”.

on the Elimination of All Forms of Discrimination against Women (CEDAW),⁵²⁸ 1979, and the 1999 Optional Protocol,⁵²⁹ thereto, and to take into consideration the concluding observations as well as the general recommendations of the Committee on the Elimination of Discrimination against Women.⁵³⁰

Lastly, in resolution 68/227 on women in development, the General Assembly, *inter alia*, encouraged Member States to adopt and/or review and to fully implement gender-sensitive legislation and policies that reduce, through specifically targeted measures, horizontal and vertical occupational segregation and gender-based wage gaps. The General Assembly also urged all Member States to undertake a gender analysis of national labour laws and standards and to establish gender-sensitive policies and guidelines for employment practices, including for transnational corporations, with particular attention to export-processing zones, building in this regard on multilateral instruments, including CEDAW and conventions of the International Labour Organization. The General Assembly also encouraged Member States to adopt and implement, as appropriate, legislation and policies protecting women's labour and human rights in the workplace. The General Assembly reaffirmed the commitment to women's equal rights and opportunities in political and economic decision-making and resource allocation, and to the removal of any barriers that prevent women from being full participants in the economy.

The General Assembly also adopted several resolutions dealing with issues of gender-based violence and related structural discrimination. In resolution 68/137, entitled "Violence against women migrant workers", the General Assembly, *inter alia*, called upon all governments to incorporate a human rights, gender-sensitive and people-centred perspective in legislation, policies and programmes on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination. It further called upon governments to ensure that legislative provisions and judicial processes are in place for women's access to justice, to enhance, develop or maintain legal frameworks and specific gender-sensitive policies to explicitly meet the needs and rights of women migrant workers, and to take appropriate steps to reform existing legislation and policies to capture their needs and protect their rights.

In addition, by resolution 68/181, the General Assembly addressed the protection of women human rights defenders.⁵³¹ The General Assembly expressed concern regarding the systemic and structural discrimination and violence faced by women human rights defenders of all ages, and called upon States to take all measures necessary to ensure their protection and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. It further urged States to develop and put in place comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women human rights defenders, and also to adopt and

⁵²⁸ United Nations, *Treaty Series*, vol. 1249, p. 13.

⁵²⁹ *Ibid.*, vol. 2131, p. 83.

⁵³⁰ The General Assembly also adopted resolution 68/138 entitled "Convention on the Elimination of All Forms of Discrimination against Women".

⁵³¹ Resolution 68/181 was entitled "Promotion of the Declaration on the Right and the Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders".

implement policies and programmes that provide women human rights defenders with access to effective remedies.

Lastly, in resolution 68/191, entitled “Taking action against gender-related killing of women and girls”, the General Assembly, *inter alia*, urged Member States to exercise due diligence to prevent, investigate, prosecute and punish acts of violence against women and girls, in accordance with national law. The General Assembly invited Member States to adopt a variety of measures, including preventive measures and the enactment and implementation of legislation, that address gender-related killing of women and girls and to periodically review those measures with a view to improving them. It further urged Member States, acting at all levels, to end impunity by ensuring accountability and punishing perpetrators of those heinous crimes against women and girls. The General Assembly also invited Member States to strengthen the criminal justice response to gender-related killing of women and girls, in particular measures to support the capacity of Member States to investigate, prosecute and punish all forms of such crime and provide reparation and/or compensation to victims and their families or dependents, as appropriate, in accordance with national laws.

The General Assembly also adopted an additional resolution of particular relevance here. By resolution 68/146, the General Assembly, *inter alia*, stressed the need for the full and urgent implementation of the rights of the girl child as provided to her under human rights instruments as a matter of priority. The General Assembly called upon all States, the United Nations system and civil society to take measures to address the obstacles that continue to affect the achievement of the goals set forth in the Beijing Platform for Action, including reviewing remaining laws that discriminate against women and girls in order to modify or abolish them. The General Assembly further urged States to strengthen efforts to urgently eradicate all forms of discrimination against women and girls, and to enact and enforce legislation to protect girls from all forms of violence, discrimination and exploitation in all settings.

(e) Security Council⁵³²

In 2013, the Security Council adopted two resolutions of relevance here. First, by resolution 2106 (2013) of 24 June 2013, the Security Council addressed crimes of sexual violence. The Security Council, *inter alia*, noted that sexual violence can constitute a crime against humanity or a constitutive act with respect to genocide, and further recalled that rape and other forms of serious sexual violence in armed conflict are war crimes. The Security Council called upon Member States to comply with their relevant obligations by investigating and prosecuting those subject to their jurisdiction who are responsible for such crimes. The Security Council also encouraged Member States to include the full range of crimes of sexual violence in national penal legislation to enable prosecutions for such acts and recognized that effective investigation and documentation of sexual violence in armed conflict are instrumental both in bringing perpetrators to justice and ensuring access to justice for survivors. It further reiterated its demand for the complete cessation with immediate effect by all parties to armed conflict of all acts of sexual violence and its

⁵³² See also section 2(h)(ii) of this chapter on peace and security.

call for these parties to make and implement specific time-bound commitments to combat sexual violence.

In addition, the Security Council adopted resolution 2122 (2013) of 18 October 2013 on women's leadership and participation in conflict resolution and peacebuilding.⁵³³ The Security Council, *inter alia*, recognized the need for consistent implementation of resolution 1325 (2000)⁵³⁴ in its own work and expressed its intent to focus more attention on women's leadership and participation in conflict resolution and peacebuilding. The Security Council also stressed the need for continued efforts to address obstacles in women's access to justice in conflict and post-conflict settings, including through gender-responsive legal, judicial and security sector reform and other mechanisms.

7. Humanitarian matters

(a) Economic and Social Council

On 17 July 2013, the Economic and Social Council adopted resolution 2013/6 entitled "Strengthening of the coordination of emergency humanitarian assistance of the United Nations". The Economic and Social Council, *inter alia*, stressed that the United Nations system should continue to enhance existing humanitarian capacities, knowledge and institutions. It took note with appreciation of the fourth session of the Global Platform for Disaster Risk Reduction, held in Geneva from 19 to 23 May 2013. The Economic and Social Council also welcomed the growing number of initiatives undertaken at the regional and national levels to promote the implementation of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance⁵³⁵ and encouraged Member States and, where applicable, regional organizations to take further steps to review and strengthen operational and legal frameworks for international disaster relief, taking into account, as appropriate, the Guidelines.

In the same resolution, the Economic and Social Council called upon all States and parties in complex humanitarian emergencies, in particular in armed conflict and in post-conflict situations, in countries in which humanitarian personnel are operating, in conformity with the relevant provisions of international law and national laws, to cooperate fully with the United Nations and other humanitarian agencies and organizations and to ensure the safe and unhindered access of humanitarian personnel and delivery of supplies and equipment in order to allow humanitarian personnel to perform efficiently their task of assisting affected civilian populations, including refugees and internally displaced persons. It also called upon all parties to armed conflicts to comply with their obligations under international humanitarian law, human rights law and refugee law. In particular, the Economic and Social Council called upon all States and parties to comply fully with the provisions of international humanitarian law, including all the Geneva Conventions

⁵³³ Resolution 2122 (2013) was entitled "Women and Peace and Security".

⁵³⁴ In resolution 1325 (2000) the Security Council, *inter alia*, called for an increase in the participation of women at decision-making levels in conflict resolution and peace processes, and for the adoption of a gender perspective when negotiating and implementing peace agreements.

⁵³⁵ The Guidelines were adopted at the thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007.

of 12 August 1949,⁵³⁶ in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War.⁵³⁷

(b) General Assembly

In 2013, the General Assembly adopted a number of resolutions relating to humanitarian matters. Three resolutions on matters of humanitarian assistance and the safety and security of humanitarian personnel addressed legal aspects that are highlighted below.

First, the General Assembly adopted resolution 68/101 entitled “Safety and security of humanitarian personnel and protection of United Nations personnel”.⁵³⁸ The General Assembly, *inter alia*, urged all States to make every effort to ensure the full and effective implementation of the relevant principles and rules of international law, including international humanitarian law and human rights law and refugee law as applicable, related to the safety and security of humanitarian personnel and United Nations personnel. The General Assembly, *inter alia*, called upon all States to consider becoming parties to the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel,⁵³⁹ and urged States parties to put in place appropriate national legislation, as necessary, to enable its effective implementation. The General Assembly also strongly condemned all threats and acts of violence against humanitarian personnel and United Nations and associated personnel, and reaffirmed the need to hold accountable those responsible for such acts. Moreover, the General Assembly strongly urged all States to take stronger action to ensure that any such acts committed on their territory are investigated fully and to ensure that the perpetrators of such acts are brought to justice in accordance with national laws and obligations under international law.

The General Assembly also adopted resolution 68/102 entitled “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”. It, *inter alia*, welcomed the entry into force of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa and the ongoing process of ratification and implementation thereof.⁵⁴⁰ The General Assembly welcomed the growing number of initiatives undertaken at the regional and national levels to promote the implementation of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance.⁵⁴¹ In this regard, it encouraged Member States and, where applicable, regional organizations to take further steps to review and strengthen operational and legal frameworks for international disaster relief, taking into account the Guidelines, as appropriate. The General Assembly called upon States to adopt preventive measures and effective responses to acts of violence committed against civilian

⁵³⁶ United Nations, *Treaty Series*, vol. 75, p. 31, 85, 135 and 287.

⁵³⁷ *Ibid.*, p. 287.

⁵³⁸ The resolution was adopted without a vote.

⁵³⁹ Resolution 60/42, annex.

⁵⁴⁰ Also known as the “Kampala Convention”, the Convention was adopted by the Special Summit of the African Union held in Kampala, Uganda, on 23 October 2009.

⁵⁴¹ Also known as the “IDRL Guidelines”, the guidelines were adopted at the 30th International Conference of the International Red Cross and Red Crescent Movement on 30 November 2007.

populations in armed conflicts and to ensure that those responsible are promptly brought to justice, in accordance with national law and their obligations under international law.

Finally, the General Assembly adopted resolution 68/103 entitled “International cooperation on humanitarian assistance in the field of natural disasters, from relief to development”.⁵⁴² The General Assembly, *inter alia*, expressed its deep concern at the increasing impact of natural disasters, in particular in vulnerable societies lacking adequate capacity to mitigate effectively the long-term negative social, economic and environmental consequences of natural disasters. It called upon Member States, the United Nations system and other relevant humanitarian and development actors to accelerate the full implementation of the Hyogo Declaration⁵⁴³ and the Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters.⁵⁴⁴ The General Assembly also called upon all States to adopt, where required, and to continue to implement effectively, necessary legislative and other appropriate measures to mitigate the effects of natural disasters and integrate disaster risk reduction strategies into development planning, as well as to incorporate a gender perspective into policies, planning and funding.

(c) Security Council⁵⁴⁵

The Security Council adopted a number of resolutions relating to humanitarian matters. Certain resolutions which addressed the legal aspects of humanitarian situations in the Sudan and South Sudan, the Central African Republic, Somalia, Mali, the Democratic Republic of the Congo (DRC) and Côte d’Ivoire, as well as a presidential statement on the Syrian Arab Republic, are highlighted below.

(i) *The Sudan and South Sudan*

In 2013, the Security Council adopted several resolutions regarding the situation in the Sudan and South Sudan. Of particular relevance, in resolution 2091 (2013) of 14 February 2013, the Security Council, *inter alia*, stressed the necessity articulated in the Doha Document for Peace in Darfur⁵⁴⁶ that all Parties to the armed conflict in Darfur shall fully and unconditionally accept their obligations under international humanitarian law, international human rights law, and relevant Security Council resolutions. The Security Council also called on the Government of the Sudan to, among other things, ensure accountability for serious violations of international human rights and humanitarian law, by whomsoever perpetrated. It also emphasized the imperative, highlighted in the Doha Document, for all armed actors to refrain from all acts of violence against civilians, in particular vulnerable groups such as women and children, and from violations of human rights and international humanitarian law. The resolution also emphasized the need to address the urgent humanitarian crisis faced by the people of Darfur, including the guarantee

⁵⁴² The resolution was adopted without a vote.

⁵⁴³ A/CONF.206/6 and Corr.1, chap. I, resolution 1.

⁵⁴⁴ *Ibid.*, resolution 2.

⁵⁴⁵ For more information on Security Council action in this area, see section 2(h)(ii) of this chapter.

⁵⁴⁶ See https://unamid.unmissions.org/sites/default/files/ddpd_english.pdf

of safe, timely and unrestricted humanitarian access to all areas by humanitarian agencies and personnel.

In resolution 2113 (2013) of 30 July 2013, the Security Council, *inter alia*, reiterated its condemnation of all violations of international human rights and humanitarian law in Darfur and in relation to Darfur, called on all parties to comply with their obligations under international human rights and humanitarian law, emphasized the need to bring to justice the perpetrators of such crimes, and urged the Government of the Sudan to comply with its obligations in this respect. The Security Council demanded that all parties to the conflict in Darfur immediately end violence, including attacks on civilians, peacekeepers and humanitarian personnel, and comply with their obligations under international human rights and humanitarian law.

Moreover, in resolution 2132 (2013) of 24 December 2013, in which the Security Council expressed grave alarm and concern regarding the rapidly deteriorating security and humanitarian crisis in South Sudan. It condemned reported human rights violations and abuses by all parties, including armed groups and national security forces, and emphasized that those responsible for violations of international humanitarian law and international human rights law must be held accountable. The Security Council, acting under Chapter VII of the Charter of the United Nations, called for an immediate cessation of hostilities and the immediate opening of a dialogue, and demanded that all parties cooperate fully with the United Nations Mission in the Republic of South Sudan (UNMISS) as it implements its mandate, in particular the protection of civilians, and also stressed that efforts to undermine UNMISS' ability to implement its mandate and attacks on United Nations personnel will not be tolerated. The Security Council further endorsed the recommendation made by the Secretary-General to temporarily increase the overall force levels of UNMISS to support its protection of civilians and provision of humanitarian assistance.

(ii) *Central African Republic*

Regarding the situation in the Central African Republic (CAR), the Security Council adopted several resolutions. In particular relevance, in resolution 2127 (2013) of 5 December 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, expressed its serious concern at the deterioration of the humanitarian situation in the CAR and the restricted humanitarian access resulting from increased insecurity and attacks against humanitarian workers. The Security Council demanded that all parties to the conflict, in particular the former Seleka, ensure the rapid, safe and unhindered access of humanitarian organizations and relief personnel and the timely delivery of humanitarian assistance to populations in need, while respecting the United Nations guiding principles of humanitarian assistance, including neutrality, impartiality, humanity and independence in the provision of humanitarian assistance. In addition, the Security Council called upon Member States to respond swiftly to the United Nations' humanitarian appeals to meet the needs of people inside the CAR and refugees who have fled to neighbouring countries and encouraged to this effect the swift implementation of humanitarian projects by United Nations and humanitarian organizations.

(iii) *Somalia*

By resolution 2093 (2013) of 6 March 2013, the Security Council addressed, *inter alia*, humanitarian issues in Somalia. The Security Council condemned any misuse or obstruction of humanitarian assistance, underlined the importance of the full, safe, independent, timely and unimpeded access of all humanitarian actors to all those in need of assistance, and further underlined the importance of proper accounting in international humanitarian support. Acting under Chapter VII of the Charter of the United Nations, the Security Council, *inter alia*, condemned all attacks against civilians in Somalia and called for the immediate cessation of all acts of violence, including sexual and gender based violence, or abuses committed against civilians, including women and children, and humanitarian personnel in violation of international humanitarian law and human rights law. It also stressed the responsibility of all parties in Somalia to comply with their obligations to protect the civilian population from the effects of hostilities, in particular by avoiding any indiscriminate attacks or excessive use of force, and underscored the need to end impunity, uphold human rights and hold those who commit crimes accountable.

The humanitarian situation in Somalia was also addressed in resolution 2111 (2013) of 24 July 2013. The Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, underscored the importance of humanitarian aid operations, condemned any politicization of humanitarian assistance, or misuse or misappropriation, and called upon Member States and the United Nations to take all feasible steps to mitigate these aforementioned practices in Somalia. The Security Council further requested the Emergency Relief Coordinator to report to the Security Council by 20 March 2014 and again by 20 September 2014 on the delivery of humanitarian assistance in Somalia and on any impediments to the delivery of humanitarian assistance in Somalia, and requested relevant United Nations agencies and humanitarian organizations having observer status with the United Nations General Assembly, as well as their implementing partners that provide humanitarian assistance in Somalia, to increase their cooperation and willingness to share information with the United Nations Humanitarian Aid Coordinator for Somalia in the preparation of such reports and in the interests of increasing transparency and accountability.

(iv) *Mali*

By resolution 2100 (2013) of 25 April 2013, the Security Council expressed its serious concern over the significant ongoing food and humanitarian crisis in the Sahel region and over the insecurity which was hindering humanitarian access. It emphasized the need for all parties to uphold and respect the humanitarian principles of humanity, neutrality, impartiality and independence in order to ensure the continued provision of humanitarian assistance, as well as the safety of civilians receiving assistance and the security of humanitarian personnel operating in Mali. The Security Council also strongly condemned all abuses and violations of human rights and violations of international humanitarian law committed in Mali by any group or individuals. The Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, decided that the mandate of the United Nations Multidimensional Integrated Stabilization Mission in

Mali (MINUSMA),⁵⁴⁷ established in the same resolution, should be, *inter alia*, to monitor, help investigate and report to the Security Council on any abuses or violations of human rights or violations of international humanitarian law committed throughout Mali and to contribute to efforts to prevent such violations and abuses. MINUSMA should also, in support of the transitional authorities of Mali, contribute to the creation of a secure environment for the safe, civilian-led delivery of humanitarian assistance, in accordance with humanitarian principles, and the voluntary return of internally displaced persons and refugees in close coordination with humanitarian actors.

(v) *Democratic Republic of the Congo*

In resolution 2098 (2013) of 28 March 2013, the Security Council expressed its concern regarding the humanitarian situation that continued to severely affect the civilian population, in particular in the eastern part of the Democratic Republic of the Congo (DRC), and the persistent high levels of violence and abuses and violations of international law. It called for all those responsible for violations of international humanitarian law or abuses of human rights, as applicable, to be swiftly apprehended, brought to justice and held accountable. Acting under Chapter VII of the Charter of the United Nations, the Security Council, *inter alia*, extended the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO),⁵⁴⁸ and indicated that one of its tasks was to ensure, within its area of operations, effective protection of civilians under imminent threat of physical violence, including civilians gathered in displaced and refugee camps, humanitarian personnel and human rights defenders, in the context of violence emerging from any of the parties engaged in the conflict, and to mitigate the risk to civilians before, during and after any military operation. The Security Council further demanded that all parties cooperate fully with the operations of MONUSCO and allow the full, safe, immediate and unhindered access for United Nations and associated personnel, consistent with relevant provisions of international law, in carrying out their mandate and the delivery of humanitarian assistance, in particular to internally displaced persons, throughout the territory of the DRC.

⁵⁴⁷ For more information about MINUSMA, see <http://www.un.org/en/peacekeeping/missions/minusma/>. See also the report of the Secretary-General, recommending options for the establishment of a United Nations peacekeeping operation there (S/2013/189), the report of the Secretary-General on the situation in Mali, providing update on the developments since S/2013/189 and deployment of MINUSMA (S/2013/338), and the report of the Secretary-General on the situation in Mali, for the period from 10 June to 29 September 2013 (S/2013/582). See also section A.2(a)(i) in this chapter above.

⁵⁴⁸ For more information about MONUSCO, see <http://www.un.org/en/peacekeeping/missions/monusco/> and the report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) for the period from 15 November 2012 to 15 February 2013 (S/2013/96), for the period from 16 February to 28 June 2013 (S/2013/388), for the period from 29 June to 30 September 2013 (S/2013/581), and for the period from 1 October to 17 December 2013 (S/2013/757). See also the report of the Secretary-General on the implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region (S/2013/773), and the special report of the Secretary General on Democratic Republic of the Congo and the Great Lakes Region (S/2013/119). See also section A.2(a)(ii)(e) in this chapter above.

(vi) *Côte d'Ivoire*

By resolution 2112 (2013) of 30 July 2013, the Security Council expressed its concern about the continued reports of human rights abuses and violations of international humanitarian law in Côte d'Ivoire. It stressed the importance of investigating such alleged violations and abuses, and reaffirmed that those responsible for such violations must be held accountable and brought to justice irrespective of their political affiliation, while respecting the rights of those in detention. Acting under Chapter VII of the Charter of the United Nations, the Security Council, *inter alia*, extended the mandate of the United Nations Operation in Côte d'Ivoire (UNOCI)⁵⁴⁹ and decided that the UNOCI should, among other things, facilitate, as necessary, unhindered humanitarian access and help strengthen the delivery of humanitarian assistance to conflict-affected and vulnerable populations, notably by contributing to enhancing security for its delivery, and to support the Ivorian authorities in preparing for the voluntary, safe and sustainable return of refugees and internally-displaced persons in cooperation with relevant humanitarian organizations. Furthermore, the Security Council strongly urged the Government of Côte d'Ivoire to ensure in the shortest possible timeframe that, irrespective of their status or political affiliation, all those responsible for serious abuses of human rights and violations of international humanitarian law, including those committed during and after the post-electoral crisis in Côte d'Ivoire, are brought to justice in accordance with its international obligations, and that all detainees receive clarity about their status in a transparent manner.

(vii) *Syria*

By presidential statement of 2 October 2013,⁵⁵⁰ the Security Council, *inter alia*, commented that it was gravely alarmed by the significant and rapid deterioration of the humanitarian situation in Syria. The Security Council condemned the widespread violations of human rights and international humanitarian law by the Syrian authorities, as well as any human rights abuses and violations of international humanitarian law by armed groups. It urged all parties to immediately cease and desist from all violations of international humanitarian law and violations and abuses of human rights, and called on all parties to fully respect their obligations under international humanitarian law and to take all appropriate steps to protect civilians. The Security Council stressed that the magnitude of the humanitarian tragedy caused by the conflict in Syria requires immediate action to facilitate safe and unhindered delivery of humanitarian assistance in the whole country, including in areas and districts where humanitarian needs are especially urgent. It condemned all cases of denial of humanitarian access, and recalled that arbitrarily depriving civilians of objects indispensable to their survival, including wilfully impeding relief supply and access, can constitute a violation of international humanitarian law. The Security Council also urged all Member States to respond swiftly to the United Nations' humani-

⁵⁴⁹ For more information about UNOCI, see <http://www.onuci.org> and <http://www.un.org/en/peacekeeping/missions/unoci/>. See also the special report of the Secretary-General of the United Nations Operation in Côte d'Ivoire (S/2013/197) and the thirty-second progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (S/2013/377). See also section A.2(a)(ii)(g) in this chapter above.

⁵⁵⁰ S/PRST/2013/15.

tarian appeals to meet the spiralling needs of people inside Syria, in particular internally displaced persons and Syrian refugees in neighbouring countries, and to ensure that all pledges are honoured in full.

8. Environment

(a) United Nations Climate Change Conference in Warsaw

The United Nations Climate Change Conference was held in Warsaw, Poland, from 11 to 23 November 2013. The nineteenth session of the Conference of States Parties to the United Nations Framework Convention on Climate Change (COP to the UNFCCC), 1992,⁵⁵¹ and the ninth session of the Conference of the Parties serving as the meeting of Parties to the Kyoto Protocol (CMP), 1997,⁵⁵² were held during the Conference.

In Warsaw, the COP to the UNFCCC and the CMP adopted a number of decisions and resolutions. The CMP adopted 10 decisions and 1 resolution,⁵⁵³ and the COP to the UNFCCC adopted 28 decisions and 1 resolution, including two decisions highlighted in this volume. As elaborated upon below, decision 1/CP.19 of the COP requested the acceleration of the development of a protocol or another agreed outcome with legal force under the Convention, and decision 2/CP.19 established the Warsaw international mechanism for loss and damage.

By decision 1/CP.19, the COP to the UNFCCC, *inter alia*, requested the Ad Hoc Working Group on the Durban Platform for Enhanced Action⁵⁵⁴ to accelerate the development of a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties in the context of decision 1/CP.17, paragraphs 2 to 6.⁵⁵⁵ In the context of the determination to adopt a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties at its twenty-first session (December 2015), and for it to come into effect and be implemented from 2020, the COP also decided, *inter alia*, to invite all Parties to initiate or intensify domestic preparations for their intended nationally determined contributions. Such preparations would be without prejudice to the legal nature of the contributions towards achieving the objective set out in article 2 of the Convention, namely the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

⁵⁵¹ United Nations, *Treaty Series*, vol. 1771, p. 107.

⁵⁵² *Ibid.*, vol. 2303, p. 107.

⁵⁵³ For the report of the Conference of the Parties, see FCCC/KP/CMP/2013/9 and FCCC/KP/CMP/2013/9/Add.1.

⁵⁵⁴ The Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) is a subsidiary body that was established by decision 1/CP.17 in December 2011. The mandate of the ADP is to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties, which is to be completed no later than 2015 in order for it to be adopted at the twenty-first session of the Conference of the Parties (COP) and for it to come into effect and be implemented from 2020.

⁵⁵⁵ The request was also made in the context of efforts to identify and to explore options for actions that can close the ambition gap, with a view to ensuring the highest possible mitigation efforts by all Parties in the context of decision 1/CP.17, paragraphs 7 and 8.

By decision 2/CP.19, the COP to the UNFCCC, recalling first its decision to establish, at its nineteenth session, institutional arrangements, such as an international mechanism to address loss and damage associated with the impacts of climate change in developing countries that are particularly vulnerable to the adverse effects of climate change,⁵⁵⁶ established the Warsaw international mechanism for loss and damage under the Cancun Adaptation Framework.⁵⁵⁷ In the same decision, the COP further detailed the core functions and modalities of the mechanism.⁵⁵⁸ It was decided that the Warsaw International mechanism should, *inter alia*, enhance knowledge and understanding of comprehensive risk management approaches and strengthen dialogue, coordination, coherence and synergies among relevant stakeholders by providing leadership and, as and where appropriate, oversight under the Convention, on the assessment and implementation of approaches to address loss and damage associated with the adverse impacts of climate change. In exercising the functions outlined above, it was also decided that the Warsaw international mechanism would, *inter alia*, make recommendations, as appropriate, on how to enhance engagement, actions and coherence under and outside the Convention.⁵⁵⁹

(b) Economic and Social Council

A number of notable developments related to the environment occurred in the work of the Economic and Social Council and its functional bodies in 2013. Such developments primarily arose in relation to two of the Economic and Social Council's functional bodies, namely the Commission on Sustainable Development and the High-level Political Forum⁵⁶⁰ on sustainable development.

⁵⁵⁶ See decision 3/CP.18, para. 9.

⁵⁵⁷ Parties to the Convention on Climate Change adopted the Cancun Adaptation Framework (CAF) as part of the Cancun Agreements at the 2010 Climate Change Conference in Cancun, Mexico (COP 16/ CMP 6). In the Agreements, the Parties affirmed that adaptation must be addressed with the same level of priority as mitigation. The CAF is the result of three years of negotiations on adaptation under the Ad Hoc Group on Long Term Cooperative Action under the Convention (AWG-LCA) that had followed the adoption of the Bali Action Plan at the 2007 Climate Change Conference in Bali, Indonesia (COP 13/ CMP 3). The objective of the Cancun Adaptation Framework is to enhance action on adaptation, including through international cooperation and coherent consideration of matters relating to adaptation under the Convention on Climate Change. Ultimately, enhanced action on adaptation seeks to reduce vulnerability and build resilience in developing country Parties, taking into account the urgent and immediate needs of those developing countries that are particularly vulnerable. Mitigation has two objectives: establishing clear goals and a timely schedule for reducing human-generated greenhouse gas emissions over time to keep the global average temperature rise below two degrees, and encouraging the participation of all countries in reducing these emissions, in accordance with each country's different responsibilities and capabilities to do so.

⁵⁵⁸ Decision 2/CP.19, para. 5.

⁵⁵⁹ *Ibid.*, para. 7(f).

⁵⁶⁰ The Forum was established as a functional body of both the Economic and Social Council and the General Assembly. More details on the work of the Forum in 2013 may be found in section (c) below on the work of the General Assembly.

On 24 July 2013, the Economic and Social Council adopted two resolutions under agenda item 13(a), entitled “Sustainable development”,⁵⁶¹ including resolution 2013/19, which requested the Commission on Sustainable Development⁵⁶² to conclude its work at its twentieth session on 20 September 2013, and decided to abolish the Commission on Sustainable Development with effect from the conclusion of its twentieth session, on 20 September 2013. Accordingly, at its twentieth session, the Commission adopted its last report on the lessons learned from 20 years of the Commission’s existence and the way forward.⁵⁶³ The report highlighted the important role played by the Commission in keeping sustainable development high on the international agenda, while also highlighting several shortcomings in the work of the Commission. Notably, the report stressed the Commission’s inadequate capacity to monitor and review progress of agreements and the need for improved means of implementation of its outcomes and decisions by States, and suggested that such lessons should be taken into account in the design of the format and modalities of a high-level political forum.⁵⁶⁴

(c) General Assembly

(i) *High-level political forum on sustainable development*

In resolution 67/290, entitled “Format and organizational aspects of the high-level political forum on sustainable development”, the General Assembly defined the main mandate and functions of the High-level political forum. It was decided, *inter alia*, that the forum shall focus on enhancing the integration of the three dimensions of sustainable development in a holistic and cross-sectorial manner at all levels with a focused, dynamic and action-orientated agenda ensuring the appropriate consideration of new and emerging sustainable development challenges. The General Assembly also decided that the meetings of the forum shall be convened under the auspices of the General Assembly⁵⁶⁵ and the Economic and Social Council.⁵⁶⁶

⁵⁶¹ Resolutions related to the environment adopted on 24 July 2013 were: resolution 2013/19 entitled “Conclusion of the work of the Commission on Sustainable Development” and resolution 2013/20 entitled “Report of the Committee for Development Policy”.

⁵⁶² The United Nations Commission on Sustainable Development (CSD) was established by the United Nations General Assembly in December 1992 to ensure effective follow-up of United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit.

⁵⁶³ *Official records of the Economic and Social Council 2013, Supplement No. 9* (E/2013/29–E/CN.17/2013/4).

⁵⁶⁴ *Ibid.*, Chairman’s summary of the key points of the dialogue contained in the annex.

⁵⁶⁵ By the same resolution, it was decided that, under the auspices of the General Assembly, the forum shall be convened at the level of Heads of State and Government; that it shall be convened every four years by the President of the General Assembly for a period of two days, at the beginning of the session of the General Assembly, as well as on other occasions, on an exceptional basis, upon a decision by the General Assembly; and shall result in a concise, negotiated political declaration to be submitted for the consideration of the General Assembly.

⁵⁶⁶ The General Assembly further decided that the meetings of the forum under the auspices of the Economic and Social Council shall be convened annually by the President of the Council for a period of eight days, including a three day ministerial segment to be held in the framework of the substantive session of the Economic and Social Council, building on and subsequently replacing the annual ministerial

In a note to the General Assembly dated 13 November 2013⁵⁶⁷, the President of the General Assembly stressed that the forum should adopt a coherent approach working towards a single framework and set of goals, universal in nature and applicable to all countries, while taking account of differing national circumstances and respecting national policies and priorities. It further recalled the agreement that the High-level political forum should provide, starting in 2016, a transparent, voluntary, State-led review mechanism open to partnerships to monitor commitments, including those related to the means of implementation, in the context of a post-2015 development agenda. It was also noted that the inaugural meeting of the High-level political forum was the occasion to welcome the decision to strengthen and enhance the functions of the Economic and Social Council, as a principal United Nations organ in the economic, social, environmental and related fields. In this regard, it was recalled that, although the forum should remain a joint endeavour between the General Assembly and the Economic and Social Council, a central role should be conferred on the Economic and Social Council in the institutional framework of sustainable development and in the future review and follow-up of the post-2015 development agenda.

(ii) *Other resolutions of the General Assembly*

On 20 December 2013, the General Assembly adopted, on the recommendation of the Second Committee, 14 resolutions related to the environment.⁵⁶⁸ Three of the resolutions on issues of climate change and sustainable development are highlighted below.

review as from 2016; shall have a thematic focus reflecting the integration of the three dimensions on sustainable development, in line with the thematic focus of the activities of the Economic and Social Council and consistent with the post-2015 development agenda; shall follow up and review progress in the implementation of all outcomes of the major United Nations conferences and summits in the economic, social and environmental fields, as well as their respective means of implementation; shall result in a negotiated ministerial declaration for inclusion in the report of the Economic and Social Council to the General Assembly; and further decided that those reviews shall be State-led, involving ministerial and other relevant high-level participants.

⁵⁶⁷ See A/68/588, *Summary of the first meeting of the high-level political forum on sustainable development*, Note by the President of the General Assembly.

⁵⁶⁸ General Assembly resolution 68/205 entitled "World Wildlife Day"; resolution 68/206 entitled "Oil slick on Lebanese shores"; resolution 68/207 entitled "Sustainable tourism and sustainable development in Central America"; resolution 68/208 entitled "Cooperative measures to assess and increase awareness of environmental effects related to waste originating from chemical munitions dumped at sea"; resolution 68/209 entitled "Agricultural technology for development"; resolution 68/210 entitled "Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development"; resolution 68/211 entitled "International Strategy for Disaster Reduction"; resolution 68/212 entitled "Protection of global climate for present and future generations of humankind"; resolution 68/213 entitled "Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa"; resolution 68/214 entitled "Implementation of the Convention on Biological Diversity and its contribution to sustainable development"; resolution 68/215 entitled "Report of the Governing Council of the United Nations Environment Programme on its first universal session and the implementation of section IV.C, entitled 'Environmental pillar in the context of sustainable development', of the outcome document of the United Nations Conference on Sustainable Development"; resolution 68/216 entitled "Harmony with Nature"; resolution 68/217 entitled "Sustainable mountain development"; and

In resolution 68/212, entitled “Protection of global climate for present and future generations of humankind,”⁵⁶⁹ the General Assembly took note, *inter alia*, with appreciation of the outcome of the eighteenth session of the COP on the UNFCCC and of the eighth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol⁵⁷⁰. The General Assembly also encouraged Member States to approach the United Nations Climate Change Conference in Warsaw with a view to achieving an ambitious, substantive and balanced outcome, building on the progress made through the Bali Action Plan⁵⁷¹ and the decisions adopted at Cancun,⁵⁷² and Durban,⁵⁷³ accelerating progress towards the full implementation of those decisions through the ongoing negotiations at the Conference of the Parties to the Convention and the Meeting of the Parties to the Kyoto Protocol, consistent with the mandates of and decisions on the three tracks of negotiations, and further developing and implementing the new processes and institutions agreed in the Cancun and Durban decisions.

The General Assembly also adopted resolution 68/214 on the “Implementation of the Convention on Biological Diversity and its contribution to sustainable development”. By that resolution, the General Assembly took note, *inter alia*, of the report of the Executive Secretary of the Convention on Biological Diversity on the work of the Conference of the Parties to the Convention.⁵⁷⁴ The General Assembly also encouraged parties, in close collaboration with relevant stakeholders, to take concrete measures towards achieving the objectives of the Convention on Biological Diversity, 1992,⁵⁷⁵ and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization, 2010.⁵⁷⁶ It requested parties, in close collaboration with relevant stakeholders, to coherently and efficiently implement their obligations and commitments under the Convention, and in this regard emphasized the need to comprehensively address at all levels the difficulties that impede the full implementation of the Convention. The General Assembly further invited countries that have not yet done so to ratify or accede to the Convention on Biological Diversity, and invited parties to the Convention to ratify or accede to the Nagoya Protocol so as to ensure its early entry into force and its implementation. Finally, the General Assembly acknowledged the importance of improving coherence in the implementation of all the relevant conventions,⁵⁷⁷ recognized the

resolution 68/218 entitled “The role of the international community in averting the radiation threat in Central Asia”.

⁵⁶⁹ The resolution was adopted without a vote.

⁵⁷⁰ United Nations, *Treaty Series*, vol. 2303, p. 162.

⁵⁷¹ FCCC/CP/2007/6/Add.1, decision 1/CP.13.

⁵⁷² FCCC/CP/2010/7/Add.1 and 2.

⁵⁷³ FCCC/CP/2011/9/Add.1.

⁵⁷⁴ A/68/260, sect. III.

⁵⁷⁵ United Nations, *Treaty Series*, vol. 1760, p. 79.

⁵⁷⁶ UNEP/CBD/COP/10/27, annex, decision X/1.

⁵⁷⁷ United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (United Nations, *Treaty Series*, vol. 1954, p. 3); United Nations Framework Convention on Climate Change (*Ibid.*, vol. 1771, p. 107); and the six biodiversity-related conventions: Convention on Biological Diversity (CBD) (*Ibid.*, vol. 1760, p. 79), Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (*Ibid.*, vol. 993, p. 243), Convention on the Conservation of Migratory Species of Wild Animals (CMS) (*Ibid.*,

importance of enhancing synergies among them, without prejudice to their specific objectives, and encouraged the conferences of the parties to the biodiversity-related multilateral environmental agreements to consider strengthening efforts in this regard, taking into account relevant experiences and bearing in mind the respective independent legal status and mandate of those instruments.

By resolution 68/210, entitled “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development”, the General Assembly reaffirmed, *inter alia*, the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, and urged its speedy implementation. The General Assembly also recalled the commitment made at the United Nations Conference on Sustainable Development to strengthen the Economic and Social Council within its mandate under the Charter of the United Nations as a principal organ in the integrated and coordinated follow-up of the outcomes of all major United Nations conferences and summits in the economic, social, environmental and related fields. It further reaffirmed its resolution 67/290 on the format and organizational aspects of the High-level political forum on sustainable development.

On 27 December 2013, the General Assembly also adopted resolution 68/238, entitled “Follow-up to and implementation of the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States”. The General Assembly, *inter alia*, reaffirmed the commitment to take urgent and concrete action to address the vulnerability of small island developing States, including through the sustained implementation of the Programme of Action for the Sustainable Development of Small Island States⁵⁷⁸ and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States⁵⁷⁹, and underlined the urgency of finding additional solutions to the major challenges facing small island developing States. The General Assembly also called for continued and enhanced efforts to assist small island developing States in implementing the Barbados Programme of Action and the Mauritius Strategy and for a strengthening of United Nations system support to small island developing States.

vol. 1651, p. 333), Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar Convention) (*Ibid.*, vol. 996, p. 245), International Treaty on Plant Genetic Resources for Food and Agriculture, the World Heritage Convention (WHC) (*Ibid.*, vol. 1037, p. 151). A Liaison Group of Biodiversity-related Conventions was established between the heads of the secretariats of the six biodiversity-related conventions to explore opportunities for synergistic activities and increased coordination, and to exchange information.

⁵⁷⁸ *Report of the Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 25 April–6 May 1994* (United Nations publication, Sales No. E.94.I.18) (and corrigenda), chap. I, resolution 1, annex II.

⁵⁷⁹ *Report of the International meeting to Review the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, Port Louis, Mauritius, 10–15 January 2005* (United Nations publication, Sales No. E.05.II.A.4) (and corrigendum), chap. I, resolution 1, annex II.

9. Law of the Sea

(a) Reports of the Secretary-General

Pursuant to paragraph 272 of General Assembly resolution 68/78 of 11 December 2012, the Secretary-General submitted a comprehensive report on oceans and the law of the sea⁵⁸⁰ to the General Assembly at its sixty-eighth session.⁵⁸¹ The report was also submitted to States parties to the United Nations Convention on the Law of the Sea, 1982 (the “Convention”)⁵⁸² in accordance with article 319 thereof. The report consisted of two parts.

The first part⁵⁸³ was prepared to facilitate discussions on the topic of focus of the fourteenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (“Informal Consultative Process”), namely on the theme entitled “The impacts of ocean acidification on the marine environment”. It contained, *inter alia*, information on the effects of ocean acidification on marine organisms and ecosystems, its socioeconomic impacts, and the relevant international legal and policy framework.⁵⁸⁴

The second part⁵⁸⁵ provided an overview of developments relating to the implementation of the Convention and the work of the Organization, the specialized agencies and other institutions in the field of ocean affairs and the law of the sea. It outlined the work carried out in 2013 by the three bodies established by the Convention, namely the Commission on the Limits of the Continental Shelf (CLCS),⁵⁸⁶ the International Seabed Authority (ISA),⁵⁸⁷ and the International Tribunal for the Law of the Sea (ITLOS).⁵⁸⁸ It also included updates on the status of the Convention and its implementing Agreements, on declarations and statements made by States under articles 287, 298 and 310 of the Convention;⁵⁸⁹ maritime space;⁵⁹⁰ international shipping activities;⁵⁹¹ people at sea;⁵⁹² maritime security;⁵⁹³ marine

⁵⁸⁰ A/68/71 and Add.1.

⁵⁸¹ The report was submitted under the agenda item “Oceans and the law of the Sea”.

⁵⁸² United Nations, *Treaty Series*, vol. 1833, p. 3.

⁵⁸³ A/68/71.

⁵⁸⁴ This part of the report also described the existing initiatives and activities related to the impacts of ocean acidification on the marine environment and identified the challenges and opportunities in addressing the impacts of ocean acidification.

⁵⁸⁵ A/68/71/Add.1.

⁵⁸⁶ *Ibid.*, chap. II(C). For more information on the thirty-first (21 January–8 March 2013), thirty-second (15 July–30 August 2013), and thirty-third (7 October–22 November 2013) sessions of the CLCS, see CLCS/78, CLCS/80 and CLCS/81 respectively.

⁵⁸⁷ *Ibid.*, chap. II(D).

⁵⁸⁸ *Ibid.*, chap. II(E).

⁵⁸⁹ *Ibid.*, chap. II(A).

⁵⁹⁰ *Ibid.*, chap. III.

⁵⁹¹ *Ibid.*, chap. IV. See also section B.7 of this chapter regarding the work of the International Maritime Organization.

⁵⁹² *Ibid.*, chap. V. See also section B.1 of this chapter regarding the work of the International Labour Organization, section B.7 of this chapter regarding the work of the International Maritime Organization, and section B.12(a) of this chapter regarding the activities of the United Nations High Commissioner for Refugees.

⁵⁹³ *Ibid.*, chap. VI.

science and technology;⁵⁹⁴ sustainable development of oceans and seas;⁵⁹⁵ small island developing States;⁵⁹⁶ climate change and oceans;⁵⁹⁷ settlement of disputes;⁵⁹⁸ international cooperation and coordination including developments related to the Informal Consultative Process;⁵⁹⁹ and the capacity-building activities of DOALOS.⁶⁰⁰

In the second part of the report, the Secretary-General also highlighted the need for international cooperation to combat crimes at sea. In that regard, the report drew attention to the 2013 Code of Conduct concerning the Prevention of Piracy, Armed Robbery against Ships and Illicit Maritime Activity in West and Central Africa.⁶⁰¹ It provided an overview of legal developments relating to piracy and armed robbery at sea worldwide, as well as actions being taken by various actors to combat these crimes.⁶⁰² It also included information on developments relating to the specific situation of piracy and armed robbery at sea off the coast of Somalia, including with regard to the prosecution of suspected pirates and regulation of the use of privately contracted armed security personnel on board ships.

The second part also provided information on two inter-sessional workshops convened in May 2013 in accordance with General Assembly resolution 67/78 in support of the work of the Ad Hoc Open-ended Informal Working Group and its study of issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction.⁶⁰³ The Working Group held its sixth meeting from 19 to 23 August 2013 and formulated recommendations for consideration by the General Assembly at its sixty-eighth session. It was the second meeting of the Working Group convened in accordance with paragraphs 183 and 184 of General Assembly resolution 67/78 within the process initiated by the General Assembly in resolution 66/231, with a view to ensuring that the legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction effectively addresses those issues by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under the Convention.⁶⁰⁴

In relation to the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (the “Regular Process”),

⁵⁹⁴ *Ibid.*, chap. VII.

⁵⁹⁵ *Ibid.*, chap. VIII

⁵⁹⁶ *Ibid.*, chap. IX.

⁵⁹⁷ *Ibid.*, chap. X.

⁵⁹⁸ *Ibid.*, chap. XI.

⁵⁹⁹ *Ibid.*, chap. XII.

⁶⁰⁰ *Ibid.*, chap. XIII.

⁶⁰¹ The Code of Conduct was signed in Yaoundé on 25th June 2013 by representatives of Angola, Benin, Burkina Faso, Cameroon, Cape Verde, Chad, the Congo, the Democratic Republic of the Congo, Côte d’Ivoire, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sao Tomé and Principe, Senegal, Sierra Leone and Togo. For the text of the Code of Conduct, see: http://www.imo.org/en/OurWork/Security/WestAfrica/Documents/code_of_conduct%20signed%20from%20ECOWAS%20site.pdf. See also the Statement of 14 August 2013 by the President of the Security Council (S/PRST/2013/13), welcoming the adoption of the Code of Conduct.

⁶⁰² See A/68/71/Add.1, Part VI.

⁶⁰³ *Ibid.*, chap. VIII.C.

⁶⁰⁴ A/68/399

the second part of the report provided an overview of the work of the Ad Hoc Working Group of the Whole of the General Assembly,⁶⁰⁵ which provided recommendations to the General Assembly.⁶⁰⁶

(b) Consideration by the General Assembly

(i) *Oceans and law of the sea*

On 9 December 2013, the General Assembly adopted resolution 68/70 entitled “Oceans and the law of the sea”.⁶⁰⁷ The resolution covered a wide range of ocean issues, such as the implementation of the Convention and related agreements and instruments; capacity-building; the meeting of States Parties; peaceful settlement of disputes; the Area; effective functioning of the ISA and the ITLOS; the continental shelf and the work as well as the workload of the CLCS; maritime safety and security and flag State implementation; marine environment and marine resources; marine biodiversity; marine science; the regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects; regional cooperation; the informal consultative process; coordination and cooperation, including terms of reference for UN-Oceans; and the activities of the Division for Ocean Affairs and the Law of the Sea.

(ii) *Sustainable fisheries*

On the same day, the General Assembly also adopted resolution 68/71 entitled “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”.⁶⁰⁸ The resolution addressed a number of issues, including: achieving sustainable fisheries; implementation of the 1995 United Nations Fish Stocks Agreement and related fisheries instruments; illegal, unreported and unregulated fishing; monitoring, control and surveillance and compliance and

⁶⁰⁵ The Working Group held its fourth meeting from 22 to 25 April 2013.

⁶⁰⁶ This part of the report also included information on the work of the Bureau of the Ad Hoc Working Group, the convening of Workshops in support of the first cycle of the Regular Process, the website of the Regular Process and the appointment of individuals to the Pool of Experts of the Regular Process. The first global integrated assessment (the “World Ocean Assessment”) is scheduled to be completed in 2014.

⁶⁰⁷ The resolution was adopted without reference to a Main Committee. The General Assembly considered the agenda item entitled “Oceans and the law of the sea” on 9 December 2013, having before it the following documents: the report of the Secretary-General (A/68/71 and Add.1), the recommendations of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (A/68/399, annex), and the reports on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its fourteenth meeting (A/68/159) on the twenty-third Meeting of States Parties to the Convention (SPLOS/263), and on the work of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-Economic Aspects (A/68/82 and Corr.1).

⁶⁰⁸ The resolution was adopted without reference to a Main Committee, without a vote.

enforcement; fishing overcapacity; large-scale pelagic drift-net fishing; fisheries by-catch and discards; subregional and regional cooperation; responsible fisheries in the marine ecosystem; capacity-building; cooperation within the United Nations system; and activities of the Division for Ocean Affairs and the Law of the Sea.

10. Crime prevention and criminal justice⁶⁰⁹

(a) Conference of the Parties to the United Nations Convention against Corruption

The Conference of the States Parties to the United Nations Convention against Corruption, 2003,⁶¹⁰ was established pursuant to article 63 of the Convention to improve the capacity of and cooperation between States Parties to the Convention, with a view to achieving the Convention's objectives and to promoting and reviewing its implementation. The fifth session of the Conference was held in Panama from 25 to 29 November 2013.⁶¹¹ Of particular note here, the Conference adopted a resolution focusing on strengthening the implementation of the criminalization provisions of the Convention, in particular with regard to the solicitation of bribery.⁶¹²

(b) Commission on Crime Prevention and Criminal Justice (CCPCJ)

The Commission on Crime Prevention and Criminal Justice was established by the Economic and Social Council in its resolution 1992/1 of 6 February 1992 as a functional commission to deal with a broad scope of policy matters in this field, *inter alia*, combating national and transnational crime, including organized crime, economic crime and money laundering; promoting the role of criminal law in environmental protection, crime prevention in urban areas, including juvenile crime and violence; and improving the efficiency

⁶⁰⁹ This section covers the sessions of the General Assembly, the Economic and Social Council and the Commission on Crime Prevention and Criminal Justice. Selected resolutions and decisions are highlighted. For more detailed information and documents regarding this topic generally, see the website of the United Nations Office on Drugs and Crimes at <http://www.unodc.org>.

⁶¹⁰ United Nations, *Treaty Series*, vol. 2349, p. 41.

⁶¹¹ See Report of the Conference of States Parties to the United Nations Convention against Corruption on its fifth session, held in Panama, 25 to 29 November 2013 (CAC/COSP/2013/18). During this session, six resolutions and three decisions were adopted relating to enhancing the effectiveness of law enforcement cooperation in the detection of corruption offences in the framework of the United Nations Convention against Corruption; strengthening the implementation of the criminalization provisions of the United Nations Convention against Corruption, in particular with regard to solicitation; facilitating international cooperation in asset recovery; the follow-up to the Marrakech declaration on the prevention of corruption; the promotion of the contribution of young people and children in preventing corruption and fostering a culture of respect for the law and integrity; and the private sector. See resolutions 5/1–5/6, and decision 5/1, entitled “Mechanism for the Review of Implementation of the United Nations Convention against Corruption”, decision 5/2, entitled “Venue for the eighth session of the Conference of the States Parties to the United Nations Convention against Corruption”, and decision 5/3 entitled “Venue for the ninth session of the Conference of the States Parties to the United Nations Convention against Corruption”.

⁶¹² Resolution 5/2, entitled “Strengthening the implementation of the criminalization provisions of the United Nations Convention against Corruption, in particular with regard to solicitation”.

and fairness of criminal justice administration systems. Aspects of these principal themes are selected for discussion at each of its annual sessions. The Commission also provides substantive and organizational direction for the quinquennial United Nations Congress on Crime Prevention and Criminal Justice.

The regular and reconvened twenty-second session of the Commission was held in Vienna from 22 to 26 April 2013 and from 12 to 13 December 2013, respectively.⁶¹³ The main theme for the twenty-second session of the Commission was “The challenge posed by emerging forms of crime that have a significant impact on the environment and ways to deal with it effectively”.⁶¹⁴ The discussion focused on, *inter alia*, the lack of an internationally accepted definition of “environmental crimes”, and the under- or unreported nature of many of these crimes; the role of the United Nations Office on Drugs and Crime (UNODC) in providing technical assistance to countries, the need to strengthen international and regional cooperation, and the need to more effectively utilize the existing international framework; as well as instruments of the United Nations Convention against Transnational Organized Crime, 2000,⁶¹⁵ the United Nations Convention against Corruption, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973.⁶¹⁶

The Commission also adopted three resolutions highlighted here. First, in resolution 22/3, the Commission reiterated the need to consider the establishment of a mechanism to review the implementation of the Convention against Transnational Organized Crime and the Protocols thereto. And in resolutions 22/6 and 22/8, the Commission

⁶¹³ In its annual report, the Commission brought to the attention of the Economic and Social Council the following resolutions: resolution 21/1 entitled “Implementation of the budget for the biennium 2012–2013 for the United Nations Crime Prevention and Criminal Justice Fund”; resolution 21/2 entitled “Improving the governance and financial situation of the United Nations Office on Drugs and Crime: recommendations of the standing open-ended intergovernmental working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime”; resolution 22/3 entitled “Renewed efforts to ensure the effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto on the tenth anniversary of the entry into force of the Convention”; resolution 22/4 entitled “Enhancing the effectiveness of countering criminal threats to the tourism sector, including terrorist threats, in particular, by means of international cooperation and public-private partnerships”; resolution 22/5 entitled “Strengthening of international cooperation to promote the analysis of trends in transnational organized crime”; resolution 22/6 entitled “Promoting international cooperation and strengthening capacity to combat the problem of transnational organized crime committed at sea”; resolution 22/7 entitled “Strengthening international cooperation to combat cybercrime”; and resolution 22/8 entitled “Promoting technical assistance and capacity-building to strengthen national measures and international cooperation against cybercrime”. See *Official records of the Economic and Social Council 2013, Supplement No. 10* (E/2013/30–E/CN.15/2013/27) and *ibid.*, *Supplement No. 10A* (E/2013/30/Add.1–E/CN.15/2013/27/Add.1). The Commission on Crime Prevention and Criminal Justice also submitted in its report a number of draft resolutions that were to be recommended by the Economic and Social Council for adoption by the General Assembly, and several draft resolutions and decisions for adoption by the Economic and Social Council.

⁶¹⁴ See *Official records of the Economic and Social Council 2013, Supplement No. 10* (E/2013/30–E/CN.15/2013/27), chap. III, and also Economic and Social Council decision 2012/238 of 26 July 2012.

⁶¹⁵ United Nations, *Treaty Series*, vol. 2225, p. 209.

⁶¹⁶ *Ibid.*, vol. 993, p. 243.

highlighted the legal developments needed to combat the problems of transnational organized crime committed at sea and cybercrime, respectively.

(c) Economic and Social Council

On 25 July 2013, the Economic and Social Council adopted fourteen resolutions on crime prevention and criminal justice, all taken upon the recommendation of the Commission on Crime Prevention and Criminal Justice, eight of which were recommended for adoption by the General Assembly.⁶¹⁷ The Economic and Social Council, *inter alia*, invited Member States to consider utilizing the United Nations Convention against Transnational Organized Crime, 2000, to combat transnational organized crime and its possible links to illicit trafficking in precious metals.⁶¹⁸ The Economic and Social Council also requested Member States to fully utilize the Convention and the United Nations Convention against Corruption, 2003, to prevent and combat illicit trafficking in protected species of wild fauna and flora, encouraging Member States to make this activity involving organized criminal groups a serious crime, as defined in article 2, paragraph (b), of the Convention against Transnational Organized Crime.

(d) General Assembly

On 18 December 2013, the General Assembly adopted, on the recommendation of the Third Committee,⁶¹⁹ eleven resolutions under the agenda item entitled “Crime prevention and criminal justice”.⁶²⁰ Of particular note, the General Assembly recognized the cross-

⁶¹⁷ The following resolutions were recommended for adoption by the General Assembly: 2013/30 entitled “Follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice”; 2013/31 entitled “Strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking”; 2013/32; entitled “Technical assistance for implementing the international conventions and protocols related to counter-terrorism”; 2013/33 entitled “The rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015”; 2013/34 entitled “Model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice”; 2013/35 “Standard Minimum Rules for the Treatment of Prisoners”; 2013/36 entitled “Taking action against gender-related killing of women and girls”. The following resolutions were not recommended for adoption by the General Assembly: resolution 2013/37 entitled “Improving the quality and availability of statistics on crime and criminal justice for policy development”; resolution 2013/38 entitled “Combating transnational organized crime and its possible links to illicit trafficking of precious metals”; resolution 2013/39 entitled “International cooperation in the prevention, investigation, prosecution and punishment of economic fraud and identity-related crime”; resolution 2013/40 entitled “Crime prevention and criminal justice responses to illicit trafficking in protected species of wild fauna and flora”; and resolution 2013/41 entitled “Implementation of the United Nations Global Plan of Action to combat Trafficking in Persons”.

⁶¹⁸ Resolution 2013/38.

⁶¹⁹ For the report of the Third Committee, see A/68/457.

⁶²⁰ General Assembly resolution 68/185 entitled “Follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice”; resolution 68/186 entitled “Strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking”; resolution 68/187 entitled “Technical assistance for implementing the international conventions

cutting nature of the rule of law, crime prevention and criminal justice and development, and underscored that the post-2015 development agenda should be guided by respect for and promotion of the rule of law, with crime prevention and criminal justice playing an important role in that regard.⁶²¹

The General Assembly also examined model strategies and practical measures in the field of crime prevention and criminal justice in two related areas: first, the elimination of violence against children,⁶²² and second, the combat of gender-related killing of women and girls.⁶²³ The General Assembly, *inter alia*, reaffirmed the importance of the numerous international standards and norms in crime prevention and criminal justice to address these problems, and urged Member States to strengthen their national criminal justice responses to these two issues.

11. International drug control

(a) Commission on Narcotic Drugs

The Commission on Narcotic Drugs (CND) was established by the Economic and Social Council in its resolution 9 (I) of 16 February 1946 as a functional commission and the central policy-making body within the United Nations system dealing with drug-related matters. Pursuant to Economic and Social Council resolution 1999/30 of 28 July 1999, the Commission's agenda is structured in two distinct segments: one relating to its normative functions and one to its role as governing body of the United Nations International Drug Control Programme. The Commission convenes ministerial-level segments of its sessions to focus on specific themes.

During its fifty-sixth regular and reconvened fifty-sixth session,⁶²⁴ held in Vienna from 11 to 15 March and from 12 to 13 December 2013, respectively, the Commission

and protocols related to counter-terrorism"; resolution 68/188, entitled "The rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015"; resolution 68/189, entitled "Model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice"; resolution 68/190 entitled "Standard Minimum Rules for the Treatment of Prisoners"; resolution 68/191, entitled "Taking action against gender-related killing of women and girls"; resolution 68/192 entitled "Improving the coordination of efforts against trafficking in persons"; resolution 68/193 entitled "Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity"; resolution 68/194 entitled "United Nations African Institute for the Prevention of Crime and the Treatment of Offenders"; and resolution 68/195 entitled "Preventing and combating corrupt practices and the transfer of proceeds of corruption, facilitating asset recovery and returning such assets to legitimate owners, in particular to countries of origin, in accordance with the United Nations Convention against Corruption".

⁶²¹ General Assembly resolution 68/188.

⁶²² General Assembly resolution 68/189.

⁶²³ General Assembly resolution 68/191.

⁶²⁴ For the report of the fifty-sixth session of the Commission on Narcotic Drugs, see *Official Records of the Economic and Social Council, 2012, Supplement No. 8* (E/2013/28-E/CN.7/2013/14) and *ibid.*, Supplement No. 8A (E/2013/28/Add.1-E/CN.7/2013/14/Add.1).

adopted sixteen resolutions,⁶²⁵ which were brought to the attention of the Economic and Social Council.

The Commission focused in particular on issues related to the implementation,⁶²⁶ review⁶²⁷ and follow-up⁶²⁸ of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem⁶²⁹ of 2009, which is the main policy document of the United Nations guiding action by the international community in this field.

Among the resolutions adopted, the Commission, in resolution 56/12, entitled “Preparations for the high-level review of the implementation by Member States of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem”, decided, *inter alia*, that the high-level review should focus on progress achieved and remaining challenges. It further decided that the high-level review shall consist of a general debate on the three pillars of the Plan of Action: (a) demand reduction; (b) supply reduction; and (c) international cooperation.

(b) Economic and Social Council

On 25 July 2013, the Economic and Social Council adopted resolution 2013/42, entitled “United Nations Guiding Principles on Alternative Development”, on the recommendation of the CND, in which it adopted the Lima Declaration on Alternative Development and the International Guiding Principles on Alternative Development⁶³⁰ as the United Nations Guiding Principle on Alternative Development. In the resolution, the Economic and Social Council, *inter alia*, reaffirmed that the world drug problem must be addressed in accordance with the provisions of the Single Convention on Narcotic Drugs, 1961,⁶³¹ as amended by the 1972 Protocol,⁶³² the Convention on Psychotropic Substances, 1971,⁶³³ and the United Nations Convention against Illicit Traffic in Narcotic Drugs and

⁶²⁵ For a complete list of the resolutions, see the report of the fifty-sixth session of the Commission on Narcotic Drugs, *ibid.*, chap. I, sect. C.

⁶²⁶ Resolution 56/10 entitled “Tools to improve data collection to monitor and evaluate the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to counter the World Drug Problem”. (see E/2013/28–E/CN.7/2013/14)

⁶²⁷ Resolution 56/12 entitled “Preparations for the high-level review of the implementation by Member States of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem”. (see E/2013/28–E/CN.7/2013/14)

⁶²⁸ Resolution 56/15 entitled “Follow-up to the Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem with respect to the development of strategies on voluntary marketing tools for products stemming from alternative development, including preventing alternative development”. (see E/2013/28–E/CN.7/2013/14)

⁶²⁹ For detailed information regarding this document, see the website of the United Nations Office on Drugs and Crime (UNODC) at https://www.unodc.org/unodc/en/commissions/CND/Political_Declarations/Political-Declarations_Index.html.

⁶³⁰ See E/CN.7/2013/8.

⁶³¹ United Nations, *Treaty Series*, vol. 520, p. 151.

⁶³² *Ibid.*, vol. 976, p. 3.

⁶³³ *Ibid.*, vol. 1019, p. 175.

Psychotropic Substances, 1988,⁶³⁴ which constitute the framework of the international drug control system. The Commission, bearing in mind the content of article 14 of the 1988 Convention regarding measures to eradicate illicit cultivation of narcotic plants, further affirmed that alternative development is an important, lawful, viable and sustainable alternative to illicit cultivation of drug crops and an effective measure to counter the world drug problem.

(c) General Assembly

On 18 December 2013, the General Assembly also adopted the Lima Declaration on Alternative Development and the International Guiding Principles on Alternative Development as annexes to its resolution 68/196. The General Assembly encouraged all relevant stakeholders to take these United Nations Guiding Principles into account when designing and implementing alternative development strategies and programmes, acknowledging, *inter alia*, that alternative development⁶³⁵ is an important, lawful, viable and sustainable alternative to illicit cultivation of drug crops and an effective measure to counter the world drug problem and other drug-related crime challenges.

On the same day, the General Assembly adopted resolution 68/197 entitled “International cooperation against the world drug problem”.⁶³⁶ The General Assembly, *inter alia*, reiterated its call upon States to take, in a timely manner, the measures necessary to implement the actions and attain the goals and targets set out in the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, adopted by the General Assembly at its sixty-fourth session. It also welcomed the adoption of the United Nations Principles on Alternative Development and encouraged Member States, international organizations, entities and other relevant stakeholders to take into due account the United Nations Guiding Principles on Alternative Development when designing and implementing alternative development programmes. The General Assembly also recognized that crop control strategies should be in full conformity with article 14 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988,⁶³⁷ and appropriately coordinated and phased in accordance with national policies in order to achieve the sustainable eradication of illicit crops. The General Assembly further invited Member States and observers to participate actively at the appropriate level in the high-level review, noting that the outcome of the high-level review would be submitted through the Economic and Social Council to the General Assembly, in view of the special session of the General Assembly on the world drug problem to be held in 2016.

⁶³⁴ *Ibid.*, vol. 1582, p. 95.

⁶³⁵ In accordance with Economic and Social Council resolutions 2006/33, 2007/12 and 2008/26, the concept of alternative development includes preventive alternative development in a manner focusing on the sustainability and integrality of uplifting people’s livelihood.

⁶³⁶ The resolution was adopted on the recommendation of the Third Committee, without a vote. The General Assembly also adopted resolution 68/196 entitled “United Nations Guiding Principles on Alternative Development” adopted by the Economic and Social Council on the recommendation of the Commission on Narcotic Drugs set out in subsection *b* (Economic and Social Council).

⁶³⁷ United Nations, *Treaty Series*, vol. 1582, p. 95.

12. Refugees and displaced persons

(a) Executive Committee of the Programme of the United Nations High Commissioner for Refugees⁶³⁸

The Executive Committee of the Programme of the United Nations High Commissioner for Refugees (UNHCR) was established by the Economic and Social Council in 1958 and functions as a subsidiary organ of the General Assembly, reporting to it through the Third Committee. The Executive Committee meets annually in Geneva to review and approve the programmes and budget of the UNHCR and its intergovernmental and non-governmental partners. The sixty-fourth plenary session of the Executive Committee was held in Geneva from 30 September to 4 October 2013.⁶³⁹

(b) General Assembly

On 11 and 18 December 2013, the General Assembly adopted seven resolutions relating to refugees and displaced persons. Four of the resolutions related specifically to Palestine,⁶⁴⁰ two related to the Office of the High Commissioner for Refugees,⁶⁴¹ and one related to refugees, returnees and displaced persons in Africa.⁶⁴²

The General Assembly adopted resolution 68/78, entitled “Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East”, which, *inter alia*, called upon Israel, the occupying Power, to comply fully with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.⁶⁴³ It also called upon Israel to abide by Articles 100, 104 and 105 of the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations⁶⁴⁴ in order to ensure the safety of the personnel of the Agency, the protection of its institution and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem.

⁶³⁸ For detailed information and documents regarding this topic generally, see the website of the UNHCR at <http://www.unhcr.org>.

⁶³⁹ For the report of the sixty-fourth session of the Executive Committee of the High Commissioner’s Programme, see A/AC.96/1132. For the report of the United Nations High Commissioner for Refugees on the activities of his Office, see *ibid.*, *Supplement No. 12 (A/68/12)* and *Supplement No. 12A (A/68/12/Add.1)*.

⁶⁴⁰ See resolution 68/76 entitled “Assistance to Palestine refugees”, resolution 68/77 entitled “Persons displaced as a result of the June 1967 and subsequent hostilities”, resolution 68/78 entitled “Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East”; and 68/79 entitled “Palestine refugees’ properties and their revenues”.

⁶⁴¹ See resolution 68/141 entitled “Office of the United Nations High Commissioner for Refugees”; and 68/142 entitled “Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees”.

⁶⁴² Resolution 68/143 entitled “Assistance to refugees, returnees and displaced persons in Africa”.

⁶⁴³ United Nations, *Treaty Series*, vol. 75, p. 287.

⁶⁴⁴ *Ibid.*, vol. I, p. 15.

The General Assembly also adopted resolution 68/77, entitled “Persons displaced as a result of the June 1967 and subsequent hostilities”.⁶⁴⁵ The General Assembly, *inter alia*, reaffirmed the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their home or former places of residence in the territories occupied by Israel since 1967. It also called for compliance with the mechanism agreed upon by the parties in article XII of the Declaration of Principles on Interim Self-Government Arrangements of 13 September 1993⁶⁴⁶ on the return of displaced persons.

With respect to Stateless persons, resolution 68/141, *inter alia*, welcomed pledges by States to accede to the 1954 Convention relating to the Status of Stateless Persons⁶⁴⁷ and the 1961 Convention on the Reduction of Statelessness,⁶⁴⁸ noted with satisfaction the recent increase in the number of accessions to the two instruments, and encouraged States not parties thereto to consider acceding to those instruments. The General Assembly also emphasized the obligation of all States to accept the return of their nationals, called upon States to facilitate the return of their nationals who have been determined not to be in need of international protection, and affirmed the need for the return of persons to be undertaken in a safe and humane manner and with full respect for their human rights and dignity, irrespective of the status of the persons concerned.

In its resolution 68/143 entitled “Assistance to refugees, returnees and displaced persons in Africa”, the General Assembly reaffirmed that host States have the primary responsibility to ensure the civilian and humanitarian character of asylum, and called upon States, in cooperation with international organizations, operating within their mandates, to take all measures necessary to ensure respect for the principles of refugee protection. It also expressed grave concern about the plight of internally displaced persons in Africa and called upon States to take concrete action to pre-empt internal displacement and to meet the protection and assistance needs of internally displaced persons, and in this regard recalled the Guiding Principles on Internal Displacement.⁶⁴⁹

13. International Court of Justice⁶⁵⁰

(a) Organization of the Court

At the end of 2013, the composition of the Court was as follows:

President: Peter Tomka (Slovakia);

Vice-President: Bernardo Sepúlveda-Amor (Mexico);

⁶⁴⁵ The resolution was adopted by a vote of 170 in favour to 6 against, with 6 abstentions.

⁶⁴⁶ A/48/486-S/26560, annex.

⁶⁴⁷ United Nations, *Treaty Series*, vol. 360, p. 117.

⁶⁴⁸ *Ibid.*, vol. 989, p. 175.

⁶⁴⁹ E/CN.4/1998/53/Add.2, annex.

⁶⁵⁰ For more information about the Court, see the reports of the International Court of Justice to the General Assembly, *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 4 (A/68/4)* (for the period from 1 August 2012 to 31 July 2013) and *ibid.*, *Sixty-ninth Session, Supplement No. 4 (A/69/4)* (for the period from 1 August 2013 to 31 July 2014). See also the website of the Court at <http://www.icj-cij.org/>.

Judges: Hisashi Owada (Japan), Ronny Abraham (France), Kenneth Keith (New Zealand), Mohamed Bennouna (Morocco), Leonid Skotnikov (Russian Federation), Antônio Augusto Cançado Trindade (Brazil), Abdulqawi Ahmed Yusuf (Somalia), Christopher Greenwood (United Kingdom), Xue Hanqin (China), Joan E. Donoghue (United States of America), Giorgio Gaja (Italy), Julia Sebutinde (Uganda), Dalveer Bhandari (India).

The Registrar of the Court was Mr. Philippe Couvreur; the Deputy-Registrar was Mr. Jean-Pelé Fomété.

The Chamber of Summary Procedure, comprising five judges, including the President and Vice-President, and two substitutes, which is established annually by the Court in accordance with Article 29 of the Statute of the International Court of Justice to ensure the speedy dispatch of business, was composed as follows:

Members:

President: Peter Tomka;

Vice-President: Bernardo Sepúlveda-Amor;

Judges: Abdulqawi Ahmed Yusuf, Xue Hanqin and Joan E. Donoghue.

Substitute members:

Judges: Kenneth Keith and Giorgio Gaja.

(b) Jurisdiction of the Court⁶⁵¹

One declaration was made by the Marshall Islands in 2013 recognizing the compulsory jurisdiction of the Court, as contemplated by Article 36, paragraph 2, of the Statute. Thus, as of 31 December 2013, 70 States had recognized such compulsory jurisdiction.⁶⁵²

(c) General Assembly

On 31 October 2013, the General Assembly adopted decision 68/511 in which it took note of the report of the International Court of Justice for the period from 1 August 2012 to 31 July 2013.⁶⁵³

On 5 December 2013, the General Assembly adopted resolution 68/42 entitled "Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons". The General Assembly underlined once again the unanimous conclusion of the Court that there exists an obligation to pursue in good faith

⁶⁵¹ For further information regarding the acceptance of the compulsory jurisdiction of the International Court of Justice, see chapter I.4 of *Multilateral Treaties Deposited with the Secretary-General*, available on the website <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

⁶⁵² Please note that, in 2012, two declarations were made accepting the compulsory jurisdiction of the Court, by Lithuania (<https://treaties.un.org/doc/Publication/CN/2012/CN.582.2012-Eng.pdf>) and by Timor-Leste (<https://treaties.un.org/doc/Publication/CN/2012/CN.594.2012-Eng.pdf>). The notation in the corresponding entry in the 2012 Yearbook that "no declarations were made in 2012 recognising the compulsory jurisdiction of the Court, as contemplated by Article 36, paragraph 2, of the Statute" should thus have reflected Lithuania and Timor-Leste, thereby bringing the number of States having made such declarations from 67 in 2011 to 69 in 2012.

⁶⁵³ See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 4 (A/68/4)*.

and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control, and called once again upon all States immediately to fulfil that obligation by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention.⁶⁵⁴

14. International Law Commission⁶⁵⁵

(a) Membership of the Commission⁶⁵⁶

The membership of the International Law Commission at its sixty-fifth session consisted of Mr. Mohammed Bello Adoke (Nigeria), Mr. Ali Mohsen Fetais Al-Marri (Qatar), Mr. Lucius Caflisch (Switzerland), Mr. Enrique J. A. Candiotti (Argentina), Mr. Pedro Comissário Afonso (Mozambique), Mr. Abdelrazeg El-Murtadi Suleiman Gouider (Libya), Ms. Concepción Escobar Hernández (Spain), Mr. Mathias Forteau (France), Mr. Kirill Gevorgian (Russian Federation), Mr. Juan Manuel Gómez-Robledo (Mexico), Mr. Hussein A. Hassouna (Egypt), Mr. Mahmoud D. Hmoud (Jordan), Mr. Huikang Huang (China), Ms. Marie G. Jacobsson (Sweden), Mr. Maurice Kamto (Cameroon), Mr. Kriangsak Kittichaisaree (Thailand), Mr. Ahmed Laraba (Algeria), Mr. Donald M. McRae (Canada), Mr. Shinya Murase (Japan), Mr. Sean D. Murphy (United States of America), Mr. Bernd H. Niehaus (Costa Rica), Mr. Georg Nolte (Germany), Mr. Ki Gab Park (Republic of Korea), Mr. Chris Maina Peter (United Republic of Tanzania), Mr. Ernest Petrič (Slovenia), Mr. Gilberto Vergne Saboia (Brazil), Mr. Narinder Singh (India), Mr. Pavel Šturma (Czech Republic), Mr. Dire D. Tladi (South Africa), Mr. Eduardo Valencia-Ospina (Colombia), Mr. Marcelo Vázquez-Bermúdez (Ecuador),⁶⁵⁷ Mr. Amos S. Wako (Kenya), Mr. Nugroho Wisnumurti (Indonesia) and Mr. Michael Wood (United Kingdom).

(b) Sixty-fifth session of the International Law Commission

The International Law Commission held the first part of its sixty-fifth session from 6 May to 7 June 2013, and the second part of the session from 8 July to 9 August 2013, at its seat at the United Nations Office at Geneva (UNOG).⁶⁵⁸ During its 2013 session, the Commission continued its consideration of the following topics: “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”, “Immunity of State officials from foreign criminal jurisdiction”, “Protection of persons in the event of disasters”, “Formation and evidence of customary international law”, “Provisional application

⁶⁵⁴ General Assembly resolution 68/42 of 5 December 2013, paras. 1–2.

⁶⁵⁵ Detailed information and documents relating to the work of the International Law Commission may be found on the Commission’s website at <http://legal.un.org/ilc/>.

⁶⁵⁶ Pursuant to article 10 of the Statute of the International Law Commission, the election of the members of the Commission for a five-year term, beginning on 1 January 2012 (until 31 December 2016), took place by secret ballot, at the 59th meeting of the General Assembly at its sixty-sixth session, held on 17 November 2011.

⁶⁵⁷ On 6 May 2013, the Commission elected Mr. Marcelo Vázquez-Bermúdez to fill the casual vacancy occasioned by the resignation of Mr. Stephen C. Vasciannie (Jamaica) in 2012.

⁶⁵⁸ For the report of the International Law Commission on the work at its sixty-fifth session, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 10 (A/68/10)*.

of treaties”, “The obligation to extradite or prosecute (*aut dedere aut judicare*)”, and “The Most-Favoured-Nation Clause”. The Commission also added two new topics, “Protection of the environment in relation to armed conflict” and “Protection of the atmosphere”, to its programme of work, and decided to add an additional topic, “Crimes against humanity”, to its long-term programme of work.

Concerning the topic “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”,⁶⁵⁹ the Commission had before it the first report of the Special Rapporteur,⁶⁶⁰ which, *inter alia*, contained four draft conclusions relating to (a) the general rule and means of treaty-related practice interpretation; (b) subsequent agreements and subsequent practice as means of interpretation; (c) the definition of subsequent agreement and subsequent practice as means of treaty interpretation; and (d) attribution of a treaty related to a State. Following the debate in plenary, the Commission decided to refer the four draft conclusions to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted five draft conclusions, together with commentaries.

In relation to the topic “Immunity of State officials from foreign criminal jurisdiction”, the Commission had before it the second report of the Special Rapporteur,⁶⁶¹ in which, *inter alia*, six draft articles were presented, following an analysis of: (a) the scope of the topic and of the draft articles; (b) the concepts of immunity and jurisdiction; (c) the difference between immunity *ratione personae* and immunity *ratione materiae* and (d) the basic norms comprising the regime of immunity *ratione personae*. Following the debate in plenary, the Commission decided to refer the six draft articles to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted three draft articles, together with commentaries.

As regards the topic “Protection of persons in the event of disasters”, the Commission had before it the sixth report of the Special Rapporteur,⁶⁶² dealing with aspects of prevention in the context of the protection of persons in the event of disasters, including disaster risk reduction, prevention as a principle of international law, and international cooperation on prevention. Following the debate in plenary, the Commission decided to refer the two draft articles, proposed by the Special Rapporteur, to the Drafting Committee. The Commission provisionally adopted seven draft articles, together with commentaries, namely draft articles 5 *bis* and 12 to 15, of which it had taken note of at its sixty-fourth session (2012), dealing with forms of cooperation, offers of assistance, and termination of external assistance, respectively, as well as draft articles 5 *ter* and 16, concerning cooperation for disaster risk reduction and the duty to reduce the risk of disasters, respectively.

⁶⁵⁹ At the sixty-four session (2012), the Commission, on the basis of a recommendation of the Study Group on the topic “Treaties over time” decided: to change with effect from its sixty-fifth session (2013), the format of the work on this topic as suggested by the Study Group, and to appoint Mr. Georg Nolte as Special Rapporteur for the topic “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”.

⁶⁶⁰ A/CN.4/660.

⁶⁶¹ A/CN.4/661.

⁶⁶² A/CN.4/662.

Concerning the topic “Formation and evidence of customary international law”, the Commission had before it the first report of the Special Rapporteur,⁶⁶³ which, *inter alia*, presented an overview of the previous work of the Commission relevant to the topic, the views expressed by delegates in the Sixth Committee of the General Assembly, the scope of the topic, the range of materials to be consulted, and issues relating to customary international law as a source of international law. The Commission also had before it a memorandum by the Secretariat addressing elements in the previous work of the Commission that could be particularly relevant to the topic.⁶⁶⁴ The debate in plenary addressed, among other issues, the scope and methodology of the topic, the range of materials to be consulted and the future plan of work. The Special Rapporteur also held informal consultations on the title of the topic, the consideration of *jus cogens* within the scope of the topic and the need for additional information on State practice. The Commission further decided to change the title of the topic to “Identification of customary international law”.

As regards the topic “Provisional application of treaties”, the Commission had before it the first report of the Special Rapporteur,⁶⁶⁵ which sought to establish in general terms the principal legal issues that arose in the context of the provisional application of treaties by considering doctrinal approaches to the topic and by briefly reviewing the existing State practice. The Commission also had before it a memorandum by the Secretariat which traced the negotiating history of article 25 of the Vienna Convention on the Law of Treaties both in the Commission and at the Vienna Conference on the Law of Treaties.⁶⁶⁶ The debate in plenary revolved around the purpose of the provisional application of treaties, and the elaboration of specific issues to be considered in the future reports of the Special Rapporteur.

In connection with the topic “The obligation to extradite or prosecute (*aut dedere aut judicare*)”, the Commission re-constituted the Working Group on the topic, which continued the evaluation of work on the issue, particularly in the light of the judgment of the International Court of Justice on *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* of 20 July 2012. The Commission took note of the report of the Working Group.

Regarding the topic “The Most-Favoured-Nation Clause”, the Commission reconstituted the Study Group on the topic, which, *inter alia*, continued to examine the various factors that seemed to influence investment tribunals in interpreting MFN clauses, on the basis, *inter alia*, of contemporary practice and jurisprudence, in particular *Daimler Financial Services AG v. Argentine Republic*⁶⁶⁷ and *Kılıç İnşaat İthalat İhracat Sanayi ve Ticaret Anonim Şirketi v. Turkmenistan*.⁶⁶⁸

As noted previously, the Commission also decided to add two new topics to its programme of work, and began its work on one of those topics, the “Protection of the environment in relation to armed conflict”. The Special Rapporteur appointed by the Commission,

⁶⁶³ A/CN.4/663.

⁶⁶⁴ A/CN.4/659.

⁶⁶⁵ A/CN.4/664.

⁶⁶⁶ A/CN.4/658.

⁶⁶⁷ ICSID Case No. ARB/05/1 dispatched to the parties on 22 August 2012.

⁶⁶⁸ ICSID Case No. ARB/10/1 dispatched to the parties on 2 July 2013.

Ms. Marie G. Jacobsson, engaged in informal dialogue with members of the Commission on a number of issues that could be relevant for the consideration of the topic and development of the work thereupon. Issues addressed in the informal consultations included, *inter alia*, scope and methodology, the possible outcome of the Commission's work, as well as a number of substantive issues relating to the topic. It was proposed that the Special Rapporteur would proceed by examining the topic in temporal phases, namely legal measures taken to protect the environment before, during and after an armed conflict (respectively Phase I, Phase II and Phase III).

Finally, the Commission established a Planning Group to consider its programme, procedures and working methods. The Commission decided to include the topic "Protection of the atmosphere" in the programme of work, and to appoint Mr. Shinya Murase as Special Rapporteur for the topic.

(c) Sixth Committee

The Sixth Committee of the General Assembly considered the agenda item "Report of the International Law Commission on the work of its sixty-third and sixty-fifth sessions" at several meetings in 2013.⁶⁶⁹ The Chairman of the International Law Commission at its sixty-fifth session introduced the report of the Commission on the work of that session, and also introduced chapter IV of the report of the Commission on the work of its sixty-third session, dealing with "Reservations to treaties".

On 15 November 2013, the Committee adopted draft resolutions on the "Report of the International Law Commission on the work of its sixty-third and sixty-fifth sessions"⁶⁷⁰ and "Reservations to treaties"⁶⁷¹.

(d) General Assembly

On 16 December 2013, the General Assembly adopted resolution 68/112 entitled "Report of the International Law Commission on the work of its sixty-fifth session",⁶⁷² on the recommendation of the Sixth Committee, by which it took note of the report of the International Law Commission on the work of its sixty-fifth session.⁶⁷³ The General Assembly, *inter alia*, noted with appreciation the decision of the Commission to include the topics "Protection of the environment in relation to armed conflicts" and "Protection of the atmosphere" in its programme of work,⁶⁷⁴ and encouraged the Commission to continue the examination of the topics that are in its long-term programme of work. In this regard, it also took note of paragraphs 169 and 170 of the report of the International Law Commission, and noted in particular the inclusion of the topic

⁶⁶⁹ The Committee considered the item at its 17th to 26th and 29th meetings on 28, 29, 30, 31 October, and 1, 4, 5 and 15 November 2013. See A/C.6/68/SR.17–26 and 29.

⁶⁷⁰ A/C.6/68/L.24.

⁶⁷¹ A/C.6/68/L.23.

⁶⁷² The resolution was adopted without a vote.

⁶⁷³ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 10 (A/68/10)*.

⁶⁷⁴ *Ibid.*, paras. 167 and 168.

“Crimes against humanity” in the long-term programme of work of the Commission.⁶⁷⁵ The General Assembly also invited the Commission to continue to give priority to the topics “Immunity of State officials from foreign criminal jurisdiction” and “The obligation to extradite or prosecute (*aut dedere aut judicare*)”.

In the same resolution, the General Assembly stressed the desirability of further enhancing the dialogue between the Commission and the Sixth Committee at the sixty-ninth session of the General Assembly, and in this context encouraged, *inter alia*, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-ninth session of the General Assembly.

15. United Nations Commission on International Trade Law⁶⁷⁶

(a) Forty-sixth session of the Commission

The United Nations Commission on International Trade Law (UNCITRAL) held its forty-sixth session in Vienna from 8 to 26 July 2013 and adopted its report on 11, 17, 19 and 26 July 2013.⁶⁷⁷

At the session, the Commission finalized and adopted the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the UNCITRAL Arbitration Rules (with new article 1, paragraph 4, as adopted in 2013).⁶⁷⁸ The Commission agreed to entrust its Working Group II (Arbitration and Conciliation) with the task of preparing a draft convention on the application of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration to existing treaties.⁶⁷⁹ As regards future work in the field of settlement of commercial disputes, the Commission recalled that the 1996 UNCITRAL Notes on Organizing Arbitral Proceedings⁶⁸⁰ required updating as a matter of priority. The Commission therefore recommended that a single session of the Working Group should be devoted to consideration of the Notes and that such consideration should take place as the next topic of future work, after completion of the draft convention.⁶⁸¹

The Commission finalized and adopted the UNCITRAL Guide on the Implementation of a Security Rights Registry.⁶⁸² The Commission also confirmed its decision that its Working Group VI (Security Interests) should prepare a simple, short and concise model law on secured transactions based on the recommendations of the UNCITRAL Legislative

⁶⁷⁵ The inclusion of the topic was guided by the criteria for selection of the topics adopted by the Commission in 1998 (*Ibid.*, *Fifty-third Session, Supplement No. 10 and corrigendum (A/53/10 and Corr. 1)*), para. 553.

⁶⁷⁶ For the membership of the United Nations Commission on International Trade Law, see *ibid.*, *Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 4.

⁶⁷⁷ *Ibid.*, paras. 1 and 12.

⁶⁷⁸ *Ibid.*, para. 128.

⁶⁷⁹ *Ibid.*, para. 13.

⁶⁸⁰ *Ibid.*, *Fifty-first Session, Supplement No. 17 (A/51/17)*, chap. II.

⁶⁸¹ *Ibid.*, *Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 130.

⁶⁸² *Ibid.*, para. 191.

Guide on Secured Transactions⁶⁸³ and consistent with all texts prepared by UNCITRAL on secured transactions.⁶⁸⁴

The Commission finalized and adopted the Guide to Enactment and Interpretation of the UNCITRAL Model Law on Cross-Border Insolvency,⁶⁸⁵ and part four of the UNCITRAL Legislative Guide on Insolvency Law.⁶⁸⁶ It also took note of the updates to the UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective.⁶⁸⁷ The Commission considered the reports of its Working Group V (Insolvency Law) on its forty-second and forty-third sessions⁶⁸⁸ and decided that the Working Group should hold a colloquium to clarify how it would proceed with the enterprise group issues and other parts of its current mandate and to consider topics for possible future work, including insolvency issues specific to micro-, small- and medium-sized enterprises (MSMEs).⁶⁸⁹

The Commission, recalling its instructions to the Secretariat to undertake a study of topics that were not adequately covered in the UNCITRAL Model Law on Public Procurement (2011)⁶⁹⁰ and its accompanying Guide to Enactment,⁶⁹¹ adopted the documents “Guidance on procurement regulations to be promulgated in accordance with article 4 of the UNCITRAL Model Law on Public Procurement” and “Glossary of procurement-related terms used in the UNCITRAL Model Law on Public Procurement”.⁶⁹²

The Commission recalled its previous discussions of online dispute resolution.⁶⁹³ It unanimously confirmed, among other things, the mandate of the Working Group III (Online Dispute Resolution) in respect of low-value, high-volume cross-border electronic transactions, and encouraged the Working Group to continue to conduct its work in the most efficient manner possible.⁶⁹⁴

The Commission considered the reports of the forty-sixth and forty-seventh sessions of its Working Group IV (Electronic Commerce)⁶⁹⁵ and reaffirmed the mandate of the Working Group relating to electronic transferable records.⁶⁹⁶ It took note of other developments in the field of electronic commerce, in particular the entry into force of the United Nations Convention on the Use of Electronic Communications in International Contracts⁶⁹⁷ (hereinafter “Electronic Communications Convention”) on 1 March 2013

⁶⁸³ United Nations publication, Sales No. E.09.V.12.

⁶⁸⁴ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para.194.

⁶⁸⁵ *Ibid.*, para. 198.

⁶⁸⁶ *Ibid.*, para. 204.

⁶⁸⁷ *Ibid.*, para. 209.

⁶⁸⁸ *Ibid.*, para. 210.

⁶⁸⁹ *Ibid.*, para. 325.

⁶⁹⁰ *Ibid.*, *Sixty-sixth Session, Supplement No. 17 (A/66/17)*, annex I.

⁶⁹¹ *Ibid.*, *Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 214.

⁶⁹² *Ibid.*, para. 216.

⁶⁹³ *Ibid.*, para. 218.

⁶⁹⁴ *Ibid.*, para. 222.

⁶⁹⁵ *Ibid.*, para. 223.

⁶⁹⁶ *Ibid.*, para. 230.

⁶⁹⁷ General Assembly resolution 60/21, annex.

with three States parties.⁶⁹⁸ The Commission further explained that substantive provisions of the Electronic Communications Convention had influenced States that were revising or enacting their legislation on electronic commerce, and thus had the unforeseen yet very positive effect of updating and supplementing the UNCITRAL Model Law on Electronic Commerce.⁶⁹⁹

After considering the results of a UNCITRAL international colloquium on micro-finance, held from 16 to 18 January 2013,⁷⁰⁰ the Commission agreed to add to its work programme the work on international trade law aimed at reducing the legal obstacles faced by MSMEs throughout their life cycle and, in particular, those in developing economies.⁷⁰¹ It assigned this work to its Working Group I.⁷⁰²

As regards planned and possible future work, the Commission considered a note by the Secretariat,⁷⁰³ which supplemented the note by the Secretariat on a strategic direction for UNCITRAL,⁷⁰⁴ prepared in response to the request at the forty-fourth session.⁷⁰⁵ The Commission discussed and agreed on some general considerations that it might apply in planning and prioritizing the future work of UNCITRAL, including both its legislative activity and the other activities to support the adoption and use of UNCITRAL texts,⁷⁰⁶ and agreed that it should reserve time for discussion of future work as a separate topic at each Commission session.⁷⁰⁷

In addition to the ongoing and planned work in the areas covered above, the Commission considered possible future work in the areas of commercial fraud, international contract law and public-private partnerships.

Regarding its possible future work in the area of commercial fraud, the Commission recalled the “Indicators of commercial fraud”, published by the Secretariat,⁷⁰⁸ and commented on the need for their periodic review in order to consider their continuing relevance and accuracy. The Commission made a reference to plans⁷⁰⁹ to develop, under the auspices of the core group of experts on identity-related crime of the Commission on Crime Prevention and Criminal Justice, model legislation on identity-related crime, and

⁶⁹⁸ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, paras. 228 and 229.

⁶⁹⁹ General Assembly resolution 51/162, annex; *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 228.

⁷⁰⁰ *Ibid.*, paras. 316–317.

⁷⁰¹ *Ibid.*, para. 321.

⁷⁰² *Ibid.*, para. 322.

⁷⁰³ A/CN.9/774.

⁷⁰⁴ A/CN.9/752 and Add.1.

⁷⁰⁵ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 293.

⁷⁰⁶ *Ibid.*, paras. 294–309.

⁷⁰⁷ *Ibid.*, para. 310.

⁷⁰⁸ “Recognizing and Preventing Commercial Fraud: Indicators of Commercial Fraud” (2013), available from http://www.uncitral.org/uncitral/en/uncitral_texts/payments/2013-indicators-of-commercial-fraud.html.

⁷⁰⁹ *Official Records of the Economic and Social Council, 2013, Supplement No. 10 and corrigendum (E/2013/30 and Corr.1)*, chap. I, sect. B, draft resolution III, para. 7.

to a request made in that context to the United Nations Office on Drugs and Crime to coordinate with UNCITRAL on the development of such model legislation.⁷¹⁰

As regards its possible future work in the area of international contract law, the Commission requested the Secretariat to commence planning for a colloquium to celebrate the thirty-fifth anniversary of the United Nations Convention on Contracts for the International Sale of Goods,⁷¹¹ to be held in 2014. The Commission agreed that the scope of that colloquium could include looking at the Convention broadly and include some of the issues raised by an earlier proposal submitted at its forty-fifth session, as well as other developments in the field, such as the UNIDROIT Principles of International Commercial Contracts, and explore the need for further work in that area.⁷¹²

As regards its possible future work in the area of public-private partnerships, the Commission heard a summary of the results of the colloquium organized by the Secretariat in May 2013.⁷¹³ Noting the wide variation in terminology, scope and contents of existing texts at the national level, and some divergence of views as to whether a model law or other legislative texts should be developed, the Commission considered that further preparatory work on the topic would be required so as to set a precise scope for any mandate to be given for development in a working group.⁷¹⁴ After discussion, the Commission agreed that the Secretariat would organize that preparatory work through studies and consultations with experts, and use up to one week of conference time for one or more colloquiums in cooperation with relevant international and regional bodies active in the field. Thereafter, a further report would be made to the Commission at its forty-seventh session.⁷¹⁵

The Commission also continued consideration of its technical assistance to law reform activities,⁷¹⁶ promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts,⁷¹⁷ status and promotion of UNCITRAL texts,⁷¹⁸ measures aimed at coordination and cooperation with other organizations active in the field of international trade law,⁷¹⁹ its regional presence,⁷²⁰ and the role of UNCITRAL in promoting the rule of law at the national and international levels.⁷²¹ Finally, the Commission took note of relevant General Assembly resolutions.⁷²²

⁷¹⁰ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 312.

⁷¹¹ United Nations, *Treaty Series*, vol. 1489, p. 3.

⁷¹² *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 315.

⁷¹³ *Ibid.*, para. 327.

⁷¹⁴ *Ibid.*, para. 330.

⁷¹⁵ *Ibid.*, para. 331.

⁷¹⁶ *Ibid.*, paras. 231–234.

⁷¹⁷ *Ibid.*, paras. 235–240.

⁷¹⁸ *Ibid.*, paras. 241–244.

⁷¹⁹ *Ibid.*, paras. 245–261.

⁷²⁰ *Ibid.*, paras. 262–266.

⁷²¹ *Ibid.*, paras. 267–291.

⁷²² *Ibid.*, para. 333.

(b) General Assembly

On 16 December 2013, the General Assembly adopted four resolutions on the work of UNCITRAL: Resolution 68/106 on the report of the Commission on the work of its forty-sixth session; resolution 68/107 A–B on the revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency and part four of the UNCITRAL Legislative Guide on Insolvency Law; resolution 68/108 on the UNCITRAL Guide on the Implementation of a Security Rights Registry; and resolution 68/109 on the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013).⁷²³

16. Legal questions dealt with by the Sixth Committee and other related subsidiary bodies of the General Assembly

During the sixty-eighth session of the General Assembly, the Sixth Committee (Legal), in addition to the topics discussed above concerning the work of the International Law Commission and the United Nations Commission on International Trade Law, considered a wide range of topics, some of which were considered in follow up to the work of the International Law Commission concluded previously. The work of the Sixth Committee and of other related subsidiary organs is described below, together with the relevant resolutions and decisions adopted by the General Assembly in 2013.⁷²⁴ The resolutions and decisions of the General Assembly described in this section were all adopted, without a vote, during the sixty-eighth session, on 16 December 2013, on the recommendation of the Sixth Committee.⁷²⁵

(a) Responsibility of States for internationally wrong acts

The draft articles on responsibility of States for internationally wrongful acts were prepared by the International Law Commission and were submitted to the General Assembly at its fifty-sixth session in 2001.⁷²⁶ The Assembly took note of the draft articles and commended them to the attention of Governments without prejudice to the question of their future adoption or other appropriate action.⁷²⁷ It further considered the item during its fifty-ninth, sixty-second, and sixty-fifth sessions.⁷²⁸

⁷²³ Report of the Sixth Committee (A/68/462). The resolutions were adopted without a vote, on the recommendation of the Sixth Committee.

⁷²⁴ For further information and documents regarding the work of the Sixth Committee and the other related subsidiary organs of the General Assembly mentioned in this section, see http://www.un.org/en/ga/sixth/68/68_session.shtml.

⁷²⁵ The Sixth Committee adopts draft resolutions, which it recommends for adoption by the General Assembly. These resolutions are contained in the reports of the Sixth Committee to the General Assembly on the various agenda items. The Sixth Committee reports also contain information concerning the relevant documentation on the consideration of the items by the Sixth Committee.

⁷²⁶ General Assembly resolution 56/83 of 12 December 2001, annex.

⁷²⁷ *Ibid.*, paras. 1–4.

⁷²⁸ See General Assembly resolutions 59/35 of 2 December 2004; 62/61 of 6 December 2007; and 65/19 of 6 December 2010.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 15th, 28th and 29th meetings, on 21 October, and 8 and 15 November 2013, respectively.⁷²⁹

Pursuant to General Assembly resolution 65/19 of 6 December 2010, the Committee decided, at its 2nd meeting, on 7 October 2013, to establish a Working Group on the Responsibility of States for Internationally Wrongful Acts, in order to fulfil the mandate conferred by the General Assembly on the Committee, namely, to further examine the question of a convention on the topic or other appropriate action on the basis of the articles drafted by the International Law Commission. At the same meeting, the Committee decided to open the Working Group to all States Members of the United Nations or members of the Specialized Agencies or of the International Atomic Energy Agency. The Working Group, which was chaired by Mr. Nikolas Stuerchler (Switzerland), held one meeting, on 21 October 2013. At the 28th meeting of the Committee, on 8 November 2013, the Chair of the Working Group presented an oral report on the work of the Working Group.

In their comments, delegations took note, with appreciation, of the report of the Secretary-General on comments and information received from Governments,⁷³⁰ as well as of the updated compilation of decisions of international courts, tribunals and other bodies referring to the articles on responsibility of States for internationally wrongful acts.⁷³¹ It was also noted that the articles had become a useful and authoritative statement of the rules on State responsibility.

As regards the future action on the articles, three options were raised: (a) the negotiation of a convention on the basis of the articles; (b) the adoption of the articles by the General Assembly in the form of a declaration or resolution; or (c) the retention of the articles as adopted by the Commission with no further action.

Several delegations supported the negotiation of a convention on the basis of the articles, as a convention would contribute to legal certainty and the international rule of law. It was also suggested that a convention would lessen the selective and inconsistent application of the articles in their present form. The articles were deemed a well-conceived and balanced set of secondary rules, and reference to the articles in the practice of States, as well as the decisions of various international courts, tribunals and other bodies, demonstrated the general acceptance of the articles in the international community. In this regard, certain delegations also called for the convening of a diplomatic conference to adopt the articles as an international convention.

Several other delegations did not favour the negotiation of a convention, indicating that the negotiation of a convention would threaten the delicate balance established by the articles. The concern was raised that the articles adopted by the Commission reflected a widely shared consensus and had proven their worth as a persuasive source of guidance for both Governments and courts. It was also observed that it would be premature to consider the articles in their entirety as settled customary international law. According to another view, further consideration of the articles would be needed before a decision could be made on whether to negotiate a convention. It was suggested that the rules on State responsibility

⁷²⁹ For the summary records of the Sixth Committee, see A/C.6/68/SR.15, 28 and 29.

⁷³⁰ A/68/69 and Add.1.

⁷³¹ A/68/72.

should develop organically rather than through negotiations in a multilateral conference, and that further discussion of this topic should be deferred until it was clear that the time was ripe for action in relation to the articles.

A number of delegations indicated a willingness to support the adoption by the General Assembly of the articles in the form of a declaration or resolution.

At the 28th meeting, on 28 November 2013, the representative of Switzerland introduced, on behalf of the Bureau, the text of a draft resolution entitled “Responsibility of States for internationally wrongful acts”.⁷³² At the 29th meeting, on 15 November 2013, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

By resolution 68/104 of 16 December 2013, the General Assembly acknowledged the growing number of decisions of international courts, tribunals and other bodies referring to the articles, and commended them once again to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action. The Assembly requested the Secretary-General to invite Governments to submit further written comments on any future action regarding the articles, to update the compilation of decisions of international courts, tribunals and other bodies referring to the articles, and to invite Governments to submit information on their practice in this regard. It further requested the Secretary-General to submit this material well in advance of its seventy-first session. Finally, the General Assembly decided to further examine, within the framework of a working group of the Sixth Committee and with a view to taking a decision, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles. In this regard, the Assembly decided to include the item in the provisional agenda of its seventy-first session.

(b) **Diplomatic protection**

At its sixty-first session, the General Assembly took note of the draft articles on diplomatic protection adopted by the International Law Commission at its fifty-eighth session, in 2006, and invited Governments to submit comments concerning the recommendation of the Commission that the Assembly elaborate a convention on the basis of the draft articles.⁷³³ The Assembly further considered this item at its sixty-second and sixty-fifth sessions.⁷³⁴

(i) *Sixth Committee*

The Sixth Committee considered the item at its 15th, 28th and 29th meetings, on 21 October, 8 November and 15 November 2013, respectively.⁷³⁵

⁷³² A/C.6/68/L.19.

⁷³³ General Assembly resolution 61/35 of 4 December 2006.

⁷³⁴ See General Assembly resolution 62/67 of 6 December 2007; and General Assembly resolution 65/27 of 6 December 2010.

⁷³⁵ For the summary records of the Sixth Committee, see A/C.6/68/SR.15, 28 and 29.

Pursuant to resolution 65/27 of 6 December 2010, the Committee decided, at its 2nd meeting, on 7 October 2013, to establish a Working Group on Diplomatic Protection, in order to fulfil the mandate conferred by the General Assembly on the Committee, namely, to further examine, in light of the written comments of Governments as well as views expressed in the debates held at the sixty-second and sixty-fifth sessions of the General Assembly, the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the articles drafted by the International Law Commission and also to identify any difference of opinion on the articles. At the same meeting, the Committee decided to open the Working Group to all States Members of the United Nations or members of the Specialized Agencies or of the International Atomic Energy Agency. The Working Group, which was chaired by Mr. Thembile Joyini (South Africa), held one meeting, on 23 October 2013.

Several delegations expressed support for the adoption of the articles on diplomatic protection in the form of a convention. While several delegations underlined that such adoption would enable the harmonization of State practice and jurisprudence in this topic, others pointed to the important role of the draft articles in clarifying and developing norms of customary international law relating to diplomatic protection. The enhancement of legal certainty which a future convention may have was also stressed. Furthermore, some delegations recalled the positive effect that diplomatic protection had had on human rights protection. It was also stated that a convention would enhance the peaceful settlement of disputes, address existing gaps in international law and promote the rule of law. It was further suggested that the draft articles could be finalized by the Working Group of the Sixth Committee to achieve broader acceptance by Member States.

Several other delegations expressed their preference for not developing a convention on the basis of the draft articles at this stage, and for allowing more time to further consider their content. The concern was expressed that attempts to negotiate a convention at this point could risk opening up a debate that may undermine the already substantial contributions of the draft articles. Doubts were expressed that the draft articles satisfied the need for the delicate balance between the rights of individuals and the rights of States, and the view was expressed that the time was not ripe to transform them into an international legally binding instrument. Some also favoured allowing the draft articles some time to inform, influence and settle State practice. It was also stated that any decision to begin negotiating a convention in respect of diplomatic protection would be premature in the absence of a consensus on the elaboration of a convention on the basis of the articles on the responsibility of States for internationally wrongful acts,⁷³⁶ given the close connection between the two sets of draft articles. Several delegations recommended that, at that juncture, the draft articles should be taken note of and be fully taken into consideration as guidance and inspiration of State practice.

At the 28th meeting, on 8 November 2013, the representative of South Africa, on behalf of the Bureau, introduced a draft resolution entitled "Diplomatic protection".⁷³⁷ At the 29th meeting, on 15 November 2013, the Committee adopted the draft resolution without a vote.

⁷³⁶ For more information about Responsibility of States for internationally wrongful acts, see section A.16(a) of this chapter above.

⁷³⁷ A/C.6/68/L.16.

(ii) *General Assembly*

By resolution 68/113, the General Assembly commended once again the articles on diplomatic protection to the attention of Governments and invited them to submit in writing to the Secretary-General any further comments, including comments concerning the recommendation of the Commission to elaborate a convention on the basis of the articles. The Assembly also decided to include the item in the provisional agenda of its seventy-first session and, within the framework of a working group of the Sixth Committee, in the light of the written comments of Governments, as well as views expressed in the debates held at the sixty-second, sixty-fifth and sixty-eighth sessions of the General Assembly, or any other appropriate action, on the basis of the above-mentioned articles and to also identify any difference of opinion on the articles.

(c) **Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm**

Following a recommendation by the General Assembly in resolution 3071 (XXVIII) of 30 November 1973 that the International Law Commission should undertake at an appropriate time a separate study of the topic “International liability for injurious consequences arising out of the performance of other activities”, other than acts giving rise to responsibility for international wrongful acts, the topic “International liability for injurious consequences arising out of acts not prohibited by international law” was included in the programme of work of the Commission in 1978.

In 1997, the Commission decided to deal first with prevention aspects of the topic under the subtitle “Prevention of transboundary damage from hazardous activities”. The Commission, at its fifty-third session, in 2001, completed the draft articles on prevention of transboundary harm from hazardous activities and recommended to the General Assembly the elaboration of a convention on the basis of the draft articles.⁷³⁸

In 2002, at its fifty-fourth session, the Commission resumed work on the liability aspects of the topic under the subtitle “International liability in case of loss from transboundary harm arising out of hazardous activities”.⁷³⁹ At its fifty-eighth session, in 2006, the Commission completed the liability aspects by adopting draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities,⁷⁴⁰ and recommended to the Assembly that it endorse the draft principles by a resolution and urge States to take national and international action to implement them.⁷⁴¹ The General Assembly further considered this item at its sixty-second and sixty-fifth sessions.⁷⁴²

⁷³⁸ See *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10 and Corr. 1)*

⁷³⁹ See General Assembly resolution 56/82 of 12 December 2001 and *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 10 (A/57/10 and Corr.1)*.

⁷⁴⁰ See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10 (A/61/10)*.

⁷⁴¹ General Assembly resolution 61/36 of 19 December 2006.

⁷⁴² General Assembly resolution 62/68 of 6 December 2007 and General Assembly resolution 65/28 of 6 December 2010.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 16th, 28th and 29th meetings, on 22 October and on 8 and 15 November 2013, respectively.⁷⁴³

In their comments, delegations reiterated that the work of the International Law Commission in this area represented an important contribution to the progressive development of international law and its codification. They encouraged States to continue to use the draft articles and draft principles as a guide for negotiating bilateral and multilateral agreements and developing domestic legislative and policy measures to address the issue. Some delegations asserted that the draft articles and the draft principles already constituted authoritative guidance for States and judicial bodies in the adjudication of disputes. It was also expressed that the prevention of transboundary harm was integral in the effort to address climate change and protect the oceans and the deep sea bed.

With regard to the final form of the draft articles and the draft principles, several delegations reiterated the position that the draft articles and draft principles would be most effective if they remained in their current form. While not excluding the possibility of the adoption of an international convention, it was also noted that it was premature at this time to consider such an instrument. The suggestion was also made that there was a need to have a unified convention incorporating both the draft articles and the draft principles. As a preliminary step, it was suggested that the draft articles and draft principles should be combined into a single draft instrument, which could then be considered by States. It was noted that the adoption of such a unified convention may take a significant amount of time and, as an interim measure, further consultations with States on the outstanding issues and relevant practice were welcomed. It was also suggested that the Secretariat should carry out a comprehensive analytical study on the subject. The view was also expressed that a Working Group of the Sixth Committee be created to consider the elaboration of an international convention on the basis of both the draft articles and the draft principles.

At the 28th meeting, on 8 November 2013, the representative of Chile, on behalf of the Bureau, introduced a draft resolution entitled “Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm”.⁷⁴⁴ At the 29th meeting, on 15 November 2013, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

By resolution 68/114 of 16 December 2013, the General Assembly commended once again the articles on prevention of transboundary harm from hazardous activities, as well as the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, to the attention of Governments, without prejudice to any future action. The Assembly also invited Governments to submit further comments on any future action, in particular on the form of the respective articles and principles, bearing in mind the recommendations made by the International Law Commission in that regard, including in relation to the elaboration of a convention on the basis of the articles, as well as on

⁷⁴³ For the summary records of the Sixth Committee, see A/C.6/68/SR.16, 28 and 29.

⁷⁴⁴ A/C.6/68/L.20.

any practice in relation to the application of the articles and principles. The Assembly further requested the Secretary-General to submit a compilation of decisions of international courts, tribunals and other bodies referring to the articles and the principles. Finally, the Assembly decided to include the item in the provisional agenda of its seventy-first session.

(d) The law of transboundary aquifers

At its sixty-third session, in 2008, the General Assembly, under the item entitled “Report of the International Law Commission on the work of its sixtieth session”, considered chapter IV of the report of the Commission,⁷⁴⁵ which contained the draft articles on the law of transboundary aquifers, together with commentaries, and a recommendation that the Assembly take note of the draft articles on the law of transboundary aquifers in a resolution and annex those articles to the resolution. The General Assembly subsequently welcomed the conclusion of the work of the Commission on the law of transboundary aquifers and its adoption of the draft articles and a detailed commentary on the subject. It took note of the draft articles, the text of which was annexed to its resolution; commended them to the attention of Governments without prejudice to the question of their future adoption or other appropriate action; encouraged the States concerned to make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers, taking into account the provisions of the draft articles; and decided to include the item in the provisional agenda of its sixty-sixth session, in 2011, with a view to examining, in particular, the question of the form that might be given to the draft articles.⁷⁴⁶

At its sixty-sixth session, in 2011, the General Assembly further encouraged the States concerned to make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers, taking into account the provisions of the draft articles, and encouraged the International Hydrological Programme of the United Nations Educational, Scientific and Cultural Organization to offer further scientific and technical assistance to the States concerned and decided to consider the matter at its sixty-eighth session, examining, *inter alia*, the question of the final form that might be given to the draft articles, in the light of written comments of Governments, as well as views expressed in the debates of the Sixth Committee held at its sixty-third and sixty-sixth sessions.⁷⁴⁷

(i) Sixth Committee

The Sixth Committee considered the item at its 16th and 29th meetings, on 22 October and 15 November 2013, respectively.⁷⁴⁸ For the consideration of the item, the Committee had before it a report of the Secretary-General containing comments and observations of Governments on the draft articles on the law transboundary aquifers.⁷⁴⁹

⁷⁴⁵ A/63/10.

⁷⁴⁶ General Assembly resolution 63/124 of 11 December 2008.

⁷⁴⁷ General Assembly resolution 66/104 of 9 December 2011.

⁷⁴⁸ For the summary records of the Sixth Committee, see A/C.6/68/SR.16 and 29.

⁷⁴⁹ A/68/172.

Some delegations commented that the draft articles had achieved a fair balance between the rights and obligations of States, while others continued to emphasize the importance of balancing the rights and responsibilities of States in the proper management of transboundary aquifers.

With regard to the future form of the draft articles, some delegations proposed the adoption of the draft articles in the form of a declaration of principles on the law of transboundary aquifers, which would serve as guidelines for States in their elaboration and conclusion of bilateral or regional agreements. The view was also expressed that the draft articles may be adopted as guiding principles if there was consensus to that effect. Other delegations reiterated their view that the draft articles should evolve into an international framework convention. Some other delegations reaffirmed their continued belief in context-specific arrangements as opposed to an international framework treaty, and asserted that the draft articles should be taken into account by the States concerned in the negotiation of bilateral or regional agreements. It was further emphasized that the draft articles should not be considered as the basis for an international convention but may be useful as a voluntary guide for concluding bilateral or regional arrangements.

Some delegations stated that the elaboration of a legally binding instrument was premature and stressed the need for further scientific and technical knowledge in this area. Continued examination of State practice (through bilateral and regional arrangements) was suggested, and it was reiterated that the final form of the draft articles should be considered at a later stage. It was also noted that any international convention would have to take account of existing international agreements, including the 1997 Convention on the Law of the Non-Navigational Uses of International Watercourses.⁷⁵⁰

At the 29th meeting, on 15 November 2013, the representative of Japan, on behalf of the Bureau, introduced a draft resolution entitled "The law of transboundary aquifers".⁷⁵¹ At the same meeting, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

By resolution 68/118 of 16 December 2013, the General Assembly commended to the attention of Governments the draft articles on the law of transboundary aquifers (annexed to the resolution) as guidance for bilateral or regional agreements and arrangements for the proper management of transboundary aquifers. The Assembly also encouraged the International Hydrological Programme of the United Nations Educational, Scientific and Cultural Organization to continue its contribution by offering further scientific and technical assistance to the States concerned. Finally, the Assembly decided to include the item in the provisional agenda of its seventy-first session.

⁷⁵⁰ General Assembly resolution 51/229 of 21 May 1997, annex. The resolution was adopted by a recorded vote of 103 in favour to 3 against, with 27 abstentions.

⁷⁵¹ A/C.6/68/L.25.

**(e) Criminal accountability of United Nations officials
and experts on mission**

The item entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects” was included in the agenda of the General Assembly at its nineteenth session, in February 1965, when the General Assembly established the Special Committee on Peacekeeping Operations that was to undertake a comprehensive review of the whole question of peacekeeping operations in all their aspects.⁷⁵²

At its sixty-first session, in 2006, the General Assembly decided that the agenda item entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects”, which had been allocated to the Special Political and Decolonization Committee (Fourth Committee), should also be referred to the Sixth Committee for discussion of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations,⁷⁵³ submitted pursuant to General Assembly resolution 59/300 of 22 June 2005.⁷⁵⁴ At the same session, the General Assembly decided to establish an *ad hoc* committee, for the purpose of considering the report of the Group of Legal Experts, in particular its legal aspects, and to report on its work to the General Assembly under the agenda item entitled “Criminal Accountability of United Nations officials and experts on mission”.⁷⁵⁵ In addition to its consideration at the sixty-eighth session, the General Assembly had previously considered this item at its sixty-second to sixty-seventh sessions.⁷⁵⁶

(i) Sixth Committee

During the sixty-eighth session of the General Assembly, the Six Committee considered the agenda item at four meetings.⁷⁵⁷ For its consideration of the item, the Committee had before it the report of the Secretary-General on criminal accountability of United Nations officials and experts on mission.⁷⁵⁸

In their general comments, delegations, *inter alia*, underlined the imperative to guard against impunity and the need to ensure that all United Nations personnel perform their functions in a manner that is consistent with the Charter of the United Nations. Delegations

⁷⁵² General Assembly resolution 2006 (XIX) of 18 February 1965.

⁷⁵³ A/60/980.

⁷⁵⁴ General Assembly decision 61/503A of 13 September 2006.

⁷⁵⁵ The Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission as established by General Assembly resolution 61/29 of 4 December 2006. The Ad Hoc Committee held two sessions at United Nations Headquarters in New York, from 9 to 13 April 2007 and from 7 to 9 and on 11 April 2008. For more information, see http://legal.un.org/committees/criminal_accountability/.

⁷⁵⁶ See General Assembly resolutions 62/63 of 6 December 2007; 63/119 of 11 December 2008; 64/110 of 16 December 2009; 65/20 of 6 December 2010; 66/93 of 6 December 2011; and 67/88 of 14 December 2012.

⁷⁵⁷ The Sixth Committee considered the item at its 10th, 11th, 28th and 29th meetings, on 16 October and on 8 and 15 November 2013. For the report of the Sixth Committee, see A/68/461. For the summary records, see A/C.6/68/SR.10, 11, 28 and 29.

⁷⁵⁸ A/68/173.

also reiterated their support for the zero tolerance policy of the United Nations, particularly with regard to sexual exploitation and abuse.

Delegations also discussed the establishment of criminal jurisdiction by States over serious crimes committed by United Nations officials and experts on mission. Delegations generally welcomed the recent referrals by the Organization of cases of alleged criminal conduct to the State of nationality of the official or expert on mission concerned, for investigation and possible prosecution, and urged States to report back to the United Nations. Several delegations encouraged States to take the necessary steps to prosecute their nationals for any offence committed while on mission, if necessary by adapting their national legislation to guarantee that jurisdiction could be exercised. Some delegations suggested that an assessment be undertaken to discover where gaps in jurisdiction existed.

Several delegations underlined the need for increased cooperation among States, as well between States and the United Nations, particularly with respect to extradition and mutual assistance including in relation to criminal investigations, exchange of information, the collection of evidence and judicial process. The need to address the concerns of victims was also stressed by a number of delegations.

Regarding future follow-up action, most delegations looked forward to further discussion of the report of the Group of Legal Experts at the seventieth session of the General Assembly.⁷⁵⁹ Some delegations called for the full implementation of the resolutions adopted so far by the General Assembly on this item. Different views were expressed concerning the possible elaboration of a convention to ensure the criminal accountability of United Nations officials and experts on mission.

At the 28th meeting, on 8 November 2013, the representative of Pakistan, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission".⁷⁶⁰ At its 29th meeting, on 15 November 2013, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

In resolution 68/105, the General Assembly, *inter alia*, took note of the report of the Secretary-General⁷⁶¹ and strongly urged States to take all appropriate measures to ensure that crimes committed by United Nations officials and experts on mission do not go unpunished and that perpetrators of such crimes be brought to justice. The General Assembly also strongly urged all States to consider establishing, to the extent that they had not yet done so, jurisdiction over crimes, particularly those of a serious nature, as known in their existing national criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State, and, further urged States and appropriate international organizations to provide technical and other appropriate assistance in developing such legal measures to States requesting such support.

⁷⁵⁹ A/60/980.

⁷⁶⁰ A/C.6/68/L.15.

⁷⁶¹ A/68/173.

The General Assembly also encouraged all States, in accordance with their respective national laws, and bearing in mind due process considerations: (a) to afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission; (b) to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission; (c) to provide effective protection for victims and witnesses; and (d) to explore ways and means of responding adequately to requests by host States for support and assistance.

The General Assembly decided that, bearing in mind its resolutions 62/63 of 6 December 2007 and 63/119 of 11 December 2008, the consideration of the report of the Group of Legal Experts, in particular its legal aspects, taking into account the views of Member States and also noting the inputs by the Secretariat, should continue during its seventieth session in the framework of a working group of the Sixth Committee, and decided to include the item in the provisional agenda of its sixty-ninth session.

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

The United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law was established by the General Assembly at its twentieth session in 1965⁷⁶² to provide direct assistance in the field of international law, as well as through the preparation and dissemination of publications and other information relating to international law. The General Assembly authorized the continuation of the Programme of Assistance annually until its twenty-sixth session, biennially until its sixty-fourth session and annually thereafter.

In the performance of the functions entrusted to him or her by the General Assembly, the Secretary-General is assisted by the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, the members of which are appointed by the General Assembly.

(i) Sixth Committee

The Sixth Committee considered the agenda item at four meetings in 2013.⁷⁶³ For its consideration of the item, the Committee had before it the report of the Secretary-General.⁷⁶⁴

Delegations, *inter alia*, welcomed the report of the Secretary-General and stressed the central importance of the Programme of Assistance, especially as part of the strengthening

⁷⁶² General Assembly resolution 2099 (XX) of 20 December 1965. For further information on the Programme of Assistance, see <http://legal.un.org/poa/>.

⁷⁶³ The Committee considered the item at its 11th, 12th, 27th and 28th meetings, on 16 and 17 October and 6 and 8 November. For the report of the Sixth Committee, see A/68/463. For the summary records, see A/C.6/68/SR.11, 12, 27 and 28.

⁷⁶⁴ A/68/521.

of the rule of law, and as a means to ensure peaceful relations between States. It was noted that it was important to ensure that the Programme had adequate resources.

At the 27th meeting of the Committee, on 6 November 2013, the representative of Ghana, on behalf of the Bureau, introduced a draft resolution entitled “United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law”.⁷⁶⁵ At the 28th meeting, on 8 November 2013, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

In resolution 68/110 of 18 December 2013, the General Assembly reaffirmed that the Programme constituted a core activity of the United Nations and that there was an increase in the demand for international law training, which created new challenges for the Programme. The General Assembly, *inter alia*, authorized the Secretary-General to carry out the activities specified in his report⁷⁶⁶ on the Programme for the biennium 2014–2015. It reiterated its request to the Secretary-General to provide to the programme budget for 2014–2015 the resources necessary for the Programme to ensure its continued effectiveness and further development, in particular the organization of the Regional Courses in International Law on a regular basis and the viability of the Audiovisual Library of International Law. The General Assembly decided to consider the viability of voluntary contributions as a sustainable method for funding the Regional Courses in International Law and the Audiovisual Library of International Law and the need to provide a more reliable funding method, taking into account the recommendation of the Advisory Committee at its forty-eighth session. In addition, the General Assembly decided to include the item in the provisional agenda of its sixty-ninth session.

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

(i) *Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization*⁷⁶⁷

The item entitled “Need to consider suggestions regarding the review of the Charter of the United Nations” was included in the agenda of the twenty-fourth session of the General Assembly, in 1969, at the request of Colombia.⁷⁶⁸

At its twenty-ninth session, in 1974, the General Assembly decided to establish an Ad Hoc Committee on the Charter of the United Nations to consider any specific proposals that governments might make with a view to enhancing the ability of the United Nations

⁷⁶⁵ A/C.6/68/L.14.

⁷⁶⁶ A/68/521.

⁷⁶⁷ For more information, see the website of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, available at <http://legal.un.org/committees/charter/>.

⁷⁶⁸ Letter dated 21 November 1969 addressed to the President of the General Assembly by the Permanent Representative of Colombia to the United Nations (A/7659).

to achieve its purposes, as well as other suggestions for the more effective functioning of the United Nations that might not require amendments to the Charter.⁷⁶⁹

At its thirtieth session, in 1975, the General Assembly decided to reconvene the Ad Hoc Committee as the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, to examine suggestions and proposals regarding the Charter and the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law.⁷⁷⁰ Since its thirtieth session, the General Assembly has considered the report of the Special Committee annually.

The Special Committee met at the United Nations Headquarters from 19 to 27 February 2013.⁷⁷¹ The issues considered by the Special Committee during its 2013 session in relation to the item “Maintenance of international peace and security” were: (a) the report by the Secretary-General entitled “Implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions”;⁷⁷² (b) a revised proposal submitted by Libya at the 1998 session with a view to strengthening the role of the United Nations in the maintenance of international peace and security;⁷⁷³ (c) a further revised working paper submitted by the Bolivarian Republic of Venezuela at the 2011 session, entitled “Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs”;⁷⁷⁴ (d) a revised working paper submitted by Belarus and the Russian Federation at the 2005 session;⁷⁷⁵ and (e) a working paper introduced by Cuba at the 2012 session entitled “Strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations”.⁷⁷⁶

The Special Committee also considered the items “Peaceful settlement of disputes”, “*Repertory of Practice of United Nations Organs and Repertoire of the Practice of the Security Council*” and “Working methods of the Special Committee and identification of new subjects”.

⁷⁶⁹ General Assembly resolution 3349 (XXIX) of 17 December 1974. Meanwhile, another item, entitled “Strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law in relations between States”, was included in the agenda of the twenty-seventh session of the General Assembly, at the request of Romania: see letter dated 8 September 1972, addressed to the Secretary-General by the Permanent Representative of Romania to the United Nations (A/8792).

⁷⁷⁰ General Assembly resolution 3499 (XXX) of 15 December 1975.

⁷⁷¹ For the report of the Special Committee, see *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 33* (A/68/33).

⁷⁷² A/67/190.

⁷⁷³ *Official Records of the General Assembly, Fifty-third Session, Supplement No. 33* (A/53/33), para. 98.

⁷⁷⁴ *Ibid.*, *Sixty-sixth Session, Supplement No. 33* (A/66/33), annex.

⁷⁷⁵ *Ibid.*, *Sixtieth Session, Supplement No. 33* (A/60/33), para. 56.

⁷⁷⁶ *Ibid.*, *Sixty-seventh Session, Supplement No. 33* (A/67/33), annex.

(ii) *Sixth Committee*

For its consideration of the item, the Sixth Committee had before it, *inter alia*, the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.⁷⁷⁷ The Committee also heard a statement on the status of the *Repertory of Practice of United Nations Organs*, and a statement on the status of the *Repertoire of the Practice of the Security Council*.

In the context of the maintenance of international peace and security, concern with regard to the imposition of sanctions was expressed by a number of delegations. They pointed out that sanctions should be implemented in accordance with international law and the Charter of the United Nations and stressed the need to minimize the adverse humanitarian effects of sanctions. Several delegations were also of the view that the objectives of sanctions regimes should be clearly defined, based on tenable legal grounds, imposed for a specified time frame, with the conditions on which the sanctions are imposed being clearly defined and subject to periodic review. Several delegations also noted the importance of considering the issue of compensation.

With regard to the implementation of the provisions of the Charter of the United Nations relating to assistance to third States affected by the application of sanctions under Chapter VII, a number of delegations expressed the view that it was necessary to continue to consider the topic. Several other delegations reiterated their view that the topic should be removed from the agenda since the application of targeted sanctions in recent years had minimized the possibility of adverse consequences for civilian populations.

On the issue of the identification of new subjects, reference was made to the proposal of Ghana for the inclusion of a new subject on principles and practical measures/mechanisms for strengthening and ensuring more effective cooperation between the United Nations and regional organizations on matters relating to international peace and security in areas of conflict prevention and resolution and post-conflict peacebuilding and peacekeeping.

Several delegations called for the improvement of the working methods of the Special Committee. In particular, several delegations spoke in favour of reviewing all agenda items to consider the usefulness of further discussing them before examining new proposals, and supported re-examining the duration and the frequency of the sessions of the Special Committee.

At the 28th meeting, on 8 November 2013, the representative of Egypt, on behalf of the Bureau, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".⁷⁷⁸ At the 29th meeting, on 15 November 2013, the Committee adopted the draft resolution without a vote.

⁷⁷⁷ *Official Records of the General Assembly, Sixty-eight Session, Supplement No. 33 (A/68/33)*. The Committee considered the item at its 8th, 9th, 28th and 29th meetings, on 11 and 14 October and on 8 and 15 November. For the report of the Sixth Committee, see A/68/467. For the summary records, see A/C.6/68/SR.8, 9, 28 and 29.

⁷⁷⁸ A/C.6/68/L.18.

(iii) *General Assembly*

In resolution 68/115, the General Assembly, *inter alia*, requested the Special Committee to continue its consideration of all proposals concerning the question of the maintenance of international peace and security and of the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions, and to continue to consider, on a priority basis, ways and means of improving the Committee's working methods and enhancing its efficiency.

(h) **The rule of law at the national and international levels**

This item was included in the provisional agenda of the sixty-first session of the General Assembly, in 2006, at the request of Liechtenstein and Mexico.⁷⁷⁹ The General Assembly had previously considered the item from its sixty-first to its sixty-seventh sessions.

(i) *Sixth Committee*

At its sixty-eighth session in 2013, the Sixth Committee considered the item at five meetings.⁷⁸⁰ For its consideration of the item, the Committee had before it the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities.⁷⁸¹

In their general observations, delegations affirmed the indispensability of the rule of law and international law to maintain and develop peaceful coexistence and cooperation within the international community. They emphasized the connection between the rule of law and the purposes and principles of the Charter of the United Nations and the principles of international law, as well as the role of the rule of law in underpinning the three core pillars of the United Nations, namely: international peace and security, the advancement of socio-economic development and human rights.

In accordance with General Assembly resolution 67/97 of 14 December 2012, delegations focused their debate at the sixty-eighth session on the subtopic of "The rule of law and the peaceful settlement of international disputes". Several delegations emphasized that States should refrain from the threat of, or use of force in the resolution of disputes and reaffirmed their commitment to settle disputes in accordance with Chapter VI of the United Nations Charter and international law. Delegations referred in particular to the peaceful means for the settlement of disputes contemplated in Article 33 of the Charter of the United Nations. Some delegations noted the insufficient use of the various methods for settling legal disputes by States enunciated therein.

⁷⁷⁹ Letter dated 11 May 2006 from the Permanent Representatives of Liechtenstein and Mexico to the United Nations addressed to the Secretary-General (A/61/142).

⁷⁸⁰ The Committee considered the agenda item at its 5th, 6th, 7th, 8th and 29th meetings, on 9, 10 and 11 October and on 15 November 2013. For the report of the Sixth Committee, see A/68/468. For the summary records, see A/C.6/68/SR.5 to 8 and 29.

⁷⁸¹ A/68/213.

Delegations also acknowledged the important role played by international judicial institutions in upholding the rule of law, ensuring accountability and combating impunity. A number of delegations acknowledged the work of the International Court of Justice and highlighted the importance of its advisory opinions and the role of the Court in helping to restore peaceful relations between parties to disputes. Some delegations expressed the view that the General Assembly and Security Council should exercise their power to request advisory opinions of the International Court of Justice more frequently in the future in order to enhance the rule of law on the international level. Some delegations also recognized the contributions of the International Tribunal of the Law of the Sea in the peaceful resolution of maritime disputes. Some other delegations emphasized the important role played by the International Criminal Court (ICC) in the fight against impunity for serious international crimes, recognized the significance of efforts to strengthen domestic criminal justice systems and stressed the importance of the principle of complementarity as a linkage between international and national rule of law efforts. Other delegations called on all States that have not done so to accept the compulsory jurisdiction of the International Court of Justice and to ratify the Rome Statute of the ICC⁷⁸² and its amendments. Some delegations expressed concern that the international criminal justice system is operating in a selective manner and that institutions such as the ICC are focusing on targets in the developing world, namely in Africa. Some other delegations emphasized the importance of the rule of law in building sustainable peace in countries in conflict and post-conflict situations.

Several delegations emphasized the interdependence of international and national efforts to implement the rule of law. A number of delegations stressed the need to strengthen support to States in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building. Some other delegations underlined the critical importance of national ownership in rule of law activities, and several delegations emphasized that there was not one model of the rule of law that was to be applied in all situations.

A number of delegations stressed the need to ensure respect for the rule of law within the United Nations. Some delegations stressed the importance of maintaining the balance between the principal organs of the Organization. Some other delegations called for reform of the Security Council and international financial institutions.

Regarding the future work on the topic, support was expressed for further General Assembly discussion on the rule of law, particularly in the Sixth Committee. Several delegations suggested that the General Assembly should reflect on the linkages between the rule of law and the three pillars of the United Nations, namely peace and security, human rights and development, highlighting especially the inter-relationship between the rule of law and sustainable development in the post-2015 international development agenda.

At the 29th meeting, on 15 November 2013, the representative of Mexico, on behalf of the Bureau, introduced a draft resolution entitled "The rule of law at the national and international levels".⁷⁸³ At the same meeting, the Committee adopted the draft resolution without a vote.

⁷⁸² United Nations, *Treaty Series*, vol. 2187, p. 3.

⁷⁸³ A/C.6/68/L.22.

(ii) *General Assembly*

In resolution 68/116 of 16 December 2013, the General Assembly, *inter alia*, recalled the high-level meeting of the General Assembly on the rule of law at the national and international levels, held during the high-level segment of its sixty-seventh session, and the Declaration adopted at that meeting;⁷⁸⁴ reiterated its request to the Secretary-General to ensure greater coordination and coherence among United Nations entities and with donors and recipients; and called upon the Secretary-General and the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, including the participation of women in rule of law-related activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement. The General Assembly further decided to include the item in the provisional agenda of its sixty-ninth session and invited Member States to focus their comments in the upcoming Sixth Committee debate on the subtopic “Sharing States’ national practices in strengthening the rule of law through access to justice”.

(i) **The scope and application of the principle of universal jurisdiction**

This item was included in the provisional agenda of the sixty-fourth session of the General Assembly, at the request of the United Republic of Tanzania.⁷⁸⁵ The General Assembly had previously considered the item at its sixty-fourth to sixty-seventh sessions.⁷⁸⁶

(i) *Sixth Committee*

At its sixty-eighth session, the Sixth Committee considered the item at five meetings.⁷⁸⁷ For its consideration of the item, the Committee had before it the reports of the Secretary-General, submitted to the General Assembly at its sixty-fifth, sixty-sixth, sixty-seventh and sixty-eight sessions.⁷⁸⁸

At its 2nd meeting, on 7 October 2013, the Committee established a Working Group pursuant to General Assembly resolution 67/98 of 14 December 2012 to undertake a thorough discussion of the scope and application of the principle of universal jurisdiction. In resolution 67/98, the General Assembly decided that the Working Group should be open to all Member States and that relevant observers to the General Assembly would be invited to participate in its work.⁷⁸⁹ The Working Group held three meetings, and the Sixth

⁷⁸⁴ General Assembly resolution 67/1 of 24 September 2012.

⁷⁸⁵ Letter dated 29 June 2009 from the Permanent Representative of the United Republic of Tanzania to the United Nations addressed to the Secretary-General (A/63/237/Rev.1).

⁷⁸⁶ See General Assembly resolutions 64/119 of 16 December 2009; 65/33 of 6 December 2010; and 66/103 of 9 December 2011.

⁷⁸⁷ The Committee considered the item at its 12th, 13th, 14th, 23rd, 28th and 29th meetings, on 17 and 18 October and on 4, 8 and 15 November 2013. For the report of the Sixth Committee, see A/68/469. For the summary records, see A/C.68/SR.12, 13, 14, 23, 28 and 29.

⁷⁸⁸ A/65/181; A/66/93 and Add.1; A/67/116; and A/68/113, respectively.

⁷⁸⁹ General Assembly resolution 67/98 of 14 December 2012, para. 4.

Committee, at its 23rd meeting, on 4 November 2013, heard and took note of the oral report of the Chair of the Working Group.⁷⁹⁰

Delegations welcomed the report of the Secretary-General and acknowledged that universal jurisdiction was an important principle of international law, aimed at combating impunity. Certain delegations stressed importance of the full respect for principles of sovereignty, sovereign equality of States, and non-intervention, and the link between universal jurisdiction and the question of immunity, in particular with regard to the rules on immunity of Heads of State and other State officials, was recalled. On the other hand, the view was also expressed that the question of immunity was an entirely separate subject. Several delegations also drew attention to their national law and practice in relation to the application of the principle.

With regard to the scope of the principle, delegations noted the utility of distinguishing the principle from other related concepts, such as international criminal jurisdiction, the obligation to extradite or prosecute, and *jus cogens*. Several delegations emphasized that customary international law and treaty law should guide the scope of the principle. It was stressed that the focus of work should be on universal criminal jurisdiction.

With respect to the related question of crimes subject to the principle, delegations noted the divergence of views, and highlighted generally the need for efforts to agree on the list of crimes. In this regard, it was observed that there seemed to be a convergence of views on the idea that universal jurisdiction comes into play when fundamental values of interest to the international community as a whole are breached. While delegations generally stressed that piracy falls within universal jurisdiction, several delegations suggested that the principle also applied to the most serious crimes of international concern, including genocide, crimes against humanity and war crimes. While some delegations drew attention to other crimes to which the principle applies, such as torture, reference was also made to slavery, human trafficking, hostage taking and money laundering. However, several delegations cautioned against an unwarranted expansion of the list of crimes. It was also suggested that no exhaustive list of crimes should be developed.

Some delegations also emphasized the necessity of agreeing on conditions for the application of universal jurisdiction. Certain delegations stated that the primary responsibility for investigating and prosecuting serious international crimes lies with the State possessing territorial jurisdiction, and that universal jurisdiction provides a complementary mechanism to ensure that accused persons are held accountable where the territorial State is unable or unwilling to exercise jurisdiction. Some delegations highlighting the exceptional character of universal jurisdiction observed that this form of jurisdiction should only be exercised when no other State exercised an alternative form of jurisdiction. The view was also expressed that the approval of the State or States possessing territorial and nationality jurisdiction must be received prior to exercising universal jurisdiction. It was also suggested that the accused should be present in the territory of the State seeking to exercise universal jurisdiction. The role of prosecutorial discretion in the application of the principle was also noted.

On the future consideration of the agenda item, delegations acknowledged the beneficial aspects of the establishment of the Working Group of the Sixth Committee

⁷⁹⁰ A/C.6/68/SR.23.

on the item. In this regard, the point was made that work should focus on the codification aspects of the matter. Several delegations suggested the continuation of a step-by-step and flexible approach by the Working Group. Other delegations proposed that some form of contribution from the International Law Commission, including in the form of a study, should be requested at this stage, given the technical nature of the topic and the Commission's focus on related topics. However, other delegations considered that the Sixth Committee was the appropriate forum for consideration of this topic, and that the possibility of the Commission addressing the issue was in any event not foreclosed. On the question of form, some delegations were in favour of elaborating guidelines or principles on universal jurisdiction.

At the 28th meeting, on 8 November 2013, the representative of Togo, on behalf of the Bureau, introduced a draft resolution entitled "The scope and application of the principle of universal jurisdiction".⁷⁹¹ At its 29th meeting, on 15 November 2013, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

In resolution 68/117, the General Assembly, *inter alia*, invited Member States and relevant observers, as appropriate, to submit, before 30 April 2014, information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties, their national legal rules and judicial practice. The General Assembly further requested the Secretary-General to prepare and submit to it, at its sixty-ninth session, a report based on such information and observations. Moreover, the General Assembly decided that the Sixth Committee should continue its consideration of the item, without prejudice to the consideration of the topic and related issues in other forums of the United Nations, and that a working group of the Sixth Committee be established at the sixty-ninth session to continue to undertake a thorough discussion of the topic.

(j) **Measures to eliminate international terrorism**

This item was first included in the agenda of the twenty-seventh session of the General Assembly, in 1972, further to an initiative of the Secretary-General.⁷⁹² At that session, the General Assembly decided to establish the Ad Hoc Committee on International Terrorism, consisting of 35 members, which completed its work in 1979.⁷⁹³

At its fifty-first session, in 1996, the General Assembly once more established an Ad Hoc Committee to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of

⁷⁹¹ A/C.6/68/L.17.

⁷⁹² A/8791 and Add.1 and Add.1/Corr.1.

⁷⁹³ General Assembly resolution 3034 (XXVII) of 18 December 1972. *Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 37 (A/34/37)*.

conventions dealing with international terrorism.⁷⁹⁴ Through the work of the Committee, the General Assembly has thus far adopted three counter-terrorism instruments.⁷⁹⁵ The Committee is currently engaged in discussions on the elaboration of a draft comprehensive convention on international terrorism. Pursuant to General Assembly resolution 67/99 of 14 December 2012, the Ad Hoc Committee convened in 2013, from 8 to 12 April 2013.⁷⁹⁶

(i) *Sixth Committee*

The Sixth Committee considered the item at six meetings in 2013.⁷⁹⁷ For its consideration of the item, the Committee had before it the report of the Secretary-General on measures to eliminate international terrorism⁷⁹⁸ and the report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996.⁷⁹⁹

In their general statements, delegations reiterated their firm condemnation of terrorism in all its forms and manifestations, as well as their commitment to contribute to the international fight against terrorism. Some delegations also stressed that terrorism should not be associated with any religion, culture, ethnicity, race, nationality or civilization. Terrorism was described by delegations as a flagrant violation of international law and a grave threat to international peace and security. It was also stated that any actions taken to counter terrorism must be in accordance with the Charter of the United Nations and international law, including human rights, humanitarian and refugee law, as well as respectful of the rule of law and due process.

States that had not yet done so were called upon to ratify or accede to the universal and regional instruments to counter terrorism. The view was also expressed that the international legal regime to counter terrorism must continue to evolve in order to take account of the sophistication of the terrorist threat.

Delegations supported the continued development of the overall normative framework to counter terrorism. The importance of implementing international obligations and building capacity at the national level was identified as a key aspect of strengthening the international legal framework to counter terrorism. Assistance from international and regional organizations in this regard was welcomed. Some delegations pointed to the need for a clear definition of terrorism and echoed the importance of distinguishing it from the exercise of the right to self-determination of peoples under foreign occupation, colonial or alien domination.

⁷⁹⁴ General Assembly resolution 51/210 of 16 January 1997.

⁷⁹⁵ International Convention for the Suppression of Terrorist Bombings, 1997, United Nations, *Treaty Series*, vol. 2149, p. 256; International Convention for the Suppression of the Financing of Terrorism, 1999, *ibid.*, vol. 2178, p. 197; International Convention for the Suppression of Acts of Nuclear Terrorism, 2005, *ibid.*, vol. 2445, p. 89.

⁷⁹⁶ *Official Records of the General Assembly, Sixty-eight Session, Supplement No. 37 (A/68/37)*.

⁷⁹⁷ The Committee considered the item at its 2nd, 3rd, 4th, 5th, 19th, and 28th meetings, on 7, 8, 9 and 30 October and on 8 November 2013. For the report of the Sixth Committee, see A/68/471. For the summary records, see A/C.6/68/SR.2 to 5, 19 and 28.

⁷⁹⁸ A/68/180.

⁷⁹⁹ A/68/37.

The proliferation of small arms and light weapons, the persistence of conflicts, the effects of piracy and the lack of good governance were described as challenges that must be overcome to successfully counter terrorism. It was also asserted that safe havens for terrorists must be eradicated. At the same time, it was pointed out that the efforts to counter terrorism should not be used as an excuse to intervene in the internal affairs of States in contravention of the Charter of the United Nations. Concern was also expressed over the unilateral imposition of sanctions as a means to counter terrorism.

Delegations reiterated the importance of cooperating through international, regional and subregional arrangements in the efforts to combat terrorism. The provision of technical assistance and capacity-building, in particular for developing countries, was again mentioned as an area requiring improvement.

Delegations welcomed the efforts of the United Nations Counter-Terrorism Implementation Task Force (CTITF) and called for the strengthening of its role in capacity-building and coordination.⁸⁰⁰ The CTITF was encouraged to enhance its activities aimed at the balanced implementation of the four pillars of the United Nations Global Counter-Terrorism Strategy⁸⁰¹, affording each pillar equal attention, and to do so in full cooperation with the participation of States.

The continuing focused work of the Security Council in countering terrorism, as well as the improvements made by the Security Council in the implementation of its sanctions regimes, was again generally welcomed. In this regard, Security Council resolution 1373 (2001) of 28 September 2001 was recognized by delegations as a central instrument in the fight against international terrorism. Some delegations welcomed the work of the Counter Terrorism Committee (CTC)⁸⁰² and the Counter-Terrorism Executive Directorate (CTED)⁸⁰³. The Security Council was also encouraged to continue to improve its working methods with regard to sanctions to ensure that its sanctions regimes were independent, fair and impartial, and that its decisions were transparent and taken in accordance with due process standards. The strengthened role of the Ombudsperson, whose mandate was renewed in December 2012,⁸⁰⁴ was supported, and some delegations called for greater involvement of designating States in delisting decisions.

Some speakers highlighted the role played by the United Nations Office on Drugs and Crime (UNODC),⁸⁰⁵ and in particular the Terrorism Prevention Branch, in capacity building, promoting the universal ratification of international counter-terrorism instruments and identifying best practices. Delegations also welcomed recent joint efforts on the part of CTED and UNODC to assist States in developing techniques to investigate and prosecute terrorist acts.

Cyber-terrorism was also highlighted as a matter of international concern requiring concerted action and dialogue.

⁸⁰⁰ For more information about CTITF, see <https://www.un.org/counterterrorism/ctitf/en/>.

⁸⁰¹ General Assembly resolution 60/288 of 8 September 2006.

⁸⁰² For more information about CTC, see <https://www.un.org/sc/ctc/>.

⁸⁰³ For more information about CTED, see <http://www.un.org/en/sc/ctc/aboutus.html>.

⁸⁰⁴ Security Council resolution 2083 (2012) of 17 December 2012, para. 19.

⁸⁰⁵ For more information about UNODC, see <https://www.unodc.org>.

A number of delegations also underlined the pernicious role that money laundering played in supporting terrorist activity. Several delegations reiterated that the payment of ransoms to terrorist groups constituted one of the main sources of the financing of terrorism and was a matter of grave concern for the international community. Several delegations also noted the increase in incidents of kidnapping and hostage-taking with the aim of raising funds for terrorist purposes. Support was expressed for cooperation and action in this area, including on the legal and financial aspects of the issue. All Member States were urged to cooperate in banning the payment of ransoms to terrorist groups.

Attention was drawn to the possible acquisition by terrorists of weapons of mass destruction, as well as the close links between terrorism and transnational organized crime. The collective need to interdict and prevent the proliferation of weapons of mass destruction was emphasized. The recently concluded Arms Trade Treaty⁸⁰⁶ was also identified as an important development to address the illicit spread of small arms and light weapons.

Several delegations reiterated the importance of the conclusion of the draft comprehensive convention on international terrorism, noting the recent negotiations in the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996. A number of delegations welcomed the efforts of the Ad Hoc Committee to resolve the outstanding issues relating to the draft comprehensive convention, noting that since 2000 the negotiations had focused on the question of a definition of terrorism.

It was recalled that three options were considered by the Ad Hoc Committee at its sixteenth session, namely, (a) the adoption of the proposal made by the Coordinator at the 2007 session of the Ad Hoc Committee; (b) the preparation of a consolidated text comprising all proposals relating to the unresolved issues and agreeing to suspend negotiations until the sixty-ninth session of the General Assembly; and (c) the abandonment of negotiations on the comprehensive convention. Noting that the Ad Hoc Committee had agreed on the second option and that formal negotiations would be suspended until 2014, several delegations encouraged Member States to use the pause to garner the requisite political will to overcome the existing differences. Some delegations expressed frustration, however, that the negotiations remained at an impasse and that more progress had not been achieved in the Ad Hoc Committee.

In order to adapt the working methods of the Sixth Committee to new realities and priorities, it was suggested once more that the Committee should consider the agenda item of "Measures to eliminate international terrorism" on a biennial basis, alternating with the biennial review by the General Assembly of the United Nations Global Counter Terrorism Strategy⁸⁰⁷.

At the 19th meeting, on 30 October 2013, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled "Measures to eliminate international terrorism".⁸⁰⁸ At its 28th meeting, on 8 November 2013, the Committee adopted the draft resolution without a vote.

⁸⁰⁶ See General Assembly resolution 67/234 B of 2 April 2013. The text of treaty is contained in A/CONF.217/2013/2, annex.

⁸⁰⁷ General Assembly resolution 60/288 of 8 September 2006.

⁸⁰⁸ A/C.6/68/L.13.

(ii) *General Assembly*

In resolution 68/119 of 16 December 2013, the General Assembly, *inter alia*, called upon all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy,⁸⁰⁹ as well as the resolutions relating to the first, second and third biennial reviews⁸¹⁰ of the Strategy, in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise. It noted that the United Nations Counter-Terrorism Centre was performing its duties within the Counter-Terrorism Implementation Task Force in New York and that the Centre was supporting the implementation of the Strategy, and encouraged all Member States to collaborate with the Centre and to contribute to the implementation of its activities within the Task Force.

Taking into account the recommendation of the Ad Hoc Committee that more time was required to achieve substantive progress on the outstanding issues,⁸¹¹ the General Assembly decided to recommend that the Sixth Committee, at the sixty-ninth session of the General Assembly, establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as on the item included in its agenda by General Assembly resolution 54/110 of 9 December 1999 concerning the question of convening a high-level conference under the auspices of the United Nations. It also encouraged all Member States to redouble their efforts during the intersessional period towards resolving any outstanding issues. The General Assembly further decided to include the topic in the provisional agenda of its sixty-ninth session.

(k) **Administration of justice at the United Nations**

The General Assembly had previously considered the item at its fifty-fifth to fifty-seventh sessions, at its fifty-ninth session and at its sixty-first to sixty-seventh sessions, in the framework of both the Fifth and Sixth Committee, with the aim of introducing a new system for handling internal disputes and disciplinary matters in the United Nations.

At its sixty-second session, the General Assembly decided to establish: (a) a two-tier formal system of administration of justice, comprising a first instance United Nations Dispute Tribunal and an appellate instance United Nations Appeals Tribunal; (b) the Office of Administration of Justice, comprising the Office of the Executive Director and the Office of Staff Legal Assistance and the Registries for the United Nations Dispute Tribunal and the United Nations Appeals Tribunal; (c) a single integrated and decentralized Office of the Ombudsman for the United Nations Secretariat, funds and programmes with branches in several duty stations and a new mediation division; (d) the Internal Justice Council;

⁸⁰⁹ General Assembly resolution 60/288 of 8 September 2006.

⁸¹⁰ General Assembly resolutions 62/272 of 5 September 2008, 64/297 of 8 September 2010 and 66/282 of 29 June 2012.

⁸¹¹ *Official Records of the General Assembly, Sixty-eight Session, Supplement No. 37 (A/68/37)*, para. 12.

and (e) the Management Evaluation Unit in the Office of the Under-Secretary-General for Management.⁸¹²

At its sixty-third session, the General Assembly adopted the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal;⁸¹³ it also decided that those Tribunals would be operational as of 1 July 2009; and further decided that all persons who had access to the Office of the Ombudsman under the previous system would also have access to the new informal system.⁸¹⁴

Outstanding legal matters have been considered by the Sixth Committee in the ensuing years. These matters included, *inter alia*, the rules of procedure of the two tribunals, the scope *ratione personae* of the administration of justice system and the scope and functioning of the Office of Staff Legal Assistance (OSLA).

(i) Sixth Committee

During its sixty-eighth session, the Sixth Committee considered the item at two meetings.⁸¹⁵ In their general comments, delegations welcomed the reports of the Secretary-General⁸¹⁶ and the Internal Justice Council (the "IJC") on the topic,⁸¹⁷ and the view was expressed that it was vital for the Dispute and Appeals Tribunals to remain independent. Some delegations praised the marked improvement in the efficiency of the system, while noting that challenges remained.

A number of delegations expressed support for the informal dispute resolution mechanisms, and the development of incentives to further promote the settlement of disputes was encouraged. Some delegations commended the Management Evaluation Unit, particularly for its role in identifying cases that could be settled. Support was also expressed for efforts to explore mediation through the Office of the Ombudsman.

Some delegations expressed support for the work of the Office of Staff Legal Assistance (OSLA). The funding shortfall with respect to OSLA was noted, and OSLA was encouraged to settle where appropriate. Some delegations also expressed their interest in the proposal for staff funding of OSLA, while continued funding of OSLA by the organization was also supported. A number of delegations expressed support for the development of a code of conduct for all counsel appearing before the Tribunals.

Some delegations recalled the important function of the IJC. A willingness to consider the IJC's proposals on the qualifications of Appeals Tribunal judges was indicated. Some delegations also noted that the issue of the privileges and immunities of judges, which had been considered by the IJC, required further attention. It was suggested in this regard that judges of both Tribunals should be granted privileges and immunities as per section 19 of the General Convention.

⁸¹² General Assembly resolution 62/228 of 22 December 2007.

⁸¹³ General Assembly resolution 63/253 of 24 December 2008, annexes I and II.

⁸¹⁴ *Ibid.*

⁸¹⁵ The Committee considered the item at its 27th and 28th meetings, on 6 and 8 November 2013, respectively. For the summary records, see A/C.6/68/SR.27 and 28.

⁸¹⁶ A/68/346.

⁸¹⁷ A/68/309.

At its 28th meeting, on 8 November 2013, the Sixth Committee decided that its Chairman would address a letter to the President of the General Assembly, drawing his attention to certain specific issues relating to the legal aspects of the reports submitted under the item as discussed in the Sixth Committee. The letter would contain a request that it be brought to the attention of the Chair of the Fifth Committee and circulated as a document of the General Assembly.⁸¹⁸

(ii) *General Assembly*

On 27 December 2013, the General Assembly adopted resolution 68/254 entitled “Administration of justice at the United Nations”. In the said resolution, the General Assembly, *inter alia*, noted with appreciation the achievements produced since the inception of the system of administration of justice, regarding both the disposal of the backlog and the addressing of new cases; acknowledged the evolving nature of the system of administration of justice and the need to carefully monitor its implementation to ensure that it remained within the parameters set out by the General Assembly; and emphasized the importance of the principle of judicial independence in the system of administration of justice. In this context, the General Assembly stressed the importance of ensuring access for all staff members to the system of administration of justice, regardless of their duty station. It requested the Secretary-General to submit to the General Assembly, for consideration at its sixty-ninth session, a revised proposal for conducting an interim independent assessment of the system of administration of justice.

The General Assembly recognized the informal system of administration of justice to be an efficient and effective option for staff who seek redress of grievance and for managers to participate in. It emphasized that all possible use should be made of the informal system in order to avoid unnecessary litigation, without prejudice to the basic right of staff members to access the formal system of justice.

With regard to the formal system of administration of justice, the General Assembly stressed the need to ensure that all individuals acting as legal representatives, whether staff members or external counsel, were subject to the same standards of professional conduct applicable in the United Nations system, and requested the Secretary-General to present the code of conduct for external legal representatives, including appropriate sanctions for breaches thereof as safeguards against frivolous applications, to the General Assembly at its sixty-ninth session.

(I) Report of the Committee on Relations with the Host Country

(i) *Committee on Relations with the Host Country*

The Committee on Relations with the Host Country was established by the General Assembly at its twenty-sixth session, in 1971.⁸¹⁹ The Committee is currently composed of the following 19 Member States: Bulgaria, Canada, China, Costa Rica, Côte d’Ivoire, Cuba, Cyprus, France, Honduras, Hungary, Iraq, Libya, Malaysia, Mali,

⁸¹⁸ The letter was circulated as an annex to document A/C.5/68/11.

⁸¹⁹ General Assembly resolution 2819 (XXVI) of 15 December 1971.

Russian Federation, Senegal, Spain, United Kingdom of Great Britain and Northern Ireland and United States of America.

In 2013, the Committee held the following meetings: the 260th meeting, on 31 January 2013; the 261st meeting, on 30 April 2013; the 262nd meeting, on 31 July 2013; the 263rd meeting, on 7 October 2013; and the 264th meeting, on 1 November 2013. During its meetings, the Committee considered a number of topics, namely: (a) entry visas issued by the host country; (b) exemption from taxes; (c) question of the security of missions and the safety of their personnel; (d) host country activities: activities to assist members of the United Nations community; (e) transportation: use of motor vehicles, parking and related matters; and (f) other matters. At its 264th meeting, the Committee approved a number of recommendations and conclusions, which are contained in chapter IV of its report.⁸²⁰

(ii) *Sixth Committee*

The Sixth Committee considered this item at its 29th meeting, on 15 November 2013.⁸²¹ The Chair of the Committee on Relations with the Host Country introduced the report of that Committee.⁸²²

The recommendations of the Committee on Relations with the Host Country were endorsed and the host country was thanked for its efforts to accommodate the needs of the diplomatic community in various areas, including for the timely issuance of visas and obtaining suitable banking services necessary for the effective functioning of the missions. The importance of fulfilling its obligations, *inter alia*, under the Convention on the Privileges and Immunities of the United Nations⁸²³ and the Headquarters Agreement⁸²⁴ was also reiterated.

The view was expressed that not issuing a visa to the President of one of the States required for his participation in the 68th session of the General Assembly was a violation of the Headquarters Agreement. The need to make sure that the obligations of the host country to grant visas under the Agreement are observed was stressed. The responsibilities of the Secretary-General and the President of the General Assembly to protect the rights of the Member States in the host country were also highlighted.

The United States confirmed its commitment to fulfil its obligations under international law and to continue to work closely with the diplomatic community in resolving issues that might arise during the coming year.

At the 29th meeting, on 15 November 2013, the representative of Cyprus, on behalf of a number of Member States, introduced a draft resolution entitled "Report of the Committee on Relations with the Host Country".⁸²⁵ At the same meeting, the Committee adopted the draft resolution without a vote.

⁸²⁰ *Official Records of the General Assembly, Sixty-eight session, Supplement No. 26 (A/68/26)*.

⁸²¹ For the report of the Sixth Committee, see A/68/474. For the summary records, see A/C.6/67/SR.25.

⁸²² A/68/26.

⁸²³ United Nations, *Treaty Series*, vol. 1, p. 15.

⁸²⁴ General Assembly resolution 99 (I) of 14 December 1946.

⁸²⁵ A/C.6/68/L.26.

(iii) *General Assembly*

In resolution 68/120 of 16 December 2013, the General Assembly, *inter alia*, endorsed the recommendations and conclusions of the Committee on Relations with the Host Country. It requested the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions, and urged the host country to continue to take appropriate action with a view to maintaining respect for diplomatic privileges and immunities and if violations occur to ensure that such cases are properly investigated and remedied, in accordance with applicable law. It also requested the host country to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities. The General Assembly noted the concerns expressed by some delegations concerning the denial and delay of entry visas to representatives of Member States and noted with concern the difficulties that continued to be experienced by some Permanent Missions in obtaining suitable banking services. In this regard, it welcomed the continued efforts of the host country to facilitate the opening of bank accounts for those Permanent Missions. The General Assembly requested the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country, and requested that the Committee on Relations with the Host Country continue its work in conformity with General Assembly resolution 2819 (XXVI) of 15 December 1971.

(m) **Observer Status in the General Assembly**(i) *Sixth Committee*

The Committee considered requests for observer status in the General Assembly for the Cooperation Council of Turkic-speaking States, the International Conference of Asian Political Parties, the International Chamber of Commerce, the International Institute for the Unification of Private Law, the International Anti-Corruption Academy, the Pan African Intergovernmental Agency for Water and Sanitation for Africa and the Global Green Growth Institute.⁸²⁶

At the 29th meeting, on 15 November 2013, the Chair of the Committee announced that the sponsors of the draft resolution A/C.6/68/L.3 had decided not to pursue the request for observer status in the General Assembly for the International Conference of Asian Political Parties at the current session, while reserving the right to present it at a future session. At the same meeting, the Committee concluded its consideration of that agenda item without taking action.

(ii) *General Assembly*

In its resolutions 68/121, 68/122, 68/123 and 68/124, all of which were adopted on 16 December 2013, the General Assembly granted observer status to the International Institute for the Unification of Private Law (also known as UNIDROIT), the

⁸²⁶ For the reports of the Sixth Committee, see A/68/475, A/68/476, A/68/477, A/68/478, A/68/479, A/68/480 and A/68/481, respectively. For the summary records, see A/C.6/68/SR.11, 22, 27 and 29.

International Anti-Corruption Academy, the Pan African Intergovernmental Agency for Water and Sanitation for Africa and the Global Green Growth Institute, respectively. In its decisions 68/528 and 68/530, the General Assembly decided to defer to its sixty-ninth session the decisions on the request for observer status for the Cooperation Council of Turkic-speaking States and the International Chamber of Commerce, respectively.

(n) Revitalization of the work of the General Assembly

This item, which was included in the agenda of the forty-sixth session of the General Assembly, in 1991, had originally been proposed for inclusion in the draft agenda of that session by the President of the General Assembly at its forty-fifth session.⁸²⁷ The General Assembly had previously considered the question at its forty-sixth to forty-eighth, fifty-second to fifty-third and fifty-fifth⁸²⁸ to sixty-seventh sessions.

At its 2nd plenary meeting of the sixty-eighth session, on 20 September 2013, the General Assembly, on the recommendation of the General Committee of the General Assembly, decided to allocate the item to all the Main Committees for the sole purpose of considering and taking action on their respective tentative programmes of work for the sixty-ninth session of the General Assembly.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 29th meeting, on 15 November 2013.⁸²⁹ At the meeting, the Chair introduced a draft decision containing the provisional programme of work of the Committee for the sixty-ninth session of the General Assembly, as proposed by the Bureau.⁸³⁰ At the same meeting, the Committee adopted the draft decision.

(ii) *General Assembly*

In its decision 68/526, the General Assembly noted the decision of the Sixth Committee to adopt the provisional programme of work for the sixty-ninth session of the General Assembly, as proposed by the Bureau.

⁸²⁷ See General Assembly decision 45/461 of 16 December 1991.

⁸²⁸ At its fifty-fourth session, the General Assembly decided to defer consideration of the item (General Assembly decision 54/491).

⁸²⁹ For the report of the Sixth Committee, see A/68/592. For the summary records, see A/C.6/67/SR.25.

⁸³⁰ A/C.6/68/L.21.

17. *Ad hoc* international criminal tribunals⁸³¹

(a) International Criminal Tribunal for the former Yugoslavia and International Criminal Tribunal for Rwanda

(i) *International Criminal Tribunal for the former Yugoslavia*⁸³²

Judge Theodor Meron (United States) and Judge Carmel Agius (Malta) continued to act as President and Vice-President of the Tribunal, respectively, throughout 2013.

By Security Council resolution 2130 (2013) of 18 December 2013, acting under Chapter VII of the Charter of the United Nations, the term of office of the following permanent judges at the Tribunal, who were members of the Appeals Chamber, was extended until 31 December 2014 or until the completion of the cases to which they were assigned, if sooner: Koffi Kumelio A. Afande (Togo), Carmel Agius (Malta), Liu Daqun (China), Theodor Meron (United States), Fausto Pocar (Italy) and Patrick Robinson (Jamaica). The term of office of the following permanent judges at the Tribunal, who were members of the Trial Chambers, was also extended until 31 December 2014 or until the completion of the cases to which they were assigned, if sooner: Jean-Claude Antonetti (France), Guy Delvoie (Belgium), Burton Hall (Bahamas), Christoph Flügge (Germany), O-Gon Kwon (South Korea), Bakone Justice Moloto (South Africa), Howard Morrison (United Kingdom) and Alphons Orié (Netherlands). The term of office of the following *ad litem* judges at the Tribunal, who were members of the Trial Chambers was also extended: Frederik Harhoff (Denmark), Melville Baird (Trinidad and Tobago), Flavia Lattanzi (Italy) and Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), until 31 December 2014, or until the completion of the cases to which they were assigned.

At the end of 2013, the Chambers were composed of 20 permanent judges, including nine permanent judges from the International Criminal Tribunal for Rwanda serving in the Tribunal's Appeals Chamber, and three *ad litem* judges.

The 20 permanent judges of the Tribunal were as follows: Theodor Meron (President, United States), Carmel Agius (Vice-President, Malta), Koffi Kumelio Afande (Togo), Jean-Claude Antonetti (France), Guy Delvoie (Belgium), Christoph Flügge (Germany), Mehmet Güney (Turkey), Burton Hall (Bahamas), Khalida Rachid Khan (Pakistan), O-Gon Kwon (Republic of Korea), Liu Daqun (China), Bakone Justice Moloto (South Africa), Howard Morrison (United Kingdom), Mandiaye Niang (Senegal), Alphons Orié (Netherlands), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar), Patrick Robinson (Jamaica),

⁸³¹ This section covers the organization of the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Residual Mechanism for Criminal Tribunals, established by Security Council resolutions 827 (1993) of 25 May 1993, 955 (1994) of 8 November 1994, and 1966 (2010) of 22 December 2010, respectively. Further information regarding the judgments of the International Criminal Tribunal for Yugoslavia and International Criminal Tribunal for Rwanda is contained in chapter VII of this publication.

⁸³² For more information, see, for the period from 1 August 2012 to 31 July 2013, Twentieth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/68/255-S/2013/463), and, for the period 1 August 2013 to 31 July 2014, the Twenty-first annual report (A/69/225-S/2014/556).

William Hussein Sekule (United Republic of Tanzania) and Bakhtiyar Tuzmukhamedov (Russian Federation).

At the end of 2013, the *ad litem* judges of the Tribunal were as follows: Melville Baird (Trinidad and Tobago), Flavia Lattanzi (Italy) and Antoine Kesia-Mbe Mindua (Democratic Republic of Congo).

(ii) *International Criminal Tribunal for Rwanda*⁸³³

Judge Vagn Joensen (Denmark) and Judge Florence Rita Arrey (Cameroon) continued to act as President and Vice-President of the Tribunal, respectively, from 2 March 2012 and 14 February 2012.

At the end of 2013, the permanent judges were as follows: Vagn Joensen (President, Denmark), Florence Rita Arrey (Vice-President, Cameroon), Carmel Agius (Malta), Mehmet Güney (Turkey), Khalida Rachid Khan (Pakistan), Liu Daqun (China), Theodor Meron (United States), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar), Patrick Robinson (Jamaica), William H. Sekule (United Republic of Tanzania), Bakhtiyar Tuzmukhamedov (Russian Federation) and Andréia Vaz (Senegal).

At the end of 2013, the *ad litem* judges were as follows: Elizabeth Gwaunza (Zimbabwe), Michèle Picard (France), Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Frederik Harhoff (Denmark), Melville Baird (Trinidad and Tobago), Flavia Lattanzi (Italy) and Antoine Kesia-Mbe Mindua (Democratic Republic of Congo).

(iii) *Composition of the Appeals Chamber*⁸³⁴

At the end of 2013, the composition of the Appeals Chamber was as follows: Theodor Meron (presiding, United States), William H. Sekule (United Republic of Tanzania), Carmel Agius (Malta), Mehmet Güney (Turkey), Khalida Rachid Khan (Pakistan), Liu Daqun (China), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar), Patrick Robinson (Jamaica), Bakhtiyar Tuzmukhamedov (Russian Federation), Mandiaye Niang (Senegal) and Koffi Kumelio A. Afande (Togo).

(iv) *International Residual Mechanism for Criminal Tribunals*

By resolution 1966 (2010) of 22 December 2010, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to establish the International

⁸³³ For more information about the Tribunal's activities during the period of 1 July 2012 to 30 June 2013, see Eighteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/68/270-S/2013/460), and, for the period from 1 July 2013 to 30 June 2014, the Nineteenth annual report (A/69/206-S/2014/546).

⁸³⁴ The Appeals Chamber consists of seven permanent Judges, five of whom are permanent judges of the ICTY and two of whom are permanent judges of the International Criminal Tribunal for Rwanda (ICTR). These seven judges constitute the Appeals Chamber of the ICTR and the ICTY.

Residual Mechanism for Criminal Tribunals (“the Mechanism”) with two branches, the branch for the ICTR which commenced functioning on 1 July 2012 and the branch for the ICTY which commenced functioning on 1 July 2013, to carry out a number of essential functions of the Tribunals after their closure.

(b) General Assembly

On 27 December 2013, the General Assembly adopted, on the recommendation of the Fifth Committee, three resolutions concerning the financing of the international tribunals and the Mechanism.⁸³⁵ On 14 October 2013, the General Assembly adopted three decisions taking note of the annual reports of the ICTR⁸³⁶, the ICTY⁸³⁷ and the Residual Mechanism⁸³⁸, respectively.⁸³⁹

(c) Security Council

In resolution 2130 (2013) of 18 December 2013, the Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, took note of the assessment of the International Residual Mechanism for Criminal Tribunal⁸⁴⁰ and the assessments by the International Tribunal in its Completion Strategy Report.⁸⁴¹ It requested the ICTY to take all possible measures to complete its work as expeditiously as possible with the aim to facilitate the closure of the Tribunal, and expressed concern that its current trial and appeal schedules would go beyond 31 December 2014.

⁸³⁵ The three resolutions, adopted without a vote, were resolutions 68/255 entitled “Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994”; 68/256 entitled “Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991”; and 68/257 entitled “Financing of the International Residual Mechanism for Criminal Tribunals”.

⁸³⁶ See note by the Secretary-General transmitting the eighteenth annual report of the International Criminal Tribunal for Rwanda of 2 August 2013 (A/68/270–S/2013/460).

⁸³⁷ See note by the Secretary-General transmitting the twentieth annual report of the International Tribunal for the Former Yugoslavia of 2 August 2013 (A/68/255–S/2013/463).

⁸³⁸ See note by the Secretary-General transmitting twentieth annual report of the International Residual Mechanism for Criminal Tribunals of 2 August 2013 (A/68/219–S/2013/464).

⁸³⁹ Decisions 68/508 entitled “Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994”; 68/509 entitled “Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991”; and 68/510 entitled “Report of the International Residual Mechanism for Criminal Tribunals”.

⁸⁴⁰ S/2013/679.

⁸⁴¹ S/2013/678.

B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

1. International Labour Organization⁸⁴²

(a) Treaty provisions concerning the legal status of the International Labour Organization (ILO)

On 8 February 2013, an agreement for extension of the “Supplementary Understanding and its Minutes of the Meeting dated 28th February, 2007”⁸⁴³ was concluded and entered into force with the Government of Myanmar. This agreement extends the Supplementary Understanding relating to the role of the Liaison Officer with respect to forced labour complaints channelled through him/her.⁸⁴⁴

On 22 February 2013, the Government of the Republic of South Sudan and the International Labour Organization concluded a Framework Agreement for Cooperation to strengthen their cooperation.⁸⁴⁵

On 6 August 2013, an agreement for the “Further developments in relation to the International Organization for Standardization, including in the field of occupational safety and health (OSH)” was concluded on a pilot basis between the International Labour Organization and the International Organization for Standardization.⁸⁴⁶

(b) Resolutions adopted by the International Labour Conference during its 102nd Session (Geneva, June 2013)

At the 102nd session of the International Labour Conference (the “Conference”), twelve resolutions were adopted,⁸⁴⁷ three of which are highlighted below:

⁸⁴² For official documents and more information in the International Labour Organization, see <http://ilo.org>.

⁸⁴³ ILO, document GB.298/5/1, appendix.

⁸⁴⁴ *Ibid.*, document GB.317/INS/4/2, appendix III.

⁸⁴⁵ *Framework Agreement for Cooperation between the Republic of South Sudan and the International Labour Organization*.

⁸⁴⁶ ILO, document GB.319/INS/INF/1, appendix.

⁸⁴⁷ The following resolutions were adopted at the 102nd session: “Resolution concerning employment and social protection in the new demographic context”; “Resolution concerning sustainable development, decent work and green jobs”; “Resolution concerning the recurrent discussion on social dialogue”; “Resolution concerning remaining measures on the subject of Myanmar adopted under article 33 of the ILO Constitution”; “Resolution concerning the adoption of the Programme and Budget for 2014–15 and the allocation of the budget of income among Member States”; “Resolution concerning the scale of assessments of contributions to the budget for 2014–15”; “Resolution concerning the assessment of contributions of new Member States”; “Resolution concerning the composition of the Administrative Tribunal of the International Labour Organization”; “Resolution concerning the financial report and audited consolidated financial statements for the year ended 31 December 2012”; “Resolution concerning appointments to the ILO Staff Pension Committee (United Nations Joint Staff Pension Board)”; “Resolution concerning the arrears of contributions of Comoros”; and “Resolution concerning the arrears of contributions of Paraguay”.

(i) *Resolution concerning employment and social protection in the new demographic context*

On 19 June 2013, the Conference adopted a resolution and conclusions concerning employment and social protection in the new demographic context, occasioned by demographic change, including population ageing. It was recognized that demographic transitions have major implications for labour markets and social protection systems. It also affirmed that coherent and integrated employment promotion and social protection policies that build on the virtuous cycle of employment, social protection and development are crucial to address the demographic challenge. The conclusions underscored the need for country specific policy mixes that recognize the interdependency between demographic shifts, employment, labour migration, social protection and economic development and that take into account the specific situation in each country.

The conclusions specified that, guided by the fundamental principles and rights at work of the ILO and pursuing the objective of decent work over the life cycle, policies need to prevent and combat age discrimination, promote gender equality and the inclusion of workers with disabilities, eliminate child labour, assure the transition from informal to formal work, and ensure well-managed labour migration. The conclusions furthermore specified that the increase in labour force participation of underrepresented groups is an essential element of the responses and that this can be achieved through employment-centered economic policies and development strategies to generate decent and productive jobs for all working-age groups of the population.

The conclusions emphasized the importance of comprehensive, adequate and sustainable social security systems, and called for their establishment and maintenance. The conclusions also emphasized that as a matter of priority, national social protection floors are needed to guarantee that all persons have access to education, essential health care and basic income security; higher levels of social security should be progressively ensured to as many people as possible. In this regard the conclusions pointed out that the ILO social security standards and notably the Social Security (Minimum Standards) Convention, 1952 (No. 102),⁸⁴⁸ and Social Protection Floors Recommendation, 2012 (No. 202)⁸⁴⁹ provide an international reference framework for the establishment of comprehensive social security systems that ensure protection throughout the life cycle. Recognizing the increase in pension costs in countries with ageing societies, the conclusions highlighted the need to ensure the financial, fiscal and economic sustainability of pension systems through appropriate and well-designed policies, financing mechanisms and enforcement measures, complemented by access to affordable, quality public health and social services. Policies should, according to the conclusions, further strive to ensure the adequacy and the predictability of pensions and a gradual and flexible transition from active working life to retirement. Attention should also be paid to social outcomes, notably in a context of pension reform, which should be guided notably by inter-generational fairness and solidarity.

In addition, the conclusions underlined that efficient social dialogue and collective bargaining based on mutual trust and respect will be central to finding effective, equitable and sustainable answers to demographic challenges. The conclusions further underlined

⁸⁴⁸ United Nations, *Treaty Series*, vol. 210, p. 131.

⁸⁴⁹ ILO, *Provisional Record No. 14A of the 101st Session of the International Labour Conference*.

that reform processes can be best managed through social dialogue to balance employment, social protection and related financial and fiscal requirements.

(ii) *Resolution concerning sustainable development, decent work and green jobs*

On 19 June 2013, the Conference adopted a resolution and conclusions on sustainable development, decent work and green jobs that set out a common vision—the Decent Work Agenda—for the creation of decent work in the transition to environmentally and socially sustainable economies and the critical role of Governments, employers and workers as agents of change, individually and collectively. The Decent Work Agenda was based on four pillars—social dialogue, social protection, rights at work and employment—which were considered indispensable building blocks of sustainable development.

The conclusions provided guiding principles for the greening of economies, enterprises and jobs, including the need for building strong social consensus on the goal and pathways to sustainability; the important role of social dialogue; and respect, promotion and realization of fundamental principles and rights at work. The Conference agreed on a basic policy framework to address the challenges of a just transition for all, with specific measures in nine key areas, namely macroeconomic and growth policies, industrial and sectoral policies, enterprise policies, skills development, occupational safety and health, social protection, active labour market policies, rights and social dialogue and tripartism.

The conclusions noted that globally, the ILO should leverage its mandate and core values to provide leadership in promoting the Decent Work Agenda as a critical vehicle for achieving sustainable development and poverty eradication. The conclusions further noted that the distinctive contribution of the ILO lies in articulating the implications of environmental issues and policies, including those related to climate change, natural resource management and energy, on the labour market and the needs for social protection. In turn, the conclusions stipulated that environmental concerns should be more strongly reflected in the Decent Work Agenda itself, thus leveraging its contribution to achieving integrated sustainable development.

According to the conclusions, the agreed vision and guiding principles should also guide the ILO in making sustainable development progressively a cross-cutting issue in all areas of its work. The conclusions called for a strategic action plan to transform the agreed vision into measurable results both at a state and a global level and which should inform the ILO's mandate for the future at the time of its centenary.

(iii) *Resolution concerning the recurrent discussion on social dialogue*

On 19 June 2013, the Conference adopted a resolution concerning the recurrent discussion on social dialogue stating that social dialogue and tripartism constitute the main governance paradigm of the ILO for promoting social justice, fair and peaceful workplace relations and decent work. The adopted conclusions drew on social dialogue and tripartism as key methods for implementing the ILO's strategic objectives laid down in the ILO Declaration on Social Justice for a Fair Globalization, 2008.⁸⁵⁰

⁸⁵⁰ Adopted by the Conference at its ninety-seventh session, Geneva, 10 June 2008.

The conclusions provided for measures to be implemented by ILO's members with the support of the Organization to promote social dialogue. They further called on members to reaffirm their commitment to social dialogue and tripartism. According to the conclusions, members should respect the independence and autonomy of workers' and employers' organizations, promote the rule of law through effective labour inspection and the strengthening of dispute prevention and resolution mechanisms, and ensure that collective bargaining is carried out in observance of the autonomy of the parties.

The conclusions contained a framework for action for the ILO which highlights the themes and types of activities based on the recurrent discussion and needs of the members. The framework of action called on the ILO to strengthen institutions and processes of social dialogue; provide support to the tripartite actors of social dialogue at all levels; enhance policy-coherence by engaging in a proactive manner with international organizations and institutions and providing coherent policy advice to its constituents; and actively promote social dialogue and participation of social partners in ILO's activities, namely Decent Work Country Programmes and technical cooperation activities.

(c) Entry into force of International Labour Conventions

Two conventions of relevance to this section entered into force in 2013.

The Maritime Labour Convention, 2006,⁸⁵¹ entered into force on 20 August 2013 and became binding for the 30 members (with a total share in the world gross tonnage of ships of a 33 per cent) whose ratification had been registered by 20 August 2012. As of 31 December 2013, 54 members, representing approximately 80 per cent of the world's gross tonnage of ships, had ratified the Convention, with entry into force for each member, in accordance with article VIII, paragraph 4 of the Convention, 12 months after the date of registered ratification.⁸⁵²

In addition, the Domestic Workers Convention, 2011 (No. 189)⁸⁵³ entered into force on 5 September 2013 and became binding for the 9 ratifying members.⁸⁵⁴

⁸⁵¹ *United Nations Juridical Yearbook 2006* (United Nations Publication, Sales No. E.09.V.1), p. 325. The MLC, 2006 was adopted by government, employer and worker representatives at a special ILO International Labour Conference, in February 2006, to provide international standards for the world's first genuinely global industry. Widely known as the "seafarers' bill of rights", it is unique in its effect on both seafarers and quality ship owners. The MLC, 2006 establishes minimum working and living standards for seafarers on those ships. It is also an essential step toward ensuring fair competition and a level-playing field for quality owners of ships flying the flags of ratifying countries.

⁸⁵² For more information on the status of ratification, see <http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/>.

⁸⁵³ See United Nations, *Treaty Series*, I-51379.

⁸⁵⁴ Adopted by the ILC at its One-hundredth Session, Geneva, 16 June 2011, the Convention highlights the economic and social value of domestic work and sets out principles and measures for ensuring that domestic workers, like workers generally, enjoy their fundamental rights at work, fair terms of employment and decent working conditions. For more information, see <http://www.ilo.org/global/topics/domestic-workers/lang--en/>.

(d) Legal Advisory Services and Training

In 2013, with a view to improving the application of international labour standards in general, the ILO provided technical assistance, including training in reporting and other international labour standards related obligations and reform of both general and specialized national legislation. As to particular conventions in various sectors, the ILO, among other things, undertook promotional activities for their ratification and provided technical advice for their implementation.

Of the ILO's international labour standards training activities in 2013, 58 were conducted in collaboration with the International Training Centre in Turin at the interregional, regional, subregional and national levels. There were 1,069 participants from governments, employers' and workers' organizations and other key national actors (judges, labour inspectors and media professionals), originating from 136 Member States. These training courses addressed procedures relating to standard setting and supervision, as well as specific topics such as equality in employment, freedom of association, elimination of child labour and forced labour, the use of international labour standards by national jurisdictions and media professionals.⁸⁵⁵

The ILO also provided capacity-building and training on international social security standards and legislation in a number of countries and territories.⁸⁵⁶ Such training also took place at the International Training Centre of the ILO in Turin, within the Social Security Academy and the Social Protection Floors Assessment Course, which brought together participants from over one hundred countries.

⁸⁵⁵ International Labour Conference, *Report of the Committee of Experts on the Application of Convention and Recommendations: Report III, 2013—103rd Session (Part 2)—Information document on ratifications and standards-related activities*. Regarding social security, for example, the ILO provided, in 2013, legal advice and standards-related technical assistance to 22 countries and territories. Technical assistance was, amongst others provided to Honduras, Paraguay, Jordan, Benin and Russia on the requirements of ILO social security standards and notably those of the Social Security (Minimum Standards) Convention, 1952 (No. 102). Support was provided to Lesotho and Swaziland for the drafting of new legislation establishing a national social security system and related schemes, to Kurdistan for the drafting of legal provisions to extend the existing social security legislation to construction workers and casual workers and the drafting of unemployment insurance legislation, and to Palestine for the drafting of the new social security law for private sector workers, covering old-age, invalidity and survivors' pensions, as well as employment injury and maternity benefits. Legal advice was provided to Sri Lanka and Zambia for the establishment of a maternity insurance scheme, and to Oman on pension legislation. In addition, legal advice was provided to a number of countries in the context of social security reform. This included specific advice on pension reform to, e.g. Colombia, Jordan, Lebanon, Vietnam, Russia and Swaziland and advice on systemic social insurance reform to Burundi, Mauritania and Vietnam. A number of countries and territories, including Burundi, Niger, the Occupied Palestinian Territory and Zambia also requested assistance for the development of their national social protection floor and the development of enabling legislation, in line with the Social Protection Floors Recommendation, 2012 (No. 202) with a view to extending social security coverage. Furthermore, legal advice was provided in the aftermath of the Rana Plaza accident in Bangladesh on the establishment of a scheme providing income protection to disabled workers and the survivors of deceased ones, and the provision of medical care to injured workers, in line with the standards set out in the Employment Injury Benefits Convention, 1964 (No. 121).

⁸⁵⁶ The countries and territories included Honduras, Paraguay, Benin, Burundi, Lesotho, Niger, the Republic of Congo, Kurdistan, the Occupied Palestinian Territory, and the ASEAN countries as part of a regional workshop on this subject.

Finally, the ILO Programme on AIDS/HIV provided training to approximately 100 labour judges on the basis of its Handbook for Judges and Legal Professionals. In addition, ILO continued to provide technical advisory support for the development of over 40 national tripartite workplace policies integrating the key human rights principles of the HIV and AIDS Recommendation, 2010 (No. 200).⁸⁵⁷

(e) Committee on Freedom of Association

In 2013, the Committee on Freedom of Association had before it more than 212 cases concerning 66 countries. The Committee on Freedom of Association drew the attention of the Committee of Experts to the legislative aspects of Cases Nos. 2609 (Guatemala), 2723 (Fiji), 2737 (Indonesia), 2786 (Dominican Republic), 2843 (Ukraine), 2926 (Ecuador) and 2957 (El Salvador).⁸⁵⁸

(f) Representations submitted under article 24 of the ILO Constitution and complaints made under article 26 of the ILO Constitution

In 2013, the Governing Body considered the developments in nine representations submitted under article 24 of the ILO Constitution by industrial associations of employers or workers, alleging that a member State that had ratified a Convention had failed to secure within its jurisdiction the effective observance of that Convention. The Governing Body also considered the developments in five complaints made under article 26 of the Constitution alleging that a member State that has ratified a Convention was not securing its effective observance.

2. Food and Agriculture Organization of the United Nations⁸⁵⁹

(a) Membership of the Food and Agriculture Organization (FAO)

As of 31 December 2013, the membership of FAO consisted of 194 member nations, one member organization (the European Union) and two associate members (the Faroe Islands and Tokelau). In June 2013, the 38th Session of the FAO Conference admitted Brunei Darussalam, the Republic of Singapore and the Republic of South Sudan to membership of the Organization.⁸⁶⁰

⁸⁵⁷ ILO, *Provisional Record No. 13A of the 99th Session of the International Labour Conference*.

⁸⁵⁸ ILO, *Report of the Committee of Experts on the Application of Convention and Recommendations: Report III, 2013—103rd Session (Part 2)—Information document on ratifications and standards-related activities*.

⁸⁵⁹ For official documents and more information on the Food and Agriculture Organization of the United Nations, see <http://www.fao.org>.

⁸⁶⁰ FAO, report of the 38th Session of the Conference (Rome, 15–22 June 2013), document C2013/REP, paras. 120–127.

(b) Constitutional and general legal matters

(i) Work undertaken by the Committee on Constitutional and Legal Matters

In 2013, the FAO Legal Office supported the 96th and 97th sessions⁸⁶¹ of the Committee on Constitutional and Legal Matters (CCLM) established by paragraph 6 of article V of the FAO Constitution.⁸⁶²

The CCLM considered a number of issues concerning the governance of the Organization and other legal matters, and reported on them to the FAO Council (the Council). In particular, the CCLM examined the Organization's practice concerning acceptance of credentials of delegations to the Conference, with a view to increasing flexibility, clarity and efficiency in the review and validation of credentials, while maintaining the integrity of credentials and ensuring that the formal requirements for credentials in the United Nations system are not undermined.⁸⁶³ It also reviewed the process of review of draft Conference Resolutions proposed by delegates during the sessions of the Conference.⁸⁶⁴ The resulting CCLM proposals to streamline the overall process of review of credentials and to discontinue the practice of establishing a Resolution Committee for the editorial review of draft Conference resolutions were subsequently endorsed by the Council at its 148th session, held in Rome from 2 to 6 December 2013.⁸⁶⁵

At its 97th session, the CCLM also reviewed two draft Conference resolutions proposing amendments which would streamline procedures for appointment of the Independent Chairperson of the Council and for election of Council members.⁸⁶⁶ These draft resolutions were subsequently endorsed by the Council at its 148th session, which decided to forward them to the Conference session in June 2015.⁸⁶⁷

Furthermore, in 2013, the CCLM conducted a preliminary review of the participation of international non-governmental organizations and civil society organizations in meetings of FAO.⁸⁶⁸ The CCLM recommended that a process for the reformulation of rules and procedures on the participation of such organizations to FAO meetings be initiated, and this recommendation was endorsed by the Council, which emphasized that the intergovernmental nature of FAO's decision making process would be maintained.⁸⁶⁹ The CCLM

⁸⁶¹ The sessions were held in Rome from 4–6 March and 21–23 October 2013, respectively.

⁸⁶² FAO Constitution, *Basic Texts of the Food and Agriculture Organization of the United Nations* (FAO Basic Texts), 2013, vol. I, sect. A. See also, rule XXXIV of the General Rules of the Organization, FAO Basic Texts, 2013, vol. I, sect. B.

⁸⁶³ FAO, Report of the 97th Session of the CCLM (Rome, 21–23 October 2013), document CL 148/2 Rev.1, paras. 8–9.

⁸⁶⁴ *Ibid.*, Report of the 97th Session of the CCLM, paras. 10–11.

⁸⁶⁵ FAO, Report of the 148th Session of the Council (Rome, 2–6 December 2013), sub-para. 20(b) and (c).

⁸⁶⁶ The two draft Conference Resolutions propose amendments to Rule XII, paragraphs 3, 4, 12, and 13, and to Rule XII, subparagraph 10(a), of the General Rules of the Organization (GRO) respectively.

⁸⁶⁷ FAO, Report of the 97th Session of the CCLM, paras. 17–22; and Report of the 148th Session of the Council, appendixes C and D.

⁸⁶⁸ *Ibid.*, Report of the 97th Session of the CCLM, paras. 23–26.

⁸⁶⁹ *Ibid.*, Report of the 148th Session of the Council, sub-para. 20(f).

also conducted a preliminary review of the composition and functions of bureaus of Technical Committees established under article V of the FAO Constitution.⁸⁷⁰ In endorsing the CCLM report to it, the Council noted that this issue was under negotiation by the members and that the CCLM might review legal aspects of this matter at a future session.⁸⁷¹

(ii) *Amendments to the General rules of the Organization and to the Rules of procedure of FAO Governing and statutory bodies*

At its 38th session in June 2013, the Conference adopted several amendments to the General Rules of the Organization (GRO).⁸⁷² In addition, the Rules of Procedure of a number of Governing and Statutory Bodies (e.g. the Committee on World Food Security, the Commission on Genetic Resources for Food and Agriculture, and the Commission on Phytosanitary Measures) were amended. The process for further revision of such rules was also initiated in some cases (e.g. the Committee on World Food Security).

(iii) *Information provided by FAO to other United Nations System entities*

By order 2013/2 of 24 May 2013, the International Tribunal for the Law of the Sea (ITLOS) invited States and a number of organizations, including FAO, to present written statements on the questions raised in the request for an advisory opinion submitted by the Permanent Secretary of the Sub-Regional Fisheries Commission to the Tribunal.⁸⁷³ FAO provided background information on pertinent provisions of those international instruments relevant to fisheries adopted under the FAO Constitution, with a view to assisting the Tribunal in its consideration of the questions addressed in the proceeding.⁸⁷⁴

⁸⁷⁰ FAO, Report of the 97th Session of the CCLM, paras. 6–7.

⁸⁷¹ *Ibid.*, Report of the 148th Session of the Council, sub-para. 20(a).

⁸⁷² By resolution 8/2013, 9/2013 and 10/2013, the Conference amended the following Rules of the GRO: XXXIII, XXIX.2, XXX.2, XXXI.2, XXXII.2, XXXVII and XL (*Ibid.*, Report of the 38th Session of the Conference).

⁸⁷³ ITLOS, case No. 21 “*Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*”, Orders, 20 December 2013, 3 December 2013 and 24 May 2013. For the text of the written statement of FAO, see http://www.itlos.org/fileadmin/itlos/documents/cases/case_no.21/written_statements_round1/C21_26_FAO_orig_Eng.pdf (accessed on 31 December 2013). Also see chap. VII, sect. B.

⁸⁷⁴ The international instruments addressed in the written statement submitted by FAO to ITLOS are: the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, the 1995 Code of Conduct for Responsible Fisheries, the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, and the 2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

(c) Activities in respect of multilateral treaties⁸⁷⁵*Depositary actions*

In 2013, a total of 17 depositary actions concerning treaties deposited with the Director-General of FAO by States and a regional economic integration organization were recorded. These actions related to the International Plant Protection Convention, 1951,⁸⁷⁶ the Plant Protection Agreement for the Asia and Pacific Region, 1951,⁸⁷⁷ the Constitution of the European Commission for the Control of Foot-and-Mouth Disease, 1953,⁸⁷⁸ the International Convention for the Conservation of Atlantic Tunas, 1966,⁸⁷⁹ the Agreement for the Establishment of the Near East Plant Protection Organization, 1993,⁸⁸⁰ the Constitution of the Centre for Marketing Information and Advisory Services for Fishery Products in the Arab Region, 1993,⁸⁸¹ the International Treaty on Plant Genetic Resources for Food and Agriculture, 2001,⁸⁸² the Southern Indian Ocean Fisheries Agreement, 2006,⁸⁸³ the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009,⁸⁸⁴ and the Agreement on the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission, 2009.⁸⁸⁵

(d) Legislative matters**(i) Legislative assistance and advice**

In 2013, the FAO Legal Office provided legislative assistance and advice to more than 80 countries in the form of review and provision of advice in drafting national legislation and regulations on a range of topics, including food safety, food security, forestry, fisheries, aquaculture, animal health and production, plant protection, pesticide control, seed registration, land, agribusiness, trade and agricultural cooperatives and finance.

The FAO Legal Office also provided legislative assistance and advice during a number of international meetings. In particular, it participated in the 6th Ad Hoc Open-ended

⁸⁷⁵ Information on depositary actions regarding multilateral treaties adopted pursuant to article XIV of the FAO Constitution is available from: <http://www.fao.org/legal/treaties/treaties-under-article-xiv/en/>. Information on depositary actions regarding multilateral treaties adopted outside of FAO's framework and deposited with the Director-General of FAO is available from: <http://www.fao.org/legal/treaties/treaties-outside-fao-framework/en/>.

⁸⁷⁶ United Nations, *Treaty Series*, vol. 150, p. 67.

⁸⁷⁷ *Ibid.*, vol. 247, p. 400.

⁸⁷⁸ *Ibid.*, vol. 191, p. 285.

⁸⁷⁹ *Ibid.*, vol. 673, p. 63.

⁸⁸⁰ *Ibid.*, vol. 2581, p. 157.

⁸⁸¹ Available at http://www.fao.org/fileadmin/user_upload/legal/docs/025t-e.pdf (accessed on 31 December 2013).

⁸⁸² United Nations, *Treaty Series*, vol. 2400, p. 303.

⁸⁸³ *Ibid.*, vol. 2835, I-49647.

⁸⁸⁴ *Ibid.*, I-54133. See also Food and Agriculture Organization of the United Nations, *Report of the Conference of FAO, Thirty-sixth Session, Rome 18–23 November 2009* (C 2009/REP and Corr. 1), appendix E.

⁸⁸⁵ United Nations, *Treaty Series*, vol. 2754, p. 191.

Informal Working Group to Study Issues relating to the Conservation and Sustainable Use of Marine Biological Diversity in Areas Beyond National Jurisdiction, the 14th Plenary Session of the Contact Group on Piracy off the Coast of Somalia, the World Trade Organization's Committee on Trade and Environment (CTE), where FAO briefed the CTE on market sanctions within legal instruments developed under auspices of FAO, and the United Nations Environment Programme's Second Global Conference on Land-Ocean Connections, where FAO presented its involvement in UNEP'S Global Partnership for Marine Litter.

The FAO Legal Office supported the resumed Technical Consultations on Flag State Performance, which was a follow-up to a previous session held in February 2012. During these consultations, the members of the Organization adopted the Voluntary Guidelines for Flag State Performance and requested that they be submitted to the 31st Session of the FAO Committee on Fisheries, to be held in June 2014.⁸⁸⁶

The FAO Legal Office also supported the negotiation process for the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, which were endorsed by the 38th (Special) Session of the Committee on World Food Security.⁸⁸⁷ These Guidelines are intended to contribute to global and national efforts towards the eradication of hunger and poverty by promoting secure tenure rights and equitable access to land, fisheries and forests. In support of the use of these Guidelines, during 2013, the FAO Legal Office contributed to the completion of technical guides on governance of tenure.

In March 2013, the FAO Legal Office participated in the Meeting of the Heads of Fisheries organized by the Secretariat of the Pacific Community for the Member States of the Pacific Community. The FAO Legal Office contributed to the work of the Network of Experts on the Legal Aspects of Maritime Safety and Security (MARSAFENET) on the issue of marine living resources management and illegal, unreported and unregulated (IUU) fishing in areas beyond national jurisdiction at the Conference on Jurisdiction and Control at Sea. The FAO Legal Office also contributed to the ITLOS-Nippon Programme held at the International Tribunal for the Law of the Sea (ITLOS), focusing on the legal instruments developed under auspices of FAO and activities undertaken by FAO and Regional Fishery Management Organizations (RFMO) to address IUU fishing.

The FAO Legal Office and the FAO Fisheries Department co-organized a workshop with the Forum Fisheries Agency (FFA) on the 2009 FAO Port State Measures Agreement to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.⁸⁸⁸

The FAO Legal Office partnered with the International Organization for the Unification of Private Law (UNIDROIT) in the preparation of a Legal Guide on Contract Farming. This Legal Guide is intended to serve as a reference document enabling better understanding of contractual relations in contract farming operations, with a view to supporting the better protection of the rights of contracting parties, particularly weak parties.

⁸⁸⁶ FAO, Report of the Technical Consultation on Flag State Performance (Rome, 26 May 2011, 5–9 March 2012, 4–8 February 2013), para. 26. The text of the guidelines is available from ftp://ftp.fao.org/FI/DOCUMENT/tc-fsp/2013/VolGuidelines_adopted.pdf.

⁸⁸⁷ For the text of the guidelines, see <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>.

⁸⁸⁸ Available from <http://www.fao.org/legal/treaties/treaties-under-article-xiv/en/>.

For this purpose, FAO and UNIDROIT established an international working group of legal experts, supported by IFAD, the World Food Programme (WFP), the World Farmers Organization (WFO) and other public and private organizations, which met twice and elaborated a first draft of the Guide.

(ii) *Legislative research and publications*

In 2013, the FAO Legal Office published the following Legal Papers Online:⁸⁸⁹

- “Les outils pour une gestion durable des forêts”; and
- “Aquaculture regulatory frameworks: Trends and initiatives in national aquaculture legislation”.

(iii) *Collection, Translation and Dissemination of Legislative Information*

During 2013, the FAO continued to collect, translate and disseminate legislative information on food and agriculture legislation through its online databases. It continued to augment the databases which include: FAOLEX,⁸⁹⁰ FISHLEX,⁸⁹¹ WATERLEX,⁸⁹² WATER TREATIES,⁸⁹³ and ECOLEX.⁸⁹⁴

3. United Nations Educational, Scientific and Cultural Organization⁸⁹⁵

(a) International regulations

(i) *Entry into force of instruments previously adopted*

No multilateral conventions or agreements adopted under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO) entered into force in 2013.

(ii) *Proposals concerning the preparation of revised instruments*

a. Preliminary study on the technical, legal and museological aspects relating to the desirability of a standard-setting instrument on the protection and promotion of museums and collections

In November 2013, the 37th session of the General Conference invited the Director-General to prepare, under extrabudgetary funding, in close cooperation with the

⁸⁸⁹ Available from <http://www.fao.org/legal/publications/legal-papers/en/>.

⁸⁹⁰ See <http://faolex.fao.org/faolex/>.

⁸⁹¹ See <http://faolex.fao.org/fishery/>.

⁸⁹² See <http://faolex.fao.org/waterlex/>.

⁸⁹³ See <http://faolex.fao.org/watertreaties/>.

⁸⁹⁴ See <http://www.ecolex.org/start.php>.

⁸⁹⁵ For official documents and more information on the United Nations Educational, Scientific and Cultural Organization, see <http://www.unesco.org>.

International Council of Museums (ICOM), and in consultation with the Member States, a preliminary text of a new non-binding standard-setting instrument on the protection and promotion of various aspects of the role of museums and collections, to complement existing standard-setting instruments, in the form of a Recommendation, and to submit the text to it at its 38th session in 2015.⁸⁹⁶

b. Preliminary study of the technical, financial and legal aspects relating to the desirability of a standard-setting instrument on preservation and access to documentary heritage

At its 37th session, the General Conference invited the Director-General to submit to it, at its 38th session, a draft recommendation on preservation and access to documentary heritage, including digital heritage.⁸⁹⁷

c. Preliminary study on the technical and legal aspects relating to the desirability of revising the 1976 Recommendation on the Development of Adult Education

The 37th session of the General Conference invited the Director-General to submit to it, at its 38th session, a draft of the revised Recommendation on the Development of Adult Education.⁸⁹⁸

d. Preliminary study on the technical and legal aspects relating of the desirability of revising the 2001 Revised Recommendation concerning Technical and Vocational Education

At its 37th session, the General Conference invited the Director-General to submit to it, at its 38th session, a draft of the revised Recommendation concerning Technical and Vocational Education.⁸⁹⁹

(b) Human Rights

The Committee on Conventions and Recommendations met in private sessions at UNESCO Headquarters from 10 to 12 April 2013 and from 24 to 27 September 2013 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 April 2013 session, the Committee examined 32 communications, of which five were examined with a view to determining their admissibility or otherwise, 18 were examined as to their substance and 9 were examined for the first time. Four communications were struck from the list because they were considered as having been settled and the examination of the other 28 was deferred. The Committee presented its report to the Executive Board at its 191st session.

⁸⁹⁶ UNESCO, document 37 C/resolution 43.

⁸⁹⁷ *Ibid.*, resolution 53.

⁸⁹⁸ *Ibid.*, resolution 16.

⁸⁹⁹ *Ibid.*, resolution 18.

At its September 2013 session, the Committee examined 31 communications, of which 11 were examined with a view to determining their admissibility, 16 were examined as to their substance and 4 were examined for the first time. One communication was struck from the list because it was considered as having been settled and the examination of the other 30 was deferred. The Committee presented its report to the Executive Board at its 192nd session.

(c) Copyright activities

The 14th session of the Intergovernmental Copyright Committee (ICC) established under the Universal Copyright Convention, for which UNESCO provides the Secretariat, took place from 7 to 9 June 2010. At this session, the Committee decided to suspend rule 2 (1) of its Rules of procedure concerning periodicity of ordinary sessions and to convene ordinary sessions at the request of one third of its members following the initiative either of one or more of its members or of the Secretariat. Consequently, UNESCO has not taken activities under the implementation of this Convention in 2013.

4. World Health Organization⁹⁰⁰

(a) Constitutional developments⁹⁰¹

No new amendments to the WHO Constitution were proposed or adopted, and neither of the two current amendments entered into force.⁹⁰²

(b) Other normative developments and activities

(i) *International Health Regulations (2005)* (“IHR (2005)” or the “Regulations”)

In accordance with article 60 of the IHR (2005), the Regulations entered into force for South Sudan on 16 April 2013. With the inclusion of South Sudan, there were 196 States parties to the IHR (2005) as of the end of 2013.

Beginning on 9 July 2013, in accordance with articles 12, 48, and 49 of the IHR (2005), the Director-General convened four meetings of the International Health Regulations (2005) Emergency Committee concerning cases of human infection with Middle East respiratory syndrome coronavirus (MERS-CoV). This was the second time since the IHR (2005) entered into force in June 2007 that such a Committee had been convened. The Committee, which is composed of independent international experts from a variety of relevant disciplines and from all regions of WHO, provided expert technical views to the Director-General in accordance with the IHR (2005), including on whether the events involving MERS-CoV constituted a Public Health Emergency of International

⁹⁰⁰ For official documents and more information on the World Health Organization, see <http://www.who.int>.

⁹⁰¹ For the text of the WHO Constitution, see United Nations, *Treaty Series*, vol. 14, p. 185.

⁹⁰² The amendment to article 7 (adopted by the eighteenth World Health Assembly by resolution WHA18.48 of 20 May 1965) and the amendment to article 74 (adopted by the thirty-first World Health Assembly by resolution WHA31.18 of 18 May 1978).

Concern (PHEIC). Based on the current information, the Committee took the unanimous view that the conditions for a PHEIC had not been met.

In the area of implementation of the Regulations in national legislation, in 2013, Secretariat activities included a multi-country interactive workshop for legal and technical personnel on assessment and revision of national legislation for IHR implementation in Yangon, Myanmar, including participation by all States parties in WHO's South-East Asia Region. Support in this area was also provided through a wide range of other activities, communications, advice and information directly to States parties or through Regional Offices, including missions to countries.

(ii) *Amendments to Basic documents and to the Rules of procedure of the regional committees of the WHO*

The Executive Board, by resolutions EB132.R10 and EB132.R11 of 28 January 2013, confirmed amendments to Staff Rules made by the Director-General concerning the effective date of amendments to the Staff Rules, appointment policies, completion of appointments, abolition of posts including the reassignment process, standards of conduct for staff members, working hours and attendance, appeals process, and terminal remuneration, with effect from 1 February 2013, and to the remuneration of staff in the professional and higher categories, with effect from 1 January 2013.

The Executive Board, by resolution EB132.R13 of 29 January 2013, amended rule 52 of its Rules of procedure with effect from the closure of its 132nd session to: (a) provide that the process for nomination starts nine rather than six months before the opening of the sessions at which a person is to be nominated; (b) provide for the establishment of a candidates' forum open to all Member States and associate members to which all candidates are invited to make themselves and their vision known to Member States on an equal basis; and (c) reflect that the Board shall henceforth nominate three candidates for the Health Assembly's consideration.

The World Health Assembly, by resolution WHA66.3 of 24 May 2013, adopted the changes to the Financial Regulations with effect from the 1 January 2014. The changes related to (a) the scope of the authority of the Director-General that results from approval of the budget, given that funding is not fully approved for the voluntary contributions component, (b) the exact nature of financial obligations of Member States upon approval of the budget and (c) the interrelationship between the changes to the Financial Regulations and the wording of the budget resolution.

The World Health Assembly, by resolution WHA66.18 of 27 May 2013, agreed on the following: (a) to adopt a code of conduct for the election of the Director-General of the World Health Organization which aims at promoting an open, fair, equitable and transparent process for the election of the Director-General of the World Health Organization; (b) to establish a candidates' forum open to all Member States as a non-decision-making platform for candidates; (c) that the curriculum vitae of each candidate, which should be based on the standard form contained in annex 3 to the resolution, shall be limited to 3500 words and shall also be submitted in electronic format in order to enable the Chairman of the Executive Board to verify that this limit is not exceeded; and (d) to amend rules 70 and 108 of its Rules of procedure and to add a new Rule 70 *bis*, in order to reflect the specific

modalities for appointing the Director-General out of three candidates nominated by the Executive Board.

The Regional Committee for Africa, by resolution AFR/RC63/R2 of 5 September 2013, amended, with effect from the end of its sixty-third session, rules 2, 3 and 52 of its Rules of procedure, relating to the attendance of observers at the Regional Committee, the examination of credentials and the process of nominating persons for the post of Regional Director, respectively. Additionally, it amended the terms of reference of the Programme Subcommittee in order to include oversight functions over the work of the Secretariat.

The Regional Committee for Europe, by resolution EUR/RC63/R7 of 18 September 2013, amended its Rules of procedure with effect from the end of the sixty-third session in order to establish a screening mechanism for credentials at Regional Committee meetings and a procedure for the submission of and amendments to Regional Committee resolutions. Additionally, it decided to amend the rule 3 of the Rules of procedure of the Standing Committee of the Regional Committee for Europe, by providing that the Standing Committee's meeting in May be open to all Member States of the region, with the aim to ensure transparency of the Standing Committee's proceedings.

The Regional Committee for the South-East Asia, by resolution SEA/RC66/R8 of 13 September 2013, amended rules 2 and 3 of its Rules of procedure, with effect from the end of the sixty-sixth session of the Regional Committee, concerning the participation of observers in the work of the Regional Committee and the procedure for submitting and examining credentials, respectively.

(iii) *Agreement with South Sudan*

On 25 October 2013, WHO entered into a technical advisory cooperation agreement with South Sudan. The cooperation consists of WHO providing technical advice to the State which in turn facilitates the effective development of technical advisory cooperation in the country. Specific provisions address the establishment of a WHO office in the country and govern its functioning, including the granting of privileges and immunities to the Organization and to the staff.

(iv) *Agreement with Algeria*

On 27 February 2013, WHO entered into an agreement with Algeria for the establishment of a WHO Country Office in the country. The cooperation consists of WHO contributing to the implementation of its programmes at the national level, providing technical assistance to the national authorities and promoting the dissemination of its publications and documents in the country. Specific provisions address the establishment of a WHO office in the country and govern its functioning, including the granting of privileges and immunities to the Organization and to the staff.

(v) *Agreement with Turkey*

On 17 June 2013, WHO entered into an agreement with Turkey for the establishment of a WHO Country Office in Ankara. The purpose of the agreement is to provide technical

expertise to the Government of Turkey and to develop effective international collaboration and partnership in the field of health. Specific provisions address the establishment of a WHO office in the country and govern its functioning, including the granting of privileges and immunities to the Organization and to the staff.

(vi) *Agreements with intergovernmental organizations*

On 27 May 2013, by resolution WHA66.20, the World Health Assembly approved the Agreement between the South Centre and the World Health Organization, which was submitted to it under the terms of article 70 of the WHO Constitution. As indicated in its article II, the Agreement aims at strengthening cooperation in areas including access to medicines and other health technologies and at reaffirming the two Organizations' complementary commitments to serve the needs of their respective Member States and partner countries through research activities, information collection and dissemination, and the convening of meetings of representatives of their Member States and other relevant stakeholders.

(vii) *Code of Conduct for the Election of the Director-General of the World Health Organization*

On 27 May 2013, by resolution WHA66.18, the World Health Assembly adopted the Code of Conduct for the Election of the Director-General of the World Health Organization.⁹⁰³

(viii) *Code of Conduct for the Nomination of the Regional Director of the European Region of the World Health Organization*

On 18 September 2013, by resolution EUR/RC63/R7, the Regional Committee for Europe adopted the Code of Conduct for the Nomination of the Regional Director of the European Region of the World Health Organization which became effective at the end of the sixty-third session of the Regional Committee for Europe.⁹⁰⁴

(ix) *Supporting national law reform efforts on WHO mandated topics*

During 2013, the Headquarters and Regional Offices of WHO provided technical cooperation to a number of Member States in connection with the development, assessment, or review of various areas of health legislation and WHO-mandated topics, including

⁹⁰³ The Code is a political understanding that aims to promote an open, fair, equitable, and transparent process for the election of the Director-General of the World Health Organization. In seeking to improve the overall process, this Code addresses a number of areas, including the submission of proposals, the conduct of electoral campaigns, and the nomination and appointment of the Director-General.

⁹⁰⁴ The Code is a political understanding that aims to promote an open, fair, equitable, and transparent process for the nomination of the Regional Director. In seeking to improve the overall process, this Code addresses a number of areas, including the submission of proposals, the conduct of electoral campaigns, and the nomination of the Regional Director.

maternal health, biological standardization, tobacco-related issues, and the child's right to the highest attainable standard of health. Specific support was provided to countries for developing and/or revising national law and legislation on reducing preventable maternal mortality, universal health coverage, road safety, regulation of medical research, disability rights, mental health, reproductive health, and maternal child nutrition.

(c) Status on new instruments

On 21 June 2013, Tajikistan became a Party to the WHO Framework Convention on Tobacco Control (FCTC).⁹⁰⁵ There were 177 Parties to the Convention at the end of 2013.

In addition, the first protocol to the WHO FCTC, the Protocol to Eliminate Illicit Trade in Tobacco Products, which was adopted by the Conference of the Parties to the WHO FCTC on 12 November 2012, was opened for signature by all Parties to the WHO FCTC on 10 January 2013. Forty-two Parties to the WHO FCTC signed the Protocol in 2013,⁹⁰⁶ and the first instrument of ratification was deposited by Nicaragua on 20 December 2013.

5. International Monetary Fund⁹⁰⁷

(a) Membership

(i) Accession to membership

No new countries became members of the International Monetary Fund (IMF) in 2013. As of 31 December 2013, the membership of the IMF consisted of 188 member countries.

(ii) Status and obligations under article VIII or article XIV of the IMF's Articles of Agreement

Under article VIII, sections 2, 3, and 4 of the IMF's Articles of Agreement,⁹⁰⁸ members of the IMF may not, without the IMF's approval, (a) impose restrictions on the making of payments and transfers for current international transactions; or (b) engage in any discriminatory currency arrangements or multiple currency practices. Notwithstanding these provisions, pursuant to article XIV, section 2 of the IMF's Articles of Agreement, when a member joins the IMF, it may notify the IMF that it intends to avail itself of the transitional arrangements under article XIV of the IMF's Articles of Agreement that allow the mem-

⁹⁰⁵ United Nations, *Treaty Series*, vol. 2302, p. 166.

⁹⁰⁶ The parties were Belgium, Benin, Botswana, Burkina Faso, China, Colombia, Costa Rica, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Ecuador, European Union, Fiji, Finland, France, Gabon, Germany, Ghana, Greece, Guinea-Bissau, Ireland, Israel, Kenya, Kuwait, Libya, Lithuania, Madagascar, Mongolia, Montenegro, Myanmar, Nicaragua, Norway, Panama, Qatar, Republic of Korea, South Africa, the Sudan, Syrian Arab Republic, Tunisia, Turkey, United Republic of Tanzania, and Uruguay. See chapter IX. 4.a of *Multilateral Treaties Deposited with the Secretary-General*, available on the website <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

⁹⁰⁷ For documents and more information on the International Monetary Fund, see <http://www.imf.org>.

⁹⁰⁸ United Nations, *Treaty Series*, vol. 2, p. 39.

ber to maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member. Article XIV of the IMF's Articles of Agreement does not, however, permit a member, after it joins the IMF, to introduce new restrictions on the making of payments and transfers for current international transactions without the IMF's approval.

Members that maintain restrictions under article XIV, section 2 are required to consult with the IMF annually on the further retention of such restrictions. Members may notify the IMF at any time that they accept the obligations of article VIII, sections 2, 3, and 4 of the IMF's Articles of Agreement and no longer avail themselves of the transitional provisions of article XIV. The IMF has stated that, before members notify the IMF that they are accepting the obligations of article VIII, sections 2, 3 and 4, it would be desirable that, as far as possible, members eliminate measures that would require IMF approval and satisfy themselves that they are not likely to need recourse to such measures in the foreseeable future. Where necessary, and if requested by a member, the IMF also provides technical assistance to help the member remove its exchange restrictions and multiple currency practices.

The total number of countries that had accepted the obligations of article VIII, Sections 2, 3, and 4, as of December 31, 2013, was 169.

(iii) *Overdue financial obligations to the IMF*

As of 31 December 2013, members with protracted arrears (i.e., financial obligations that were overdue by six months or more) involving the general resources of the IMF were Somalia and the Sudan. Zimbabwe had arrears to the Poverty Reduction and Growth Trust (PRGT) administered by the IMF as trustee. In addition, Somalia and the Sudan had protracted overdue Trust Fund and/or Structural Adjustment Facility obligations not involving the general resources of the IMF.

Article XXVI, section 2(a) of the IMF's Articles of Agreement provides that if "a member fails to fulfil any of its obligations under this Agreement, the [IMF] may declare the member ineligible to use the general resources of the [IMF]". Such declarations of ineligibility were in place at end of December 2013 with respect to Somalia and the Sudan, whose arrears were subject to sanctions under article XXVI. In the case of Zimbabwe, its arrears to the PRGT were handled under a separate framework since such arrears do not involve the IMF's general resources and are therefore not subject to article XXVI.

(b) **Issues pertaining to representation at the IMF**

In September 2009, the IMF found that there was no internationally recognized government for Madagascar with which the IMF could carry on its activities. Since then and throughout 2013, the positions of the Governor and Alternate-Governor for Madagascar in the IMF remained vacant.

(c) **Key policy decisions of the IMF**

In 2013, the IMF took steps to move ahead with a number of major policy reforms that would allow it to meet the evolving needs of its members and to adjust to changes in the global economy.

(i) *IMF surveillance*

The activity known as IMF surveillance is a core mandate of the IMF. Article IV requires the IMF to exercise oversight over members' compliance with their obligations under article IV, section 1, and also directs the IMF to give scrutiny ("firm surveillance") to members' exchange rate policies. As a means of enabling the IMF to discharge these responsibilities, members are required to provide the necessary information to the IMF and, when requested by the IMF, to consult with the IMF regarding their policies. In addition, article IV, section 3(a) gives the IMF a specific mandate to "oversee the international monetary system in order to ensure its effective operation". This function provides the basis for so-called multilateral surveillance. While surveillance is continuous in nature, policy discussions between the IMF and its members are conducted primarily in the context of "Article IV consultations", which are typically held on an annual basis. Staff reports providing economic analysis and policy advice at a bilateral and multilateral level are prepared for discussion by the Executive Board. Discussion at the Executive Board is a culmination of the surveillance cycle and serves as a mechanism for peer review of the policies of IMF members and of the issues impacting global stability.

Mandatory financial stability assessments

In September 2010, the IMF's Executive Board made financial stability assessments (FSAs) under the Financial Sector Assessment Program (FSAP) a regular and mandatory part of bilateral surveillance under article IV for jurisdictions with systemically important financial sectors. These jurisdictions were chosen based on a set of relevant and transparent criteria composing of two key features of a country's financial sector, namely size and interconnectedness with financial sectors in other countries. On this basis, 25 jurisdictions were determined by the IMF's Managing Director to have systemically important financial sectors.

In December 2013, the Executive Board reviewed and approved revisions to the 2010 decision to align the legal basis for mandatory FSAs with the IMF's 2012 Integrated Surveillance Decision (ISD) and to modify the methodology for determining systemically important financial sectors. The ISD made article IV consultations a vehicle for both bilateral and multilateral surveillance, enabling the IMF to examine spillovers arising from a member's domestic policies when these may significantly influence the effective operation of the international monetary system. Consistent with the approach under the ISD, mandatory FSAs would now cover spillovers from a member's financial sector policies when those policies undermine either the member's own stability or may significantly influence the effective operation of the international monetary system, for example by undermining global economic and financial stability.

Further, as a result of the modified methodology, the systemic importance of a jurisdiction's financial sector would be determined not only on the basis of size and cross-border banking linkages, as was the case in the original 2010 methodology, but also take into account other potential transmission channels for shocks. This modified methodology shifts more emphasis to interconnectedness, expands the range of covered exposures, and brings into consideration the potential for price contagion across financial sectors. Based on the modified methodology, 29 jurisdictions have been determined by the IMF's Managing Director to have systemically important financial sectors.

(ii) *IMF financing and financial resources*

a. Adoption of new rules and regulations for the IMF's Investment Account

The Executive Board of the IMF adopted on 23 January 2013, a new set of rules and regulations for the IMF's Investment Account.⁹⁰⁹ The rules replaced those approved by the Executive Board in 2006, and provide the legal framework for the implementation of the expanded investment authority that is authorized under the Fifth Amendment to the IMF's Articles of Agreement, which became effective in February 2011. The expanded investment authority is a key element of the IMF's income model, which aims to diversify the IMF's sources of income and to put the IMF's finances on a sound long-term footing.

The new rules and regulations established two main sub-accounts within the Investment Account: (a) the Fixed-Income Subaccount, totaling about SDR⁹¹⁰ 8.4 billion at end-2012 (about USD 13 billion), the assets of which are invested in marketable obligations of IMF members and international financial institutions that are denominated either in SDR or in currencies included in the SDR basket, and managed against a 1–3 year government bond benchmark, which is weighted to reflect the currency composition of the SDR basket; and (b) the Endowment Subaccount to be funded with assets attributed to profits from the strictly limited sale of holdings of the IMF's post-Second Amendment gold during 2009 and 2010 (totaling approximately SDR 4.4 billion, or about USD 7 billion at end-2012), which will be invested in a conservative, globally diversified portfolio consisting of fixed income assets and a limited portion of equities (including real estate investment trusts) in accordance with a strategic asset allocation benchmark.

The new rules and regulations provide strong protection against actual or perceived conflicts of interest, including a clear separation of responsibilities among the Executive Board, management, and external managers, as well as the exclusion of certain investment activities that, by their nature, could be more susceptible to the perception of conflicts of interest.

b. Distribution of windfall gold sales profits

The IMF sold 403.3 metric tons of gold in 2009–2010 to create an endowment to ensure the long-term financing of the IMF's day-to-day operations and as part of a strategy to mobilize IMF members' subsidy contributions to boost the IMF concessional lending. High world gold prices during the sales period generated "windfall" profits of SDR 2.45 billion (USD 3.8 billion).

The IMF's Executive Board in 2012 approved two separate distributions of this amount to IMF members, each was subject to members' assurances that they would provide new voluntary subsidy contributions to the PRGT, the IMF concessional lending to low-income countries, in amounts equivalent to at least 90 percent of the respective distribution. Requisite assurances were received for the effectiveness of the first and second distributions in October 2012 and October 2013, respectively, and as a result of these

⁹⁰⁹ For more information and the text of the new set of rules, see <http://www.imf.org/external/np/sec/pr/2013/pr1337.htm>.

⁹¹⁰ The currency value of the SDR is determined by summing the values in U.S. dollars, based on market exchange rates, of a basket of major currencies. For more information, see https://www.imf.org/external/np/fin/data/rms_sdrv.aspx.

assurances, the total amount of resources transferred or pledged by the IMF membership to support concessional lending under the PRGT reached more than SDR 2.2 billion (about USD 3.4 billion).

**c. Review of facilities for low-income countries and eligibility
for using concessional financing**

On 8 April 2013, the Executive Board of the IMF reviewed and approved several changes to the IMF's facilities for low-income countries (LICs) and to eligibility to use the IMF's concessional resources under the PRGT.⁹¹¹ These reforms aim at improving the tailoring and flexibility of Fund financial support to LICs in a manner that is consistent with the resources projected to be available over the period 2013–2035.

As part of the eligibility review, the Executive Board adopted special provisions setting higher income-related thresholds for very small states (microstates) in the PRGT-eligibility framework than for other low-income countries, both for PRGT entry and graduation, in view of unique challenges, such as greater volatility and the disadvantageous small economy scale, faced by them. Based on these new special provisions, the Executive Board endorsed the entry to the IMF's PRGT eligibility list of three microstates: Marshall Islands, Micronesia, and Tuvalu. The Executive Board also endorsed the graduation of Armenia and Georgia from the list.

In reviewing the facilities for LICs, the Executive Board adopted several proposals to improve the tailoring and flexibility of the IMF's toolkits to meet the financing needs of its low-income members while preserving the self-sustainability of the PRGT.⁹¹²

⁹¹¹ For more information, see <http://www.imf.org/external/np/pp/eng/2013/031813a.pdf>.

⁹¹² The proposals included: increasing the cumulative access limit under the Rapid Credit Facility that is designed primarily to benefit countries in fragile situations or prone to natural disasters; encouraging the use of the Standby Credit Facility (SCF) arrangements on a precautionary basis; allowing the extension of the initial length of certain arrangements, *i.e.*, the Extended Fund Facility (ECF) arrangements and the Policy Support Instrument (PSI); allowing augmentation of access during ad-hoc reviews between scheduled reviews under ECF and SCF arrangements in cases where balance of payments problems are so acute that the augmentation cannot await the completion of the next review under the arrangement; allowing more flexibility in the periodicity of reviews, phasing, and performance criteria (no longer limited to semi-annual and quarterly); relaxing certain documentation requirements involving members' Poverty Reduction Strategies; and conserving scarce concessional resources by terminating certain off-track ECF arrangements after the expiration of a period of 18 months following the date of the last completed review.

(iii) *IMF transparency policy*

In June 2013, the IMF's Executive Board reviewed and adopted several measures for further improvement of the IMF's transparency policy, including: (a) to increase publication rates and reduce information lags through applying a stronger publication regime to all IMF staff reports on the use of IMF financial resources and PSIs, defining prompt publication as being within 14 days of Executive Board consideration, and requiring the issuance of factual statements in case of delayed publication; (b) to streamline external communication products to reduce the risk of inconsistent messages; (c) to provide further safeguards to confidential information through additional guidance to IMF staff, upfront clarification with IMF members on the application of IMF confidentiality rules, and the strengthening of departmental review to avoid information leakage; and (d) to group multi-country documents that address cross-country coverage and spillover issues into a new category and to introduce new modification and publication rules for this category.⁹¹³

(iv) *Review of developments in sovereign debt restructuring*

In May 2013, the IMF's Executive Board discussed a staff paper on recent developments in the area of sovereign debt restructuring and their implications for the IMF's legal and policy framework. The Executive Board discussion focused on the following four areas: (a) staff's observation that debt restructurings have often been too little and too late in recent crisis cases, thus failing to re-establish debt sustainability and market access in a durable way; (b) options to make the current contractual, market-based approach to debt restructuring more effective in overcoming collective action problems, especially in pre-default cases; (c) the growing role and changing composition of official lending and the potential need to clarify the framework for official sector involvement in light of these developments; and (d) whether the Fund's lending into arrears (LIA) policy remains the most promising way to regain market access post-default and whether a review of the effectiveness of this policy is warranted in light of the recent experience and increased complexity of the creditor base.⁹¹⁴

⁹¹³ For more information, see <http://www.imf.org/external/pubs/ft/survey/so/2013/POL072213A.htm>.

⁹¹⁴ For more information, see <https://www.imf.org/external/np/pp/eng/2013/042613.pdf>.

The Board endorsed a two-stage work program over the next year for further analysis starting with issues related to the timeliness and adequacy of debt restructuring as well as collective action problems, followed by official sector involvement and LIA issues in later stages.

6. International Civil Aviation Organization⁹¹⁵

(a) Depositary actions in relation to multilateral air law instruments

A total of 51 depositary activities by States were recorded during 2013.⁹¹⁶

(b) Activities of ICAO in the legal field

(i) *Legal issues relating to unruly passengers*

The Legal Committee held its 35th session in May 2013 and decided to transmit to the ICAO Council (the Council) a draft text of the Protocol to the Tokyo Convention, 1963,⁹¹⁷ as a final draft for presentation to States and, ultimately, to a Diplomatic Conference. Based on the report of the Legal Committee, the Council decided to convene a Diplomatic Conference to amend the Tokyo Convention from 26 March to 4 April 2014. As part of the efforts to promote the Diplomatic Conference, ICAO supported and participated in the Gdansk International Air and Space Law Conference, which covered the issue of unruly passengers, and was sponsored and organized by Poland on 15 November 2013.

(ii) *Promotion of Beijing instruments*

The Organization continued to promote the ratification of the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 2010 (the Beijing Convention),⁹¹⁸ and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (the Beijing Protocol), 2010.⁹¹⁹ The 38th session of the ICAO Assembly (the Assembly) adopted resolution A38-19 to urge all States to sign and ratify these two instruments. As of 31 December 2013, the Beijing Convention had been signed by 30 States and ratified or acceded to by: Saint Lucia, Mali, the Dominican Republic, Guyana, Myanmar, Cuba, Angola, the Czech Republic, South Africa and Turkey. The Beijing Protocol had been signed by 32 States and ratified or acceded to by: Saint Lucia, Mali, Cuba, Guyana, Myanmar, the Dominican Republic, the Czech Republic, South Africa and Turkey.

⁹¹⁵ For official documents and more information on the International Civil Aviation Organization, see <http://www.icao.int>.

⁹¹⁶ A chronological record of States that signed, ratified, acceded, accepted or adhered to multilateral air law instruments during 2013 can be found on the ICAO website as part of the Legal Affairs and External Relations Bureau's Treaty Collection.

⁹¹⁷ United Nations, *Treaty Series*, vol. 704, p. 219.

⁹¹⁸ International Civil Aviation Organization, document 9960.

⁹¹⁹ *Ibid.*, document 9959.

(iii) *Cooperation within the framework of the United Nations Counter-Terrorism Implementation Task Force (CTITF)*

Within the framework of CTITF, ICAO continued to cooperate with other members of the Task Force. At the invitation of the United Nations Office on Drugs and Crime (UNODC), ICAO participated in the review of the Draft Module on Transport related (Civil Aviation and Maritime) Terrorism Offences,⁹²⁰ initiated and developed by the Terrorism Prevention Branch of the UNODC. The Module, once finalized, will be used as training material to cover the contents of the Beijing Convention and the Beijing Protocol.

(iv) *International interests in mobile equipment (aircraft equipment)*

On behalf of the Council in its capacity as the Supervisory Authority of the International Registry, the Secretariat continued to monitor the operation of the Registry to ensure that it functions efficiently in accordance with article 17 of the Convention in International Interests in Mobile Equipment, 2001 (Cape Town Convention).⁹²¹ The sixth meeting of the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) took place in April 2013 at ICAO Headquarters. The purpose of the meeting was to finalize consideration of the changes proposed by the Registrar to the Regulations and Procedures for the International Registry,⁹²² which were the subject of preliminary discussion at the fifth meeting of CESAIR in December 2012, and to make recommendations thereon to the Council. The Council subsequently approved the recommended changes during its 199th session. Pursuant to article 62 (2) (c) of the Cape Town Convention and article XXXVII (2) (c) of the Cape Town Protocol, the Supervisory Authority regularly receives information from the Depository on ratifications, declarations, denunciations and designations of entry points. As of 15 December 2013, there were 57 ratifications and accessions to the Cape Town Convention and 52 ratifications and accessions to the Protocol⁹²³.

(v) *Work programme of the Legal Committee*

Following the decisions taken with regard to the work programme by the 35th session of the Legal Committee and the 38th session of the Assembly, the Council, at its 200th session, approved the general work programme of the Legal Committee, including the prioritization of items, as follows: (a) acts or offences of concern to the international aviation community and not covered by existing air law instruments; (b) consideration of Guidance on Conflicts of Interest; (c) safety aspects of economic liberalization and article 83 *bis*; (d) consideration, with regard to CNS/ATM systems including global navigation satellite systems (GNSS), and the regional multinational organisms, of the establishment

⁹²⁰ For more information and the finalized module see: https://www.unodc.org/documents/terrorism/Publications/Module_on_Transport/13-89032_Ebook_from_DM_9-9-2014.pdf.

⁹²¹ United Nations, *Treaty Series*, vol. 2307, p. 285.

⁹²² International Civil Aviation Organization, document 9864.

⁹²³ United Nations, *Treaty Series*, vol. 2367, p. 615.

of a legal framework; (e) promotion of the ratification of international air law instruments; and (f) study of legal issues relating to remotely piloted aircraft.

(vi) *Supplementary Agreement between the International Civil Aviation Organization and the Government of Canada regarding the Headquarters of the International Civil Aviation Organization*

At the tenth meeting of its 198th session, the Council endorsed the draft Supplementary Agreement between the International Civil Aviation Organization and the Government of Canada regarding the Headquarters of the International Civil Aviation Organization and authorized the Secretary General to sign the Supplementary Agreement on behalf of ICAO. On 27 May 2013, ICAO and Canada signed the new Supplementary Agreement which will come into force at the end of 2016⁹²⁴, for a duration of 20 years.

(vii) *Host State Agreement for ICAO Regional Sub Office*

A Host State Agreement (HSA) with the Government of the People's Republic of China for the ICAO Asia and Pacific Regional Sub-Office was signed on 27 June 2013.⁹²⁵ The HSA sets out arrangements for the premises and facilities that are provided by the Host State and the privileges and immunities of ICAO. On 20 December 2013, ICAO and China signed the Supplementary Agreement regarding Financial and Administrative Arrangements for the Asia and Pacific Regional Sub-Office.

(viii) *Tripartite Consultative Committee and the Council Committee on Relations with the Host Country*

The fourth meeting of the ICAO Tripartite Consultative Committee was held on 13 February 2013. In addition to officials from Protocol Ottawa, Protocol Quebec and the City of Montreal, as well as Representatives on the Council of ICAO, Citizenship and Immigration Canada (CIC) were also represented. The meeting reviewed the issues on its agenda regarding the achievements to date and consideration of a way forward for the outstanding issues and the form of future consultations. A brief presentation of the revised edition of the Information for members of national delegations regarding their arrival and residence in Canada (Yellow Book) was provided.⁹²⁶

(ix) *Working Group on Governance and Efficiency (WGGE)*

The WGGE considered a mechanism for consultation with the Host Country on privileges and immunities and courtesy services to Representatives accredited to ICAO and its recommendation to establish a Committee on Relations with the Host Country (RHCC) was adopted by the Council during its 199th session in May 2013.

⁹²⁴ United Nations, *Treaty Series*, A-28718.

⁹²⁵ *Ibid.*, I-51597.

⁹²⁶ The revised edition of the Yellow Book was uploaded to the ICAO Secure site in February 2013.

(x) *Committee on Relations with the Host Country (RHCC)*

At the first meeting of its 200th session, the Council noted the composition of the members of the RHCC and elected the Chairperson. At the first meeting of the RHCC held on 22 October 2013, the Vice-Chairperson was elected and the terms of reference were agreed upon.

7. International Maritime Organization⁹²⁷**(a) Membership of the organisation**

As at 31 December 2013, the membership of the International Maritime Organization (IMO) stood at 170.

(b) Review of the legal activities undertaken by the IMO Legal Committee

The Legal Committee (“the Committee”) held its one-hundredth session from 15 to 19 April 2013.⁹²⁸

(i) *Monitoring the implementation of the Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Protocol)⁹²⁹*

The Committee endorsed the Guidelines on reporting of HNS contributing cargo, contained in annex 2 to document LEG 100/3, including its annexes and appendices,⁹³⁰ which had been developed at a workshop on HNS reporting jointly organized by the IMO and the International Oil Pollution Compensation Funds (IOPC Funds) Secretariats. The workshop, which was held at IMO on 12 and 13 November 2012, in preparation for the entry into force of the HNS Protocol 2010, was attended by a large number of Member States and observers.

The Committee noted that the Guidelines, which were not binding, were intended to facilitate the submission by States to the Secretary-General, when ratifying or acceding to the HNS Protocol, of data on contributing cargo.

(ii) *Fair treatment of seafarers in the event of a maritime accident*

The Committee noted the findings of a survey conducted by Seafarers’ Rights International (SRI),⁹³¹ concerning respect for the rights of seafarers facing criminal pros-

⁹²⁷ For official documents and more information on the International Maritime Organization, see <http://www.imo.org>.

⁹²⁸ The report of the Legal Committee is contained in document LEG 100/14.

⁹²⁹ IMO, document LEG/100/3.

⁹³⁰ *Ibid.*, document LEG/100/14, paras. 3.1 to 3.5.

⁹³¹ *Ibid.*, document LEG/100/5/1.

ecution. The survey, conducted in eight languages, was carried out over a 12 month period, ending in February 2012. A total of 3,480 completed questionnaires had been submitted by seafarers from 68 different nationalities.

The findings strongly suggested that the rights of seafarers, as enshrined in the Guidelines on fair treatment of seafarers in the event of a maritime accident, adopted jointly by IMO and ILO, are often subject to violation. The Committee expressed general support for the continuous promotion of the Guidelines and agreed that the issue of fair treatment of seafarers in the event of a maritime accident should remain on the agenda of the Legal Committee. Delegations were invited to submit proposals for outputs to improve compliance with the Guidelines to its next session.⁹³²

The Committee also considered a submission by the Islamic Republic of Iran⁹³³ proposing that the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident be reconvened to consider the issue of shore leave, including a draft resolution regarding shore leave and shore-side facilities.

The Committee, recalling its decision at LEG 99 that matters concerning unfair treatment of seafarers due to nationality or religion be referred to the Facilitation (FAL) Committee, noted that the Islamic Republic of Iran had subsequently submitted a draft amended text on the relevant Standard⁹³⁴ of the Convention on Facilitation of International Maritime Traffic, 1965 (FAL Convention)⁹³⁵ to FAL 38,⁹³⁶ which, after due consideration, decided to proceed with the proposed amendments to Standard 3.44.

The Committee concluded that, in view of the decision taken at FAL 38 to proceed with the amendments to Standard 3.44 and in view of the fact that it was not procedurally appropriate to consider the proposal contained in document LEG 100/5 under this item of the Legal Committee's agenda, this issue should not be dealt with further by the Committee. The Committee further concluded that there was no need to reconvene the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident to consider the issue. In addition, the Committee noted that, notwithstanding that it may take some time for FAL to finalize the amendments to Standard 3.44, the issues raised by the Islamic Republic of Iran remained solely within the purview of the relevant provisions of the FAL Convention, and work on the issue should therefore continue in FAL and be brought to its natural conclusion there. According to the Committee, the Islamic Republic of Iran and other interested member Governments should consider submitting the issue, including the draft resolution, to an appropriate IMO organ, possibly to the forthcoming IMO Assembly. Assuming the Assembly agreed to adopt it, on the basis of the recent decision of FAL 38, this would provide the short-term solution sought by the Islamic Republic of Iran and other delegations.

It was suggested, in the event that the issue was submitted to the Assembly, that any Assembly resolution should not levy conditions on the work of FAL, nor should it raise legal issues or those of a jurisdictional nature.

⁹³² *Ibid.*, document LEG/100/14, paras. 5.1 to 5.6.

⁹³³ *Ibid.*, document LEG/100/5.

⁹³⁴ Standard 3.44.

⁹³⁵ United Nations, *Treaty Series*, vol. 591, No. 8564.

⁹³⁶ IMO, document FAL/38/4/2.

Piracy

The Committee noted the outcome of the 11th and 12th sessions of Working Group 2 of the Contact Group on Piracy off the Coast of Somalia, held in Copenhagen in September 2012 and in April 2013.⁹³⁷ It expressed strong support for a proposal that organizations in consultative status with IMO share their experience in resolving problems relating to the apprehension of pirates, as well as share with IMO any related information.

The Committee noted the information provided by the United Nations Interregional Crime and Justice Research Institute (UNICRI) on its database of court decisions related to piracy off the coast of Somalia, as well as statistics drawn from its piracy analysis, including the average age of pirates; the region and clans they come from; their occupations; when attacks are most likely to occur; the number of pirates participating in individual attacks; the use of mother ships; the number of casualties occurring in pirate ranks and the number and type of ships boarded. The Committee agreed to collaborate closely with UNICRI with regard to piracy-related issues.

(iii) *Collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims*

The Committee recalled that the Assembly, at its twenty-seventh regular session on 30 November 2011, adopted resolution A.1058(27) on collation and preservation of evidence following an allegation of a serious crime having taken place on board of a ship or following a report of a missing person from a ship, and pastoral and medical care of victims. The resolution invited Member States and other parties concerned to submit proposals to the Legal Committee to enable consideration of the issues raised in the resolution, bearing in mind that issues of criminal jurisdiction should be consistent with international law.⁹³⁸ The Committee also noted its agreement, at its last session, to include this item on its agenda, with a target completion date of 2014.

The Committee considered document LEG 100/7, which was introduced by the delegation of the United Kingdom, on behalf of the co-sponsoring delegations, proposing the development of guidelines on the collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims. The draft guidelines were based on existing guidelines developed by the Maritime Safety Committee (MSC) to assist in the investigation of crimes of piracy and armed robbery against ships. They were adapted to fit the particular issues related to other alleged crimes at sea and contained guidance on actions in the event of a missing person and on the pastoral and medical care of victims.

After discussing the five substantive issues set out in paragraph 7 of the document, the Committee established a Working Group under the chairmanship of a representative of the United Kingdom to discuss the guidelines, with the terms of reference contained in document LEG 100/WP.3.

⁹³⁷ *Ibid.*, document LEG/100/14, paras. 6.1 to 6.16.

⁹³⁸ *Ibid.*, paras. 7.1 to 7.13.

The Committee approved in its entirety the text of the draft guidelines, as revised by the Working Group, including their new title and the associated appendices. The Committee also approved the associated draft resolution to the guidelines and agreed to the Working Group's recommendation not to convene an intersessional working group or correspondence group to develop the guidelines further. In addition, the Committee approved the report of the Working Group.⁹³⁹

The Committee further agreed to refer the draft guidelines and their associated draft Assembly resolution⁹⁴⁰ to the twenty-eighth regular session of the Assembly for adoption, subject to the Secretariat making any necessary editorial amendments to the text.

(iv) *Other matters*

a. Liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities

The Committee, recalling its decision at LEG 99, which was in turn noted by the 108th session of the Council, to analyse further the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities, with the aim of developing guidance to assist States interested in pursuing bilateral or regional arrangements without revising Strategic Direction 7.2,⁹⁴¹ discussed two documents submitted by Indonesia. The first⁹⁴² reported on a conference on the subject held in Bali, Indonesia, in November 2012. The second⁹⁴³ contained principles for guidance on model bilateral regional agreements/arrangements.

Following the discussion, in which a variety of views were expressed, there was general support for increased cooperation between States on the subject, as well as for further work by the Committee.

The Committee agreed that the keywords in providing guidance were collaboration by States and assistance to those States which are in need of guidance for bilateral and multilateral agreements. The Committee invited Member States to send examples of existing bilateral and regional agreements to the Secretariat and encouraged the delegation of Indonesia to continue its work intersessionally to facilitate further progress within the Committee.

b. Advice and guidance on issues brought to the Legal Committee in connection with implementation of IMO instruments; advice on the implementation of the International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 92).⁹⁴⁴

The Committee considered a request for advice by the IOPC Funds on the possible consequences of the discrepancies between insurance policies, blue cards and certificates issued under the CLC 92.⁹⁴⁵

⁹³⁹ *Ibid.*, document LEG/100/WP.8.

⁹⁴⁰ *Ibid.*, document LEG/100/14, annex 2.

⁹⁴¹ *Ibid.*, paras. 13.1 to 13.8.

⁹⁴² *Ibid.*, document LEG/100/13.

⁹⁴³ *Ibid.*, document LEG/100/13/2.

⁹⁴⁴ United Nations, *Treaty Series*, vol. 973, p. 3.

⁹⁴⁵ *Ibid.*, document LEG/100/14, paras. 13.9 to 13.15.

In particular, the Committee considered whether the State issuing the CLC certificate has an obligation to investigate the terms, conditions and cover provided in certificates (blue cards) presented by insurers and whether, as a consequence, the State would have a potential liability to the IOPC Fund, should the Fund suffer a loss as a result of the insurance cover being insufficient.

In discussing these issues, the Committee noted that it had not been requested to provide advice on a specific case, but instead was invited to express its views on the two questions listed above on the basis of CLC 92. The Committee noted further that these questions go beyond the narrow limits of claims against the IOPC Fund under the 1992 Civil Liability and Fund Conventions and have much broader characteristics and implications that potentially touch upon a number of international conventions, including the International Convention on Civil Liability for Bunker Oil Pollution, 2001,⁹⁴⁶ and the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974,⁹⁴⁷ as well as other instruments providing for State certificates.

c. Other items

The Committee made progress on other items including: provision of financial security in cases of abandonment, personal injury to, or death of, seafarers in the light of the progress towards the entry into force of the ILO Maritime Labour Convention, 2006,⁹⁴⁸ and of the amendments relating thereto;⁹⁴⁹ technical co-operation activities related to maritime legislation;⁹⁵⁰ and review of the status of conventions and other treaty instruments emanating from the Legal Committee.⁹⁵¹

(c) Adoption of amendments to conventions and protocols

(i) 2013 amendments to the annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL)⁹⁵² (amendments to Form A and Form B of Supplements to the IOPP Certificate under MARPOL Annex I)

These amendments were adopted by the Marine Environment Protection Committee (MEPC) on 17 May 2013, by resolution MEPC.235(65). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 April 2014 and should enter into force on 1 October 2014 unless, prior to the former date, not less than one third of the Parties to MARPOL or Parties, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant

⁹⁴⁶ Adopted on 23 March 2001, entered into force on 21 November 2008, IMO/LEG/CONF.12/19 (27 March 2001).

⁹⁴⁷ United Nations, *Treaty Series*, vol. 1463, p. 19.

⁹⁴⁸ United Nations Juridical Yearbook 2006 (United Nations Publication, Sales No. E.09.V.1), p. 325.

⁹⁴⁹ *Ibid.*, document LEG/100/14, paras. 4.1 to 4.7.

⁹⁵⁰ *Ibid.*, paras. 9.1 to 9.7.

⁹⁵¹ *Ibid.*, paras. 10.1 to 10.12.

⁹⁵² United Nations, *Treaty Series*, vol. 1340, p. 61.

fleet, had notified their objections to them. As of 31 August 2013, no such notification of objection had been received.

(ii) *2013 amendments to the Condition Assessment Scheme under MARPOL Annex I*

These amendments were adopted by the MEPC on 17 May 2013, by resolution MEPC.236(65). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 April 2014 and should enter into force on 1 October 2014 unless, prior to the former date, not less than one third of the Parties to MARPOL or Parties, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified them of their objections. As of 31 December 2013, no such notification of objection had been received.

(iii) *2013 Code for Recognized Organizations (RO Code) (under MARPOL)*

This Code was adopted by the MEPC on 17 May 2013, by resolution MEPC.237(65). At the time of its adoption, the Committee determined that it would take effect on 1 January 2015, upon the entry into force of the respective amendments to annex I and Annex II of MARPOL, adopted by resolution MEPC.238(65) of 17 May 2013.

(iv) *2013 amendments to the annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (amendments to MARPOL annexes I and II to make the RO Code mandatory)*

These amendments were adopted by the MEPC on 17 May 2013, by resolution MEPC.238(65). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 July 2014 and should enter into force on 1 January 2015 unless, prior to the former date, not less than one third of the Parties to MARPOL or Parties, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to them. As of 31 December 2013, no such notification of objection had been received.

(v) *2013 Code for Recognized Organizations (RO Code) (under the International Convention for the Safety of Life at Sea, 1974, (SOLAS),⁹⁵³ and the Protocol of 1988 relating to the International Convention on Load Lines⁹⁵⁴)*

This Code was adopted by the MSC on 21 June 2013 by resolution MSC.349(92). At the time of its adoption, the Committee determined that it would take effect on 1 January 2015, upon the entry into force of SOLAS, 1974, and the Protocol of 1988 relating to the International Convention on Load Lines, 1966, adopted under resolutions MSC.350(92) and MSC.356(92) on 21 June 2013, respectively.

⁹⁵³ *Ibid.*, vol. 1184, p. 2.

⁹⁵⁴ Maritime Safety Committee, MSC.77/26/Add.1.

(vi) *2013 amendments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended*

These amendments were adopted by the MSC on 21 June 2013, by resolution MSC.350(92). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 July 2014, and should enter into force on 1 January 2015 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to them. As of 31 December 2013, no such notification of objection had been received.

(vii) *2013 amendments to the International Code of Safety for High Speed Craft, 1994 (1994 HSC Code)*

These amendments were adopted by the MSC on 21 June 2013, by resolution MSC.351(92). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 July 2014, and should enter into force on 1 January 2015 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to them. As of 31 December 2013, no such notification of objection had been received.

(viii) *2013 amendments to the International Code of Safety for High-Speed Craft, 2000 (2000 HSC Code)*

These amendments were adopted by the MSC on 21 June 2013, by resolution MSC.352(92). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 July 2014, and should enter into force on 1 January 2015 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to them. As of 31 December 2013, no such notification of objection had been received.

(ix) *2013 amendments to the International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code)*

These amendments were adopted by the MSC on 21 June 2013, by resolution MSC.353(92). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 July 2014, and should enter into force on 1 January 2015 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant

fleet, had notified their objections to them. As of 31 December 2013, no such notification of objection had been received.

(x) *2013 amendments to the International Maritime Solid Bulk Cargoes (IMSBC) Code*

These amendments were adopted by the MSC on 21 June 2013, by resolution MSC.354(92). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 July 2014, and should enter into force on 1 January 2015 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to them. As of 31 December 2013, no such notification of objection had been received.

(xi) *2013 amendments to the International Convention for Safe Containers, 1972 (CSC)⁹⁵⁵*

These amendments were adopted by the Maritime Safety Committee (MSC) on 21 June 2013, by resolution MSC.355(92). At the time of their adoption, the Committee determined that they should enter into force on 1 July 2014 unless, prior to 1 January 2014, five or more of the Contracting Parties to CSC 1972 notify the Secretary General of their objections to them. As of 31 December 2013, no such notification of objection had been received.

(xii) *2013 amendments to the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended⁹⁵⁶*

These amendments were adopted by the MSC on 21 June 2013, by resolution MSC.356(92). At the time of their adoption, the Committee determined that they should be deemed to have been accepted on 1 July 2014, and should enter into force on 1 January 2015 unless, prior to the former date, more than one third of the Contracting Governments to the 1988 Load Lines Protocol, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of all the merchant fleets of all parties, had notified their objections to them. As of 31 December 2013, no such notification of objection had been received.

(xiii) *2013 amendments to the International Convention on Load Lines, 1966 (LL)⁹⁵⁷*

These amendments were adopted by the Assembly at its 28th regular session on 4 December 2013, by resolution A.1082(28) and by resolution A.1083(28). At the time of

⁹⁵⁵ United Nations, *Treaty Series*, vol. 1064, p. 3.

⁹⁵⁶ Maritime Safety Committee, MSC.77/26/Add.1.

⁹⁵⁷ United Nations, *Treaty Series*, vol. 640, p. 133.

their adoption the Assembly determined that both the unanimous acceptance procedure, as specified in article 29(2) of the Convention, and the explicit acceptance procedure, as specified in article 29(3) of the Convention, could be applied one after another or simultaneously. Following the explicit acceptance procedure, in accordance with article 18(3)(c) of the Convention, the amendments would come into force 12 months after the date on which they are accepted by two-thirds of the Contracting Governments. If the unanimous acceptance procedure is applied, in accordance with article 29(3)(c) of the Convention, the amendments would enter into force 12 months after the date of their acceptance by all Contracting Governments unless an earlier date is agreed upon.

(xiv) *2013 amendments to the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE)*⁹⁵⁸

These amendments were adopted by the Assembly at its 28th regular session on 4 December 2013, by resolution A.1084(28). At the time of their adoption the Assembly determined that both the unanimous acceptance procedure, as specified in article 18(2) of the Convention, and the explicit acceptance procedure, as specified in article 18(3) of the Convention, could be applied one after another or simultaneously. Following the explicit acceptance procedure, in accordance with article 18(3)(c) of the Convention, the amendments would come into force 12 months after the date on which they are accepted by two-thirds of the Contracting Governments. If the unanimous acceptance procedure is applied, in accordance with article 29(3)(c) of the Convention, the amendments would enter into force 12 months after the date of their acceptance by all Contracting Governments unless an earlier date is agreed upon.

(xv) *2013 amendments to the International Regulations for Preventing Collisions at Sea, 1972 (COLREG)*⁹⁵⁹

These amendments were adopted by the Assembly at its 28th regular session on 4 December 2013, by resolution A.1085(28). At the time of their adoption, the Assembly determined that the amendments would enter into force on 1 January 2016 unless, in accordance with the provisions of article VI(4) of the Convention, they were objected to by more than one third of the Contracting Parties to the Convention by 1 July 2015. As of 31 December 2013, no such notification of objection had been received.

8. Universal Postal Union⁹⁶⁰

On 15 April 2013, the Universal Postal Union's (UPU) Postal Operations Council approved the Letter Post Regulations, the Parcel Post Regulations, the Postal Payment Services Regulations, as well as their Final Protocols thereto, and set 1 January 2014 as their date of entry into force.

⁹⁵⁸ *Ibid.*, vol. 1291, p. 3.

⁹⁵⁹ *Ibid.*, vol. 191, p. 3.

⁹⁶⁰ For official documents and more information on the Universal Postal Union, see <http://www.upu.int>.

On 19 April 2013, the UPU signed a cooperation agreement with the Ministry for Internal Affairs and Communications of Japan in order to support further development in the area of certain disaster risk management activities of the UPU.

On 25 April 2013, a memorandum of understanding was signed between the UPU and the European Conference of Postal and Telecommunications Administrations to pursue activities in the fields of technical cooperation and information. The two organizations wish to establish a framework of cooperation with the aims to promote and exchange best practices among UPU member countries and restricted unions, through cooperation in specialized studies, as well as projects within their respective fields of competence, including multi-year integrated projects associated with UPU regional development plans and projects established on a bilateral basis with UPU member countries and other restricted unions.

On 30 April 2013, the agreement with the Bill & Melinda Gates Foundation⁹⁶¹ was renewed until 31 December 2015 in order to promote financial inclusion through postal networks. This support from the Gates Foundation has permitted the funding of an International Bureau expert, together with technical assistance, communications and fundraising activities for designated operators, and an experience-exchange programme between Posts.

On 1 October 2013, the UPU signed a cooperation agreement with the Planet Finance Group regarding development projects on financial inclusion and postal money transfers in Cameroon, Burkina Faso, Mali, and Côte d'Ivoire. The agreement is valid until 16 May 2016.

Finally, on 15 November 2013, the UPU's Council of Administration approved the invitation from the Government of Côte d'Ivoire to host the next UPU Strategy Conference in Abidjan in 2014. The UPU Strategy Conference is expected to be held from 14 to 15 October 2014.

9. World Meteorological Organization

(a) Membership

The World Meteorological Organization (WMO) had a membership of 185 Member States and 6 territories as of 31 December 2013.

(b) Agreements and other arrangements concluded in 2013

(i) Agreements with States

Norway

Agreement between the Norwegian Ministry of Foreign Affairs and the WMO regarding financial assistance to the "Climate Services Adaptation Programme in Africa". The agreement was signed during the COP19 session held in Warsaw, Poland from 11 to 22 November 2013.

⁹⁶¹ The agreement was originally signed in 2011.

Agreement between the Government of Norway and the WMO concerning Junior Professional Officers (JPOs). The agreement was signed on 17 June 2013.

People's Republic of China

Memorandum of Understanding between the Ministry of Education of the People's Republic of China and the WMO regarding the establishment of Joint Scholarship for Training Students from Selected WMO Members Studying in the People's Republic of China. The Memorandum of Understanding was signed on 23 August 2012 and 17 January 2013.

Republic of Korea

Memorandum of Understanding between the Korean Meteorological Administration (KMA) and the WMO regarding the International Coordination Office of the Sub-seasonal to Seasonal Prediction Project. The Memorandum of Understanding was signed on 16 May 2013.

(ii) Agreements with the United Nations

United Nations Educational, Scientific and Cultural Organization (UNESCO)

Working Agreement between the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the WMO regarding the Long-Term Cooperation between UNESCO and WMO in the field of Hydrology and Water Resources (FRESHWATER). The Working Agreement was signed 25 November 2013.

UNESCO-IHE Institute for Water Education

Memorandum of Understanding between the UNESCO-IHE Institute for Water Education and WMO on cooperation in provision of Fellowships for MSc Programmes. The Memorandum of Understanding was signed on 25 April 2013.

(iii) Agreements with other intergovernmental organizations

Intergovernmental Authority on Development (IGAD)

Specific Agreement between the Intergovernmental Authority on Development (IGAD) and the WMO on the implementation of the IGAD-HYCOS project. The agreement was signed on 23 September 2013.

International Mobile Satellite Organization (IMSO)

Memorandum of Understanding between the International Mobile Satellite Organization (IMSO) and the WMO to establish and maintain cooperation relative to matters of common interest to both Organizations, in particular the use of satellite telecommunication services for the collection and dissemination of marine meteorological and oceanographic data to promote the safety of life and property at sea and the safe and

efficient operation of ships. The Memorandum of Understanding was signed on 25 March and 10 April 2013.

(iv) *Agreements with non-governmental organizations*

Academy of Sciences for the Developing World (TWAS)

Memorandum of Understanding between the WMO and the Academy of Sciences for the Developing World (TWAS) regarding WMO-TWAS fellowships education programme. The Memorandum of Understanding was signed on 28 January 2013.

International Commission on Irrigation and Drainage (ICID)

Memorandum of Understanding between the WMO and the International Commission on Irrigation and Drainage (ICID) in the area of flood management, drought management and irrigation management for beneficial use of WMO climatic and disaster risk reduction information and services by the worldwide irrigation and drainage community. The Memorandum of Understanding was signed on 23 June and 8 July 2013.

International Federation of Red Cross and Red Crescent Societies (IFRC)

Memorandum of Understanding between the WMO and the International Federation of Red Cross and Red Crescent Societies (IFRC) to constitute a framework within which the Parties shall, on a basis of reciprocity, develop cooperation in fields related to their mandates. The Memorandum of Understanding was signed on 3 July 2013.

International Union for Conservation of Nature and Natural Resources (IUCN)

Memorandum of Understanding between the WMO and the International Union for Conservation of Nature and Natural Resources (IUCN) in the area of Institutional, scientific and technical collaboration to define and meet the needs of the IUCN for Climate Information. The Memorandum of Understanding was signed on 19 December 2013.

**Physikalisch-Meteorologisches Observatorium Davos,
the World Radiation Center (PMOD/WRC)**

Letter of Agreement between the Physikalisch-Meteorologisches Observatorium Davos, the World Radiation Center (PMOD/WRC) and the WMO related to the provision of a World Calibration Center for Ultraviolet Radiation (UV) to the World Meteorological Organization Global Atmosphere Watch Programme (WMO/GAW). The Letter of Agreement was signed on 25 February, 5 and 10 March 2013.

10. World Intellectual Property Organization⁹⁶²

In 2013, the World Intellectual Property Organization (WIPO) took legal actions that fell into the following four areas: (a) service, by providing systems to allow for global IP protection through patents, trademarks, designs, and appellations of origin, as well as a dispute resolution mechanism; (b) law, by continuing the advancement of global IP laws and standards; (c) development, by encouraging the use of IP for economic growth, specifically in developing countries; and (d) reference, by facilitating public access to IP and IP information through networks and databases. The summary below will discuss the actions taken by WIPO in 2013 to help advance international IP law and policy in these areas.

(a) Service: Facilitating international IP protection

WIPO continued to provide services, based on international agreements, which enabled users in Member States to enjoy international protection of their IP within centralized frameworks for patents, trademarks, industrial designs, and appellations of origin.

(i) *Patent Cooperation Treaty (PCT)*⁹⁶³

The PCT allows patent protection in a large number of countries through the filing of a central international patent application. According to annualized provisional data, 201,700 PCT applications were filed in 2013. The year 2013 marked the first year in which more than 200,000 international applications were filed. This continues the growth in applications since the decline in filings in 2009.

(ii) *Madrid System for Trademarks*

The Madrid system makes it possible for an applicant to apply for a trademark registration in a large number of countries by filing a single international application. The system also simplifies the subsequent management of the mark, since it is possible to centrally request and record further changes, or to renew the registration, through a single procedural step. During 2013, WIPO received 46,829 international applications, which was a record in the history of WIPO and represented a growth of 6.4% compared to 2012. The Madrid international register contained 578,320 marks at the end of 2013, which represented a growth of 3.3% compared to 2012.

(iii) *Hague System for Industrial Designs*

The Hague system is an international procedure which simplifies the process of protecting industrial designs in multiple jurisdictions. Through the Hague system, an applicant can obtain protection for up to one hundred industrial designs in multiple jurisdictions by filing a single application with the Secretariat of WIPO. The subsequent

⁹⁶² For official documents and more information on the World Intellectual Property Organization, see <http://www.wipo.int>.

⁹⁶³ United Nations, *Treaty Series*, vol. 1160, p. 231.

management of the international registration is also simplified, as it is possible to record changes and renew the registration through a single procedural step. In 2013, 2,734 international registrations containing some 12,806 industrial designs were recorded under the Hague System.

(iv) *Lisbon System for the Protection of Appellations of Origin and their International Registration*

The Lisbon system facilitates the protection of a special category of geographical indications, namely appellations of origin, in countries other than the country of origin, by means of their registration with WIPO through a single procedure, for a minimum of formalities and expense. To date, 921 appellations of origin have been registered under the Lisbon system, of which 816 are still in force. As appellations of origin generally consist of a geographical name or a traditional designation referring to a specific geographical area, the number of registrations is much lower than registrations under the other international forms of IP. In 2013, there were 13 new appellations of origin registered. This was consistent with prior years as eight new registrations were recorded in 2012, three in 2011, and six in 2010.

(v) *WIPO Arbitration and Mediation Center (Center)*

The Uniform Domain Name Dispute Resolution Policy (UDRP) is the basis for most alternative dispute resolution (ADR) cases regarding trademark infringement in domain names. There was a decline in the number of cases filed in 2013 compared to previous years. In 2013, there were 2,585 cases filed with the Centre under procedures based on the UDRP, compared to 2,884 cases filed in 2012. At the same time, WIPO's market share for UDRP cases actually increased over the period, and the number of disputed domain names in WIPO cases increased by 21.8% over 2012.

The Legal Rights Objection (LRO) procedure was developed by WIPO so that trademark owners could object to the establishment of a new generic top level domain on the basis that it infringes a trademark. WIPO received 69 LRO objections during the formal objection period of June 2012 to March 2013. LRO procedures began in 2013. In September 2013, the final expert determination was rendered for the last LRO procedure WIPO had administered in this period.⁹⁶⁴ WIPO provided a resume and analysis of its experience with the LRO procedure in a report published on its website.⁹⁶⁵

(b) Law: Global IP laws and standards

As the central organization for international IP law, WIPO continued to administer several treaties. In 2013, 31 new instruments of ratification or accession were received for WIPO-administered treaties.

⁹⁶⁴ Arbitration and mediation center end report on legal rights objection procedure 2013–2014. Available at <http://www.wipo.int/export/sites/www/amc/en/docs/lroreport.pdf>.

⁹⁶⁵ *Ibid.*

(i) *New treaties to be administered by WIPO*

WIPO convened a diplomatic conference in Marrakesh, Morocco from 17 to 28 June 2013, which resulted in the adoption of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled.⁹⁶⁶ Fifty-one States signed the treaty at the conclusion of the diplomatic conference. Before the end of 2013, nine more States signed. It will enter into force three months after 20 eligible parties (any Member State of WIPO, an IGO with certain characteristics, or the EU) have ratified or acceded to it.

(ii) *Standing Committee on the Law of Patents (SCP)*

The nineteenth session of the SCP was held from 25 to 28 February 2013. The SCP agreed on its future work in respect of all of the five issues contained on the agenda, namely: exceptions and limitations to patent rights, the quality of patents (including opposition systems), patents and health, confidentiality of communications between clients and their patent advisors, and transfer of technology.⁹⁶⁷

(iii) *Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications (SCT)*

The twenty-ninth session of the SCT was held from 27 to 31 May 2013. In the context of industrial designs, the SCT discussed proposals for a Design Law Treaty, and reviewed in detail the draft Articles and Regulations for this potential legal instrument.⁹⁶⁸ The main objective of the future treaty is to harmonize and simplify the formalities associated with obtaining industrial design registration and managing existing registrations. In the context of trademarks, the SCT reviewed the Secretariat's report on the protection of country names against registration and use as trademarks. It also considered information on trademark-related aspects of ICANN's work on the management of the domain name system.⁹⁶⁹

The thirtieth session of the SCT was held from 4 to 8 November 2013. In the context of industrial designs, the SCT further discussed the Design Law Treaty and the possible convening of a diplomatic conference for adopting the treaty.⁹⁷⁰ In the context of trademarks, the SCT continued discussion on the protection of country names against registration and use by trademarks. The Committee also considered a proposal for work on a possible administrative filing system for geographical indications and discussed how geographical indications could be protected against unauthorized use as Internet domain names.

⁹⁶⁶ WIPO, "Diplomatic conference to conclude a treaty to facilitate access to published works by visually impaired persons and persons with print disabilities", document VIP/DC/12.

⁹⁶⁷ *Ibid.*, summary by the Chair of the nineteenth session of the Standing Committee on the Law of Patents, document SCP/19/7.

⁹⁶⁸ *Ibid.*, summary by the Chair of the twenty-ninth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, document SCT/29/9.

⁹⁶⁹ *Ibid.*, report on the twenty-ninth session of the Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications, document SCT/29/10.

⁹⁷⁰ WIPO, summary by the Chair of the thirtieth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, document SCT/30/8.

(iv) *Standing Committee on the Law of Copyright and Related Rights (SCCR)*

The SCCR held two special sessions in 2013 to draft the text of a treaty for the visually impaired. These sessions were held from 18 to 22 February 2013 and 18 to 20 April 2013. The SCCR adopted a draft of the treaty as a basic proposal for the substantive provisions at the April 2013 special session.⁹⁷¹ The SCCR also held an inter-sessional meeting from 10 to 12 April 2013. The purpose of that meeting was to review revisions to a working draft of a treaty to protect broadcasting organizations.⁹⁷²

The twenty-sixth session of the SCCR was held from 16 to 20 December 2013. The SCCR further discussed the treaty to protect broadcasting organizations, and made new proposals for the treaty. It was decided that discussion about integrating the new proposal into the treaty would take place at the SCCR's next session.⁹⁷³

The SCCR also discussed an appropriate legal instrument that would allow limitations and exceptions for libraries to make copies of works to provide for their preservation and replacement in certain circumstances.⁹⁷⁴ The SCCR created a working document that will be used as a basis for the future instrument to be drafted at the SCCR's next session. The progress included a request to the Secretariat for an update of the Study on Copyright Limitations and Exceptions for Libraries and Archives, and to arrange a separate study on limitations and exceptions for museums.⁹⁷⁵

The SCCR also discussed the creation of an international legal instrument on copyright and related rights limitations and exceptions for educational, teaching, and research institutions, and persons with disabilities other than visual impairment.⁹⁷⁶ The Secretariat was asked to update studies on limitations and exceptions for educational, teaching, and research institutions, and to explore the possibility of commissioning a similar study for persons with other disabilities. The provisional working document will provide a basis for the legal instrument to be drafted at the twenty-seventh session of the SCCR.

(v) *Intergovernmental Committee on Intellectual Property and Genetic Resources (GRs), Traditional Knowledge (TK) and Folklore (TCEs) (the IGC)*

In 2013, the WIPO General Assembly renewed the mandate of the IGC for two years. The General Assembly requested that the IGC expedite its text-based negotiations with the objective of reaching agreement on (a) text(s) of (an) international legal instrument(s) that would ensure the effective protection of GRs, TK, and TCEs.

⁹⁷¹ *Ibid.*, draft report of the informal session and special session of the Standing Committee on the Law of Copyright and Related Rights, document SCCR/SS/GE/2/13/3.

⁹⁷² *Ibid.*, draft agenda of the inter-sessional meeting on the protection of broadcasting organizations of the Standing Committee on the Law of Copyright and Related Rights, document WIPO/IS/BC/GE/13/1.

⁹⁷³ WIPO, conclusion of the twenty-sixth session of the Standing Committee on the Law of Copyright and Related Rights, document SCCR/26/REF/CONCLUSIONS.

⁹⁷⁴ *Ibid.*

⁹⁷⁵ *Ibid.*

⁹⁷⁶ *Ibid.*

The twenty-third session of the IGC was held from 4 to 8 February 2013.⁹⁷⁷ The IGC addressed the protection of IP relating to GRs and produced a revised document, entitled “Consolidated document relating to Intellectual Property and Genetic Resources”, to be submitted to the WIPO General Assembly.⁹⁷⁸ At the twenty-fourth session of the IGC, held from 22 to 26 April 2013, the IGC discussed the protection of IP relating to traditional knowledge. The IGC created a revised document, “The Protection of Traditional Knowledge: Draft articles Rev. 2”, to be transmitted to the WIPO General Assembly.⁹⁷⁹ At the twenty-fifth session of the IGC, held from 15 to 24 July 2013, the IGC discussed protection of IP relating to TCEs. The IGC produced a revised document, “The Protection of Traditional Cultural Expressions: Draft articles Rev. 2”, to be transmitted to the WIPO General Assembly.⁹⁸⁰ The IGC also reviewed and took stock of the text(s) of the international legal instrument(s) ensuring the effective protection of TCEs, TK, and GRs, and created a recommendation report to submit to the WIPO General Assembly.

(vi) *Working Group on the Development of the Lisbon System*

During its seventh and eighth sessions, held in 2013, the Working Group continued its review of the Lisbon Agreement and its draft of the Revised Lisbon Agreement and the corresponding rules. Upon a recommendation from the Working Group, the Lisbon Union Assembly approved the convening of a diplomatic conference for the adoption of a Revised Lisbon Agreement in 2015.⁹⁸¹

(c) Development: Using IP to support economic development

WIPO seeks to help developing countries use IP for the advancement of national economic objectives and development plans.⁹⁸² In 2013, WIPO continued this work through its efforts related to the Development Agenda, the Millennium Development Goals (MDGs), and the Committee on Development and IP.

⁹⁷⁷ WIPO, draft program for the twenty-third session of the Intergovernmental Committee on Intellectual property and Genetic Resources, Traditional Knowledge and Folklore, document WIPO/GRTKF/IC/23/INF/3.

⁹⁷⁸ *Ibid.*, draft report for the twenty-third session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, document WIPO/GRTKF/IC/23/8.

⁹⁷⁹ *Ibid.*, report for the twenty-fourth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, document WIPO/GRTKF/IC/24/8.

⁹⁸⁰ *Ibid.*, draft report on the twenty-fifth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, document WIPO/GRTKF/IC/25/8.

⁹⁸¹ *Ibid.*, summary by the chair for the eighth session of the Working Group on the Development of the Lisbon System, document LI/WG/DEV/8/6.

⁹⁸² *Ibid.*, report of the Director General to the WIPO assemblies 2013, document IO5OE/13, available at http://www.wipo.int/edocs/pubdocs/en/general/1050/wipo_pub_1050_2013.pdf.

Committee on Development and Intellectual Property (CDIP)

At the eleventh session of the CDIP from 13 to 17 May 2013, the CDIP considered the Director General's report on the Implementation of WIPO's Development Agenda during 2012.⁹⁸³ The Committee also continued discussions on Patent-Related Flexibilities in the Multilateral IP Legal Framework, the contribution of WIPO to the Millennium Development Goals (MDGs), the use of copyright to promote access to information and creative content, and the organization of an international conference on IP and development.

At the twelfth session of the CDIP from 18 to 21 November 2013, the CDIP took note of the progress achieved on the projects under implementation and the 19 Development Agenda recommendations for immediate implementation. It also took note of a manual on the delivery of WIPO technical assistance and discussed, among other topics, the interplay between patents and the public domain, the strengthening of the audiovisual sector in certain African countries, and the relationship between intellectual property (IP) and socio-economic development. In addition, the Committee approved a pilot project on IP and Design Management in Developing and Least-Developed Countries (LDCs).

(d) Reference: Access to IP and IP Information

WIPO seeks to facilitate access to IP by disseminating knowledge and information about IP to the public, providing online databases, and creating networks for innovators and groups to connect with one another.

(i) WIPO Re:Search

WIPO Re:Search promotes the sharing of proprietary information to help develop treatments for tropical diseases, malaria, and tuberculosis.⁹⁸⁴ WIPO Re:Search now has over 70 members as well as 30 agreements or collaborations between members.⁹⁸⁵

(ii) WIPO Green

WIPO Green was launched in November 2013. It is a virtual marketplace that seeks to connect groups to share environmentally sustainable technologies that address climate change.⁹⁸⁶ WIPO Green encourages users and partners to share environmentally friendly technologies through its database and network.

(iii) WIPO Lex

WIPO Lex provides access to IP laws and treaties of the members of WIPO, WTO and the United Nations. In 2012, one million users visited the database; in 2013 that number

⁹⁸³ *Ibid.*, agenda for the eleventh session of the Committee on Development and Intellectual Property, document CDIP 11/1.

⁹⁸⁴ For more information, see <http://www.wipo.int/research/en/about/>.

⁹⁸⁵ WIPO, report of the Director General to the WIPO assemblies 2013, document IOSOE/13.

⁹⁸⁶ *Ibid.*, press release, document PR/2013/749.

was reached by July.⁹⁸⁷ In 2013, WIPO Lex added access to the database in the Russian language; it is also available in Arabic, Chinese, English, French, and Spanish.

(iv) *Global Innovation Index (GII)*

WIPO co-published the GII in 2013 to provide public information about innovation in over 140 economies worldwide.⁹⁸⁸ The GII recognizes the key role that innovation plays in the development of economies. It provides free public access to this information in its yearly report. WIPO has been a co-publisher of the GII since 2012.

11. International Fund for Agricultural Development⁹⁸⁹

(a) Membership

At its 36th session from 13 to 14 February 2013, the Governing Council approved the non-original membership in the International Fund for Agricultural Development (IFAD) of the Republic of Nauru, Tuvalu, and the Republic of Vanuatu.⁹⁹⁰

(b) Partnership agreements and memoranda of understanding

(i) *Memorandum of understanding between the Asian Development Bank and IFAD*

In May 2012 IFAD and the Asian Development Bank (ADB) agreed⁹⁹¹ that the 1978 cooperation agreement between the two institutions should be renewed as it contained a number of redundancies and constrained the furthering of collaboration between the two institutions. In May 2013, a new Memorandum of Understanding (MoU) between ADB and IFAD was approved by correspondence,⁹⁹² in accordance with rule 23 of the Rules of procedure of the Executive Board. The MoU is aimed at strengthening the effectiveness, impact, efficiency and sustainability of the development operations of each of the Parties and at furthering their cooperation in all areas of common interest.

(ii) *Report on IFAD's institutional partnership agreements*

At its 109th session from 17 to 19 September 2013, the Executive Board considered a proposal⁹⁹³ to review IFAD's institutional partnership strategy. The purpose underlying

⁹⁸⁷ *Ibid.*, report of the Director General to the WIPO assemblies 2013, document IOSOE/13.

⁹⁸⁸ *Ibid.*, press release, document PR/2013/743.

⁹⁸⁹ For official documents and more information on the International Fund for Agricultural Development, see <http://www.ifad.org>.

⁹⁹⁰ IFAD resolutions 171/XXXVI, 172/XXXVI and 173/XXXVI.

⁹⁹¹ During discussions at the annual meeting of the Asian Development Bank in May 2012.

⁹⁹² IFAD, document EB 2013/108/R.17/Rev.1.

⁹⁹³ *Ibid.*, document EB 2013/109/R.32.

this revision was to achieve more efficiently IFAD's goal to invest in rural people, through a more selective use and effective management of partnerships.

Following the request for clarification made by the EB's members, Management indicated that it had undertaken a review of existing partnership agreements to determine which were active and relevant, and which required to be revised and updated. The revision also stressed the growing importance of private sector collaboration.

(iii) *Proposals for partnership agreements with the private sector*

In order to deepen the engagement with the private sector, two proposals for partnership were presented to the Board at its 110th session from 10 to 12 December 2013: one concerning Unilever PLC and the other Intel Corporation.

The intention to cooperate and to outline a framework, within which collaborative activities may be developed and undertaken, led to the presentation for approval of the above mentioned proposals. The MoUs with Unilever PLC and Intel Corporation represent a way to support IFAD's private-sector engagement objectives and, at the same time, to respond to the private parties' interests, as sustainable development has become part of their core business strategies.

After having considered the two proposals, the Executive Board authorised the President to negotiate and finalize the MoUs in accordance with the terms presented therein.⁹⁹⁴

(iv) *Host Country Agreement between IFAD and the Government of the Republic of Madagascar*

On 30 July 2013, IFAD's President Mr. Kanayo F. Nwanze signed the Host Country Agreement (HCA) between IFAD and the Government of the Republic of Madagascar in Rome. The HCA was countersigned on 26 August 2013 by the Minister of Foreign Affairs of the Republic of Madagascar, Mr. Pierrot Jocelyn Rajaonarivelo, in Antananarivo. The HCA became effective on 26 August 2013.

(c) Legal developments and other

(i) *Revision of the lending policies and criteria*

At its 36th session from 13 to 14 February 2013, the Governing Council approved the "Policies and criteria for IFAD Financing".⁹⁹⁵ The document is a comprehensive review of IFAD's lending terms and conditions in order to align, as much as possible, IFAD's products with those of the International Development Association (IDA) and other comparable International Financial Institutions.

⁹⁹⁴ *Ibid.*, document EB 2013/110/R.38.

⁹⁹⁵ *Ibid.*, resolution 178/XXXVI and document GC 36/L.9.

(ii) *Debt rescheduling agreement between IFAD and the Republic of Mali*

In 2013, the Republic of Mali requested IFAD to reschedule its debt with respect to its outstanding loans. A proposal for debt rescheduling was made by IFAD on 21 March 2013.

At its 108th session from 10 to 11 April 2013, the Executive Board, recognizing the need to support the upcoming agricultural season in Mali and its difficult situation, approved the debt settlement proposal⁹⁹⁶ concerning the arrears of the Republic of Mali in respect of outstanding loans from IFAD and authorized the President to negotiate and sign the debt settlement agreement. The debt rescheduling agreement between IFAD and the Republic of Mali was signed on 29 May 2013.

(iii) *IFAD Country Presence Strategy (2014–2015)*

In order to improve the development effectiveness and cost efficiency of IFAD's operations, an updated country presence strategy for 2014–2015⁹⁹⁷ was submitted to the 110th session of the Executive Board from 10 to 12 December 2013. The updated strategy was approved by the Board, through a vote by correspondence, on 31 January 2014.

(iv) *IFAD's Investment Policy Statement*

At its 110th session from 10 to 12 December 2013, the Executive Board approved a series of amendments⁹⁹⁸ to IFAD's Investment Policy Statement (IPS).⁹⁹⁹

The new IPS provides a framework for managing the investments of the Fund and its purpose is to document IFAD's investment policy by: (a) identifying key roles and responsibilities relating to the governance of IFAD's investment portfolio; (b) setting forth IFAD's investment objectives for risk and return, including eligible asset classes; (c) defining key components of investment guidelines; and (d) establishing formalized criteria to measure, monitor and evaluate performance and risk.

(v) *Revision of IFAD evaluation policy*

At its 110th session from 10 to 12 December 2013, the Executive Board discussed the revision of the procedures for selecting and appointing the Director of the Independent Office of Evaluation,¹⁰⁰⁰ contained in the IFAD evaluation policy, and approved the related proposed amendments.¹⁰⁰¹ Additional proposed changes to the procedures for handling corrective or disciplinary measures following integrity investigations will be discussed by the Evaluation Committee in 2014 and will be submitted for approval thereafter by the Executive Board.

⁹⁹⁶ *Ibid.*, document EB 2013/108/R.27.

⁹⁹⁷ *Ibid.*, document EB 2013/110/R.5 ("*IFAD Country Presence Strategy*").

⁹⁹⁸ *Ibid.*, document EB 2013/110/R.30.

⁹⁹⁹ *Ibid.*, document EB 2012/107/R.32.

¹⁰⁰⁰ *Ibid.*, document EB 2013/110/R.10.

¹⁰⁰¹ Contained in the annex to document EB 2013/110/R.10.

12. United Nations Industrial Development Organization¹⁰⁰²

(a) Constitutional matters

The General Conference decided to include Turkmenistan in List A of Annex I to the Constitution of the United Nations Industrial Development Organization (UNIDO), at its 3rd plenary meeting on 3 December 2013.¹⁰⁰³

On 30 September and 31 December 2013, respectively, France and Portugal, deposited with the Secretary-General of the United Nations instruments of denunciation of the Constitution of UNIDO. In accordance with article 6(2) of the Constitution, the denunciations would take effect on the last day of the fiscal year following that during which such instruments were deposited, i.e. on 31 December 2014.

(b) Lima Declaration: Towards inclusive and sustainable industrial development

On 2 December 2013, at its fifteenth session held in Lima, Peru, the General Conference adopted the Lima Declaration: Towards inclusive and sustainable industrial development.¹⁰⁰⁴

(c) Agreements and other arrangements concluded in 2013

For information on this aspect, attention is drawn to Appendix F to UNIDO's 2013 Annual report.¹⁰⁰⁵

13. Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization¹⁰⁰⁶

(a) Membership

The Preparatory Commission for the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO) is composed of States signatories to the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT).¹⁰⁰⁷ By the end of 2013, the CTBT had 183 States signatories.

During 2013, four States (Brunei Darussalam, Chad, Guinea-Bissau and Iraq) deposited instruments of ratification of the CTBT with the United Nations Secretary-General as depositary. In order for the Treaty to enter into force, ratification by the following

¹⁰⁰² For official documents and more information on the United Nations Industrial Development Organization, see <http://www.unido.org>.

¹⁰⁰³ GC.15/Dec.6: Inclusion of Turkmenistan in the Lists of States of annex I to the Constitution.

¹⁰⁰⁴ GC.15/Res.1: Lima Declaration: Towards inclusive and sustainable industrial development.

¹⁰⁰⁵ <http://www.unido.org/resources/publications/flagship-publications/annualreport/2013.html>.

¹⁰⁰⁶ For official documents and more information on the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, see <http://www.ctbto.org>.

¹⁰⁰⁷ A/50/1027. See also *United Nations Juridical Yearbook 1996* (United Nations Publications Sales No. 01.V.10), p. 311.

eight States is needed: China, Democratic People's Republic of Korea, Egypt, India, Israel, Islamic Republic of Iran, Pakistan and the United States of America.

(b) Legal status, privileges and immunities and international agreements

In addition to the Headquarters Agreement, the legal status, privileges and immunities are granted to the Commission through "Facility Agreements" concluded with each of the 89 States which host one or more of the 337 monitoring facilities comprising the International Monitoring System (IMS) foreseen to be established under the CTBT. In 2013, facility agreements with Austria and Kuwait were concluded. The status at the end of 2013 was: Forty-five concluded facility agreements out of which 36 have entered into force.

Pursuant to the decision of the Commission in 2006 to exceptionally allow IMS data to be shared with tsunami warning centres approved as such by the Intergovernmental Oceanographic Commission of UNESCO,¹⁰⁰⁸ in 2013 the Preparatory Commission concluded with the Russian Federation an Agreement concerning the Use of Primary Seismic, Auxiliary Seismic and Hydroacoustic Data for Tsunami Warning Purposes based on the model approved by the Commission. This brought the total number of such agreements to 12, concluded with Australia, France, Indonesia, Japan, Malaysia, Philippines, Republic of Korea, the Russian Federation, Thailand, Turkey and two with the United States of America.

In 2013, the Social Security Agreement concluded by the Preparatory Commission with the Republic of Austria entered into force.

To provide for the necessary privileges and immunities and arrangements for the conduct of workshops or training courses outside of Austria, 5 Exchanges of Letters were concluded with host States.

(c) Legislative assistance activities

Pursuant to paragraph 18 of the annex to the 1996 resolution establishing the Preparatory Commission, the Provisional Technical Secretariat of the Preparatory Commission continued to provide advice and assistance upon request to States in three areas: (a) legal and technical information about the CTBT in order to facilitate signature or ratification of the Treaty; (b) the legal and administrative measures necessary for the implementation of the Treaty; and (c) the national measures necessary to enable activities of the Preparatory Commission during the preparatory phase, in particular those related to the provisional operation of the IMS.

In 2013, the Secretariat continued promoting the exchange of information between States signatories on the subject of national implementation measures. As part of its Programme of Legal Assistance, the Secretariat organizes Workshops on National Implementation Measures in order to provide a venue for signatory States interested in addressing the subject of national implementation measures for the CTBT and in participating in an exchange of information with other States. The aims of the workshops are the following: (a) Promoting understanding and raising awareness of the measures needed

¹⁰⁰⁸ *Ibid.*, 2006 (United Nations Publications Sales No. 09.V.1), p. 256.

to implement the CTBT; (b) providing legal assistance to participating States in drafting CTBT implementing legislation; (c) facilitating the exchange of information among participating States; and (d) contributing to comparative analysis of existing national provisions and approaches for CTBT implementation.

In 2013, a legislation workshop on “National Implementation Measures for the CTBT Verification Regime” was held within the framework of the CTBT Diplomacy and Public Policy Course, with the participation of representatives from 12 States signatories. The workshop focused on the steps necessary to ensure the proper operation of the International Monitoring System and preparedness to undergo an on-site inspection in accordance with the provisions of the CTBT. Panelists included experts from France, Iraq, the International Atomic Energy Agency (IAEA), the Organisation for the Prohibition of Chemical Weapons (OPCW) and the Verification Research, Training and Information Centre (VERTIC).

Lastly, the Secretariat provided comments and assistance on 44 legal assistance requests from States signatories or from within the Secretariat. It also maintained a Legislation Database on its website to facilitate the exchange of information on national implementing legislation as well as other documentary assistance tools, including the Legislation Questionnaire.¹⁰⁰⁹

14. International Atomic Energy Agency¹⁰¹⁰

(a) Membership

In 2013, San Marino and Swaziland became Member States of the International Atomic Energy Agency (IAEA). By the end of the year, there were 160 Member States.

(b) Treaties under IAEA’s auspices

(i) *Convention on the Physical Protection of Nuclear Material*¹⁰¹¹

In 2013, the number of parties to the Convention remained unchanged, at 148 parties.

(ii) *Amendment to the Convention on the Physical Protection of Nuclear Material*¹⁰¹²

In 2013, Albania, Armenia, Belgium, Canada, Cuba, Cyprus, France, Malta, Slovakia and Uzbekistan agreed to the Amendment. By the end of the year, there were 71 contracting States.

¹⁰⁰⁹ For access to the Legislation Questionnaire and other documents of the CTBTO, see <http://www.ctbto.org/member-states/legal-resources/>.

¹⁰¹⁰ For official documents and more information on the International Atomic Energy Agency, see <http://www.iaea.org>.

¹⁰¹¹ United Nations, *Treaty Series*, vol. 1456, p. 101.

¹⁰¹² IAEA, “Amendment to the Convention on the Physical Protection of Nuclear Material”, *IAEA International Law Series*, No. 2, 2006.

(iii) *Convention on Early Notification of a Nuclear Accident*¹⁰¹³

In 2013, the Lao People's Democratic Republic, Lesotho and Paraguay became parties to the Convention. By the end of the year, there were 117 parties.

(iv) *Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency*¹⁰¹⁴

In 2013, the Lao People's Democratic Republic, Lesotho and Paraguay became parties to the Convention. By the end of the year, there were 111 parties.

(v) *Convention on Nuclear Safety*¹⁰¹⁵

In 2013, Oman became a party to the Convention. By the end of the year, there were 76 parties.

(vi) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*¹⁰¹⁶

In 2013, Armenia, Malta, Mauritius and Oman became parties to the Joint Convention. By the end of the year, there were 68 parties.

(vii) *Vienna Convention on Civil Liability for Nuclear Damage*¹⁰¹⁷

In 2013, Mauritius became a party to the Convention. By the end of the year, there were 39 parties.

(viii) *Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage*¹⁰¹⁸

In 2013, Bosnia and Herzegovina became a party to the Protocol. By the end of the year, there were 11 parties.

(ix) *Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention*¹⁰¹⁹

In 2013, the status of the Protocol remained unchanged, at 27 parties.

¹⁰¹³ United Nations, *Treaty Series*, vol. 1439, p. 275.

¹⁰¹⁴ *Ibid.*, vol. 1457, p. 133.

¹⁰¹⁵ *Ibid.*, vol. 1963, p. 293.

¹⁰¹⁶ *Ibid.*, vol. 2153, p. 303.

¹⁰¹⁷ *Ibid.*, vol. 1063, p. 265.

¹⁰¹⁸ *Ibid.*, vol. 2241, p. 270.

¹⁰¹⁹ *Ibid.*, vol. 1672, p. 293.

(x) *Convention on Supplementary Compensation for Nuclear Damage*¹⁰²⁰

In 2013, Canada and Mauritius signed the Convention. By the end of the year, there were 17 signatories and 4 contracting States.

(xi) *Optional Protocol Concerning the Compulsory Settlement of Disputes*¹⁰²¹

In 2013, the status of the Protocol remained unchanged, at 2 parties.

(xii) *Revised Supplementary Agreements Concerning the Provision of Technical Assistance by the JAEA (RSA)*¹⁰²²

In 2013, Malawi concluded an RSA Agreement. By the end of the year, there were 122 Member States party to an RSA Agreement with the Agency.

(xiii) *Fifth Agreement to Extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (RCA)*¹⁰²³

In 2013, Palau and the Philippines became parties to the Agreement. By the end of the year, there were 14 parties to the Agreement.

(xiv) *African Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA) — (Fourth Extension)*¹⁰²⁴

In 2013, Nigeria became a party to the Agreement. By the end of the year, there were 35 parties.

(xv) *Co-operation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL)*¹⁰²⁵

In 2013, the status of the Agreement remained unchanged, at 21 parties.

(xvi) *Co-operative Agreement for Arab States in Asia for Research, Development and Training Related to Nuclear Science and Technology (ARASIA)*¹⁰²⁶

In 2013, the status of the Agreement remained unchanged, at 9 parties.

¹⁰²⁰ IAEA, document INFCIRC/567.

¹⁰²¹ United Nations, *Treaty Series*, vol. 2086, p. 94.

¹⁰²² Model text available from <http://ola.iaea.org>.

¹⁰²³ IAEA, document INFCIRC/167/Add.23.

¹⁰²⁴ *Ibid.*, document INFCIRC/377 and INFCIRC/377/Add.19 (Fourth extension).

¹⁰²⁵ United Nations, *Treaty Series*, vol. 2338, p. 337.

¹⁰²⁶ *Ibid.*, vol. 2203, p. 355.

(xvii) *Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*¹⁰²⁷

In 2013, the status of the Agreement remained unchanged, at 7 parties.

(xviii) *Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*¹⁰²⁸

In 2013, the status of the Agreement remained unchanged, at 6 parties.

(c) IAEA legislative assistance activities

In 2013, the Agency continued to provide legislative assistance to its Member States through its technical cooperation programme. Country specific bilateral legislative assistance was provided to 13 Member States through written comments and advice on drafting national nuclear legislation. The Agency also organized short-term scientific visits to Agency Headquarters for a number of individuals, allowing fellows to gain further practical experience in nuclear law.

The Agency organized the third session of the Nuclear Law Institute in Baden, Austria, from 29 September to 11 October 2013. The comprehensive two-week course, which uses modern teaching methods based on interaction and practice, was established to meet the increasing demand by Member States for legislative assistance and to enable participants to acquire a solid understanding of all aspects of nuclear law, as well as to draft, amend or review their respective national nuclear legislation. Sixty-three representatives from IAEA Member States participated in the session. The Agency also continued to contribute to the activities organized at the World Nuclear University and the International School of Nuclear Law by providing lectures and funding participants through appropriate technical cooperation projects.

A Workshop for Diplomats on Nuclear Law was organized in Vienna, Austria, in July 2013 in order to provide diplomats and technical experts from Member States with a broad understanding of all aspects of nuclear law. The workshop was attended by 65 participants from 43 Member States. A similar workshop was held in Geneva, Switzerland, in April 2013.

The Agency also enhanced its outreach activities through the development of new online training material and the third volume of the Handbook on Nuclear Law which will cover various areas of nuclear law going beyond regulatory matters covered in the first two volumes.

The third IAEA Treaty Event took place during the 57th regular session of the IAEA General Conference, and provided Member States with a further opportunity to deposit their instruments of ratification, acceptance or approval of, or accession to, the treaties deposited with the Director General, notably those related to nuclear safety, security and civil liability for nuclear damage.

¹⁰²⁷ IAEA, document INFCIRC/703.

¹⁰²⁸ *Ibid.*

The Agency continued to organize “awareness missions” to Member States in order to raise the awareness of national policy-makers about the importance of adhering to relevant international legal instruments adopted under the Agency’s auspices.

(d) Conventions

In 2013, there were four meetings of the Working Group on Effectiveness and Transparency, which was established by the contracting parties to the Convention on Nuclear Safety (CNS)¹⁰²⁹ at their Second Extraordinary Meeting in August 2012. The purpose of these meetings was to facilitate the review of proposals submitted by several contracting parties aimed at enhancing the effectiveness of the Convention. During the last meeting of the Working Group in November, a final report was adopted, which included, *inter alia*, a list of actions to strengthen the CNS to be considered at the 6th Review Meeting of the Contracting Parties to the CNS that will be held from 24 March to 4 April 2014.

As agreed during the 4th Review Meeting of the Contracting Parties to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management,¹⁰³⁰ a Topical Meeting on Comprehensive Approaches to Managing the Back End of the Nuclear Fuel Cycle was organised at IAEA Headquarters in Vienna in October 2013. The objective of the Topical Meeting, which was open only to the Contracting Parties to the Joint Convention, was to provide a forum for the exchange of information on approaches to managing the back-end of the nuclear fuel cycle in a comprehensive manner.

(e) Civil liability for nuclear damage

The International Expert Group on Nuclear Liability (INLEX) continued to serve as the Agency’s main forum for questions related to nuclear liability. In April 2013, a new text developed by INLEX, *The 1988 Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention—Explanatory Text*, was published as IAEA International Law Series No. 5. At its 13th regular meeting held in May 2013, INLEX discussed, *inter alia*, liability in the case of the transport of nuclear material, with special focus on the rights of non-nuclear transit States, liability issues in respect of transportable nuclear power plants, and the impact of the 2012 revision of the Agency’s Transport Regulations on the Board of Governors’ decision to exclude small quantities of nuclear material from the scope of the nuclear liability conventions. The Group also discussed a paper on the benefits of joining the nuclear liability regime and developed corresponding key messages to be used during IAEA legislative assistance activities.

A Workshop on Civil Liability for Nuclear Damage was held in May 2013 at the IAEA Headquarters and provided participants with an introduction to the subject. The workshop was attended by 49 diplomats and experts from 34 Member States and one international organization.

A joint IAEA/INLEX mission aimed at raising awareness of the international nuclear liability regime and encouraging adherence to the relevant international legal instruments

¹⁰²⁹ United Nations, *Treaty Series*, vol. 1963, p. 293.

¹⁰³⁰ *Ibid.*, vol. 2153, p. 303.

was dispatched to Malaysia in August 2013. The mission consisted of meetings with policy-makers and senior officials and a workshop on civil liability for nuclear damage for other interested stakeholders. Preparations are underway to organize similar missions in 2014.

(f) Safeguards agreements

During 2013, a Safeguards Agreement pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) with Bosnia and Herzegovina¹⁰³¹ and Vanuatu¹⁰³² entered into force. A Safeguards Agreement pursuant to the NPT was signed by Guinea-Bissau but had not entered into force as at 31 December 2013.

In 2013, Protocols Additional to the Safeguards Agreements between the IAEA and Antigua and Barbuda,¹⁰³³ Bosnia and Herzegovina,¹⁰³⁴ Denmark¹⁰³⁵ and Vanuatu¹⁰³⁶ entered into force. An Additional Protocol was signed by Guinea-Bissau and Myanmar but had not entered into force as at 31 December 2013. An Additional Protocol with St. Kitts and Nevis was approved by the IAEA Board of Governors in 2013.

15. Organization for the Prohibition of Chemical Weapons¹⁰³⁷

(a) Membership

In 2013, the number of States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction (“the Convention” or “CWC”)¹⁰³⁸ increased by two to 190. Somalia deposited its instrument of accession to the CWC with the Secretary General of the United Nations on 29 May 2013, and the Syrian Arab Republic deposited its instrument of accession to the CWC on 14 September 2013, declaring that it “shall comply with the stipulations contained [in the Convention] and observe them faithfully and sincerely, applying the Convention provisionally pending its entry into force for the Syrian Arab Republic”. The CWC entered into force for Somalia and the Syrian Arab Republic on 28 June 2013 and on 14 October 2013 respectively, in accordance with article XXI of the CWC. Upon entry into force of the CWC for Somalia and the Syrian Arab Republic, both States became members of the Organization for the Prohibition of Chemical Weapons (OPCW) pursuant to paragraph 2 of article VIII of the CWC.

¹⁰³¹ IAEA, document INFCIRC/851.

¹⁰³² *Ibid.*, document INFCIRC/852.

¹⁰³³ *Ibid.*, document INFCIRC/528/Add.1.

¹⁰³⁴ *Ibid.*, document INFCIRC/851/Add.1.

¹⁰³⁵ *Ibid.*, document INFCIRC/176/Add.1.

¹⁰³⁶ *Ibid.*, document INFCIRC/852/Add.1.

¹⁰³⁷ For official documents and more information on the Organisation for the Prohibition of Chemical Weapons, see <http://www.opcw.org>.

¹⁰³⁸ United Nations, *Treaty Series*, vol. 1974, p. 45.

(b) Legal status, privileges and immunities and international agreements

During 2013, OPCW continued to negotiate privileges and immunities agreements with Member States in accordance with paragraph 50 of article VIII of the Convention. As a result, the Executive Council of the OPCW concluded privileges and immunities agreements with two Member States, namely Gambia and the Sudan. As at 31 December 2013, these two agreements had not yet entered into force.

The OPCW concluded a number of other international agreements with Member States in 2013, including voluntary contribution agreements. Amendments to facility agreements concluded between the OPCW and the Russian Federation to govern OPCW on-site inspections at chemical weapons destruction facilities located in the Russian Federation were also approved by the OPCW Executive Council.¹⁰³⁹ The Relationship Agreement between the United Nations and the OPCW¹⁰⁴⁰ was augmented with a Supplementary Arrangement¹⁰⁴¹ to implement OPCW Executive Council decision EC-M-33/DEC.1 and United Nations Security Council resolution 2118 (2013), which were both adopted on 27 September 2013.

In addition, various other international agreements were also concluded with Member States in the form of technical arrangements and memoranda of understanding to facilitate the day-to-day work of the Technical Secretariat of the OPCW in support of the objectives of the Convention.

(c) Review of the Chemical Weapons Convention

The Third Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention (“the Third Review Conference”) was convened from 8 to 19 April 2013 to conduct a review of the operation of the Convention as provided for in paragraph 22 of article VIII thereof, taking into account any relevant scientific and technological developments.

At the Third Review Conference, all States Parties declared, *inter alia*, their unequivocal commitment to achieving the object and purpose of the Convention, as well their unqualified commitment to achieving the universality of the Convention. States Parties also declared their commitment to adopt, in accordance with their constitutional processes, the necessary measures to fully implement their obligations under the Convention as a matter of priority and to keep the effectiveness of these measures under review. States Parties further declared their commitment to foster, and to further develop and enhance actions for, international cooperation amongst States Parties in the peaceful uses of chemistry, and

¹⁰³⁹ OPCW, document EC-71/DEC.3, dated 20 February 2013; EC-71/DEC.5, dated 20 February 2013; EC-72/DEC.2, dated 7 May 2013 and EC-74/DEC.2, dated 9 October 2013.

¹⁰⁴⁰ Agreement concerning the Relationship between the United Nations and the Organisation for the Prohibition of Chemical Weapons (approved by the General Assembly of the United Nations on 7 September 2001 and by the Conference of the States Parties of the OPCW on 17 May 2001 and entered into force on 11 October 2001).

¹⁰⁴¹ Supplementary Arrangement concerning Cooperation between the United Nations and the Organisation for the Prohibition of Chemical Weapons for the Implementation of the OPCW Executive Council Decision EC-M-33/DEC.1; and United Nations Security Council resolution 2118 (2013) relating to the Elimination of Syrian Chemical Weapons (concluded and entered into force on 16 October 2013).

also in a manner which avoids hampering economic and technological development for purposes not prohibited under the Convention.

The Third Review Conference reaffirmed that the full, effective and non-discriminatory implementation of articles I to VIII, X and XI of the Convention is essential for the realisation of the object and purpose of the Convention.

A number of obligations of States Parties to the Convention were also reaffirmed. Among other things, the Third Review Conference recalled that the destruction of the remaining chemical weapons by possessor States Parties should continue in accordance with the Convention and with the application of the measures contained in decision C-16/DEC.11 on the final extended deadline of 29 April 2012 adopted by the Conference of the States Parties on 1 December 2011. It also reaffirmed the importance of the destruction of all abandoned chemical weapons in accordance with the Convention and the Executive Council's decision EC-67/DEC.6 adopted on 15 February 2012, as well as the obligation to destroy or otherwise dispose of old chemical weapons. Moreover, the Third Review Conference recalled the obligation for all States Parties to submit timely, accurate and complete declarations consistent with the provisions of article VI of the Convention, and reiterated that declarations provided by States Parties are the cornerstone of the verification regime of the Convention.

Additionally, the Third Review Conference reaffirmed certain rights enjoyed by States Parties to the Convention, including the right of each State Party, subject to the provisions of the Convention, to develop, produce, otherwise acquire, retain, transfer and use toxic chemicals and their precursors for purposes not prohibited under the Convention. Besides, it reaffirmed that, without prejudice to the right of any State Party to request a challenge inspection in line with article IX of the Convention, States Parties should, whenever possible, first make every effort to clarify and resolve, through the exchange of information and consultation among themselves, any matter that might cause doubt about compliance with the Convention, or which gives rise to concerns about a related matter that may be considered ambiguous. The Third Review Conference also stressed that the OPCW should remain the global repository of knowledge and expertise with regard to chemical weapons disarmament, the verification of their non-possession and non-use, and their destruction. While reaffirming the autonomous and independent status of the OPCW, and bearing in mind that the OPCW is not a counter terrorism organization, the Third Review Conference underscored the need to explore further cooperation with international organizations and international bodies that deal with the potential threats of chemical terrorism. It also encouraged the Technical Secretariat to engage in more active cooperation with relevant regional and subregional organizations as well as international organizations that have mandates relevant to assistance and protection against chemical weapons. Additionally, the Third Review Conference stressed the importance of investigations of alleged use or threat of use of chemical weapons involving States Parties, adding that the OPCW should have the capacity and be ready at all times to investigate such matters, as well as to facilitate the delivery of assistance in cooperation with relevant international organisations and the United Nations.

(d) Legislative assistance

Throughout 2013, the Technical Secretariat of the OPCW continued to render assistance, upon request, to States Parties that had yet to adopt legislative and other measures to implement their obligations under the Convention, as well as to States parties wishing to update their legal framework. The OPCW continued to provide assistance on national implementation of the Convention to requesting States Parties, pursuant to subparagraph 38(e) of article VIII of the Convention, the decision on national implementation measures of article VII obligations adopted by the Conference of the States Parties (“the Conference”) at its fourteenth session,¹⁰⁴² as well as on paragraph 9.103 (c) of the report of the third special session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention.¹⁰⁴³

In its implementation support efforts, the Technical Secretariat of the OPCW acted in accordance with the terms of subparagraph 38(e) of article VIII of the Convention and the provisions of the decision regarding the implementation of article VII obligations adopted by the Conference at its eighth session,¹⁰⁴⁴ as well as other decisions regarding the implementation of article VII obligations.¹⁰⁴⁵ These decisions focused on, among other things, the obligations of States Parties to designate or establish a National Authority to serve as national focal point for effective liaison with the OPCW and other States Parties, as required by paragraph 4 of article VII of the Convention, and the steps necessary to enact national implementing legislation, including penal legislation and administrative measures to implement the Convention, as required by paragraph 1 of article VII of the Convention.

During 2013, the Technical Secretariat provided, upon request, four sets of comments on draft implementing legislation and one set of comments or guidance on measures at the regulatory level. Such requests for legal assistance were received from State Parties from Africa, the Group of Latin America and Caribbean Countries (GRULAC) and the Western European and Others Group (WEOG).¹⁰⁴⁶

Over the course of 2013, the number of National Authorities increased to 188. There remained only two States Parties that had not yet fulfilled the requirement under article VII (4) of the CWC to designate or establish a National Authority. Additionally, with regard to the adoption of the necessary legislative and/or administrative measures, 131 States Parties (69%) had submitted the full text of their implementing legislation. Furthermore, regarding legislation covering all initial measures, as of the end of 2013, 108 States Parties (57%) had informed the Technical Secretariat of having adopted such legislative or administrative measures.

The Technical Secretariat continued to maintain formal and informal working contacts with States Parties with which it had built a relationship through technical assistance

¹⁰⁴² OPCW, document C-14/DEC.12, dated 4 December 2009.

¹⁰⁴³ *Ibid.*, document RC-3/3*, dated 19 April 2013.

¹⁰⁴⁴ *Ibid.*, document C-8/DEC.16, dated 24 October 2003.

¹⁰⁴⁵ *Ibid.*, document C-10/DEC.16, dated 11 November 2005; C-11/DEC.4, dated 6 December 2006; C-12/DEC.9, dated 9 November 2007; C-13/DEC.7, dated 5 December 2008; and C-14/DEC.12, dated 4 December 2009.

¹⁰⁴⁶ Please note that the State Party from WEOG requested assistance in drafting legislation as well as regulatory measures.

visits and consultations, in order to identify additional needs for assistance, to follow up on assistance already provided and to coordinate future assistance activities.

In addition to the assistance to individual States Parties, a number of national, sub-regional, regional workshops, sensitization and awareness presentations and training courses were held for National Authorities, Parliamentarians and other national stakeholders involved in the implementation of the Convention. These events dealt, *inter alia*, with matters such as legislative and regulatory drafting.

Furthermore, four sessions of the Internship Programme for Legal Drafters and National Authorities' Representatives were held in 2013 and nine States Parties assisted in drafting legislation. The programme, which was conducted in English, French and Spanish (depending on the participants), focused on Africa, Asia and Latin America and the Caribbean. Since its commencement, five sessions of the programme have been organized directly benefiting 11 States Parties.

Between May and June 2013, the Technical Secretariat organized and served four regional meetings for National Authorities.¹⁰⁴⁷ The purpose of these meetings was to provide participants with an overview of the Convention and its requirements and to provide a forum of discussion for the representatives of the National Authorities, in order to identify what further steps each State party should take to implement its obligations under the Convention. In addition, these meetings represented an opportunity to foster regional cooperation and share experiences and best practices.

(e) Other normative developments and activities of the policy-making organs

(i) Investigation of alleged use of chemical weapons in the Syrian Arab Republic

During its Thirty-Second Meeting, the Executive Council received information from the Director-General on the request of the Secretary General of the United Nations, submitted pursuant to paragraph 27 of part XI of the Verification Annex to the CWC and subparagraph 2(c) of article II of the Relationship Agreement between the United Nations and the OPCW,¹⁰⁴⁸ for the OPCW to support an investigation of alleged use of chemical weapons in the Syrian Arab Republic.¹⁰⁴⁹

¹⁰⁴⁷ The meetings were as follows: "Eleventh Regional Meeting of National Authorities of States Parties in Africa to the CWC", held in Brazzaville, Congo; "Fourteenth Regional Meeting of National Authorities in Latin America and the Caribbean to the CWC", held in Quito, Ecuador; "Eleventh Regional Meeting of National Authority in Asia to the CWC", held in Nicosia, Cyprus; and "Twelfth Regional Meeting of National Authorities of States Parties in Eastern Europe", held in Zagreb, Croatia.

¹⁰⁴⁸ Under paragraph 27 of Part XI of the Verification annex to the CWC and subparagraph 2(c) of article II of the Relationship Agreement between the United Nations and the OPCW, in the case of alleged use of chemical weapons involving a State not Party to the Convention or in territory not controlled by a State Party, the OPCW is under an obligation to closely cooperate with, and, if so requested, to put its resources at the disposal of the Secretary-General of the United Nations. The modalities of this cooperation between the United Nations and the OPCW are established in the Supplementary Arrangement concerning the Implementation of article II (2) (c) of the Relationship Agreement between the United Nations and the Organisation for the Prohibition of Chemical Weapons, which was concluded on 14 and 20 September 2012 and entered into force on 20 September 2012.

¹⁰⁴⁹ OPCW, document EC-M-32/3 and EC-M-32/DG.1, both dated 27 March 2013.

In view of the report submitted in September 2013 by the Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic,¹⁰⁵⁰ which concluded that “chemical weapons [had] been used in the ongoing conflict between the parties in the Syrian Arab Republic, also against civilians, including children, on a relatively large scale”, the Conference of the States Parties, at its eighteenth session, underscored that no party in the Syrian Arab Republic should use, develop, acquire, produce, stockpile, retain or transfer chemical weapons.¹⁰⁵¹ The Conference also underlined that the use of chemical weapons by anyone under any circumstances would be reprehensible and completely contrary to the legal norms and standards of the international community.¹⁰⁵²

(ii) *Destruction of Syrian chemical weapons and chemical weapons production facilities*

At its Thirty-Third Meeting, further to the accession of the Syrian Arab Republic to the CWC on 14 September 2013 and the submission on 19 September 2013 by the Syrian Arab Republic of detailed information on its chemical weapons, the Executive Council adopted a decision on the destruction of Syrian chemical weapons.¹⁰⁵³ Under this decision, while recognizing “the extraordinary character of the situation posed by Syrian chemical weapons”, the Executive Council required the Syrian Arab Republic to complete the elimination of all its chemical weapons material and equipment in the first half of 2014.¹⁰⁵⁴ In a subsequent decision adopted at its Thirty-Fourth Meeting,¹⁰⁵⁵ the Executive Council set forth the detailed requirements for the destruction of Syrian chemical weapons and Syrian chemical weapons production facilities, setting, *inter alia*, dates for the removal of relevant chemicals for destruction outside the Syrian territory, as well as the destruction of all chemical weapons production facilities.

Finally, at its Thirty-Sixth Meeting, the Executive Council considered the plan for the destruction of Syrian chemical weapons outside the Syrian Arab Republic, submitted by the Director-General of the OPCW and containing, *inter alia*, necessary arrangements for the removal of Syrian chemical weapons and subsequent destruction thereof.¹⁰⁵⁶ At this Meeting, the Council also adopted a decision by which it welcomed the assistance offered by certain States Parties¹⁰⁵⁷ for specific stages of the plan of destruction, supported the Director-General’s work to identify commercial facilities for the destruction of certain specified chemicals and reaction masses, and strongly encouraged States Parties in a

¹⁰⁵⁰ Report on the Alleged Use of Chemical Weapons in the Ghouta area of Damascus on 21 August 2013 (S/2013/553, dated 13 September 2013).

¹⁰⁵¹ See paragraph 7.3 of the report of the Eighteenth Session of the Conference of the States Parties 2–5 December 2013, C-18/5, dated 5 December 2013.

¹⁰⁵² See paragraph 7.4 of the report of the Eighteenth Session of the Conference of the States Parties 2–5 December 2013, C-18/5, dated 5 December 2013.

¹⁰⁵³ OPCW, document EC-M-33/DEC.1, dated 27 September 2013.

¹⁰⁵⁴ *Ibid.*, document EC-M-33/DEC.1, dated 27 September 2013, operative para. 1(c).

¹⁰⁵⁵ *Ibid.*, document EC-M-34/DEC.1, dated 15 November 2013.

¹⁰⁵⁶ *Ibid.*, document EC-M-36/DEC.2, dated 17 December 2013, preambular para. 4.

¹⁰⁵⁷ *Ibid.*, document EC-M-36/DEC.2, dated 17 December 2013, operative para. 1.

position to do so to consider making in-kind contributions by directly sponsoring commercial entities to undertake the treatment and disposal of chemicals and effluents.¹⁰⁵⁸

16. World Trade Organization¹⁰⁵⁹

(a) Membership

(i) General

Two new members formally joined the World Trade Organization (WTO) in 2013: Lao People's Democratic Republic (2 February 2013) and Tajikistan (2 March 2013). The WTO membership is now 159 members.

On 4 December 2013, the Ninth WTO Ministerial Conference adopted the Decision on the Accession of the Republic of Yemen. Formal membership would occur following ratification of Yemen's Accession Protocol by Yemen's Parliament and the subsequent notification and deposit with the WTO Director-General of Yemen's Instrument of Acceptance of the Protocol.

Applications for WTO Membership are examined in individual Accession Working Parties, which are established by the Ministerial Conference/General Council. The legal framework of WTO accessions is set out in article XII of the Marrakesh Agreement establishing the World Trade Organization.¹⁰⁶⁰ As a result of bilateral and multilateral negotiations with WTO members, acceding countries/separate customs territories undertake trade liberalizing commitments on market access, specific commitments on WTO rules, and agree to comply with the WTO Agreement.

Special guidelines for least-developed countries' accessions are set out in the General Council Decision of 10 December 2002.¹⁰⁶¹ Work on these 2002 Guidelines continued, pursuant to the Decision on Accession of Least-Developed Countries taken at the Eighth WTO Ministerial Conference of 17 December 2011.¹⁰⁶² The General Council adopted the Decision on Accession of Least-Developed Countries of 25 July 2012 to strengthen, streamline and operationalize the 2002 Guidelines.¹⁰⁶³ The 2012 Decision included provisions under the following pillars: (a) benchmarks on goods; (b) benchmarks on services; (c) transparency in accession negotiations; (d) special and differential treatment and transition periods; and (e) technical assistance.

¹⁰⁵⁸ *Ibid.*, document EC-M-36/DEC.2, dated 17 December 2013, operative para. 7.

¹⁰⁵⁹ For official documents and more information on the World Trade Organization, see <http://www.wto.org>.

¹⁰⁶⁰ United Nations, *Treaty Series*, vol. 1867, p. 3.

¹⁰⁶¹ WTO, document WT/L/508.

¹⁰⁶² *Ibid.*, WT/L/846.

¹⁰⁶³ *Ibid.*, WT/L/508/Add.1.

(ii) *Ongoing accessions in 2013*

In 2013, the following countries/separate customs territories were in the process of acceding to the WTO (in alphabetical order):

- | | |
|-------------------------------|-----------------------------|
| 1. Afghanistan* | 13. Iraq |
| 2. Algeria | 14. Kazakhstan |
| 3. Andorra | 15. Lebanese Republic |
| 4. Azerbaijan | 16. Liberia, Republic of* |
| 5. The Bahamas | 17. Libya |
| 6. Belarus | 18. Sao Tomé and Príncipe* |
| 7. Bhutan* | 19. Serbia |
| 8. Bosnia and Herzegovina | 20. Seychelles |
| 9. Comoros, Union of the* | 21. Sudan, Republic of the* |
| 10. Equatorial Guinea* | 22. Syrian Arab Republic |
| 11. Ethiopia* | 23. Uzbekistan |
| 12. Iran, Islamic Republic of | 24. Yemen ^{*/**} |

* Least-developed countries (LDCs) (9)

** The Accession Working Party completed its mandate and the Decision on the Accession of the Republic of Yemen was adopted by the Ninth WTO Ministerial conference on 4 December 2013. The Republic of Yemen would become a member of the WTO thirty days after notifying the Director-General of the WTO of the domestic ratification of its Protocol of Accession

In 2013, progress in various accession processes was registered as follows:

- A Memorandum on the Foreign Trade Regime (MFTR) was submitted by the Government of the Union of the Comoros;
- The Elements of a draft Working Party Report was circulated by the Secretariat for the Working Party on the Accession of Seychelles;
- First versions of draft reports were circulated by the Secretariat for the Working Parties on the Accessions of Afghanistan, Azerbaijan, and Seychelles,
- Draft reports were revised and circulated by the Secretariat for Working Parties on the Accessions of Algeria, Bosnia and Herzegovina, and Kazakhstan, and
- One Accession Working Party completed its mandate and the Decision on the Accession was adopted at the Ninth WTO Ministerial Conference on 4 December 2013.¹⁰⁶⁴

(b) **Dispute settlement**

The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes arising under: the Marrakesh Agreement Establishing the World Trade Organization, the multilateral trade agreements covering trade in goods, trade in services,

¹⁰⁶⁴ *Ibid.*, documents WT/MIN(13)/4; WT/MIN(13)/4/Add.1; and WT/MIN(13)/4/Add.2.

and trade-related aspects of intellectual property rights, and, under a specific decision, the plurilateral trade agreement on government procurement. The DSB has the sole authority to establish dispute settlement panels, adopt panel and Appellate Body reports, maintain surveillance over the implementation of recommendations and rulings contained in such reports, and authorize suspension of concessions in the event of non-compliance with those recommendations and rulings.¹⁰⁶⁵

(i) *Requests for consultations received and panels established*

During 2013, the DSB received 20 requests for consultations (the first formal step in dispute settlement proceedings) pursuant to article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).¹⁰⁶⁶ The DSB established 12 new panels to adjudicate 14 new cases. (Where more than one complaint is filed dealing with the same matter, such complaints are normally adjudicated by a single panel.) The DSB established panels in the following disputes:

- United States—Anti-Dumping Measures on Certain Frozen Warm Water Shrimp from Viet Nam (WT/DS429);
- Australia—Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging (WT/DS435);
- European Union—Anti-Dumping Measures on Imports of Certain Fatty Alcohols from Indonesia (WT/DS442);
- Argentina—Measures Affecting the Importation of Goods (WT/DS438, WT/DS444, WT/DS445);
- United States—Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina (WT/DS447);
- Argentina—Measures Relating to Trade in Goods and Services (WT/DS453);
- China—Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes (“HP-SSST”) from Japan (WT/DS454);
- Indonesia—Importation of Horticultural Products, Animals and Animal Products (WT/DS455);
- Peru—Additional Duty on Imports of Certain Agricultural Products (WT/DS457);
- China—Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes (“HP-SSST”) from the European Union (WT/DS460);
- Colombia—Measures Relating to the Importation of Textiles, Apparel and Footwear (WT/DS461);
- Russian Federation—Recycling Fee on Motor Vehicles (WT/DS462).

¹⁰⁶⁵ Further information on WTO dispute settlement in 2013 can be found in the WTO Annual report 2014.

¹⁰⁶⁶ United Nations, *Treaty Series*, vol. 1869, p. 401.

(ii) *Appellate Body and Panel reports adopted by the DSB*

The DSB adopted two Appellate Body reports and four Panel reports during 2013:

- Canada—Certain Measures Affecting the Renewable Energy Generation Sector (WT/DS412) (Appellate Body and Panel Reports);
- China—Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union (WT/DS425) (Panel Report);
- Canada—Measures Relating to the Feed-in Tariff Program (WT/DS426) (Appellate Body and Panel Reports);
- China—Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States (WT/DS427) (Panel Report).

(iii) *Authorization of the suspension of concession and obligations*

- United States—Measures Affecting the Cross-Border Supply of Gambling and Betting Services (WT/DS285).

At the DSB meeting on 28 January 2013, Antigua and Barbuda requested the DSB to authorize the suspension of concessions and obligations to the United States in the area of intellectual property rights. Pursuant to this request under article 22.7 of the DSU, the DSB agreed to grant authorization to suspend the application to the United States of concessions or other obligations consistent with the 2007 Decision by the Arbitrator which determined that the annual level of nullification or impairments of benefits accruing to Antigua was US \$21 million.

(c) **Main decisions of the General Council and the 2013 Ministerial Conference**(i) *2013 Ministerial Conference*

On 7 December 2013, in Bali, Indonesia, the following Ministerial Declaration and ministerial decisions were adopted:

- WT/MIN(13)/DEC Bali Ministerial Declaration.

The Declaration refers to the following decisions adopted by ministers:

a. Part I—Regular work under the General Council

- TRIPS Non-violation and Situation Complaints—Ministerial Decision—WT/MIN(13)/31 or WT/L/906;
- Work Programme on Electronic Commerce—Ministerial Decision—WT/MIN(13)/32 or WT/L/907;
- Work Programme on Small Economies—Ministerial Decision—WT/MIN(13)/33 or WT/L/908;
- Aid for Trade—Ministerial Decision—WT/MIN(13)/34 or WT/L/909;
- Trade and Transfer of Technology—Ministerial Decision—WT/MIN(13)/35 or WT/L/910.

b. Part II—DOHA Development Agenda

Trade facilitation

- Agreement on Trade Facilitation—Ministerial Decision—WT/MIN(13)/36 or WT/L/911.

Agriculture

- General Services—Ministerial Decision—WT/MIN(13)/37 or WT/L/912;
- Public Stockholding for Food Security Purposes—Ministerial Decision—WT/MIN(13)/38 or WT/L/913;
- Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture- Ministerial Decision—WT/MIN(13)/39 or WT/L/914;
- Export Competition—Ministerial Decision—WT/MIN(13)/40 or WT/L/915.

Cotton

- Cotton—Ministerial Decision—WT/MIN(13)/41 or WT/L/916.

Development and LDC issues

- Preferential Rules of Origin for Least-Developed Countries—Ministerial Decision—WT/MIN(13)/42 or WT/L/917;
- Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries—Ministerial Decision—WT/MIN(13)/43 or WT/L/918;
- Duty-Free and Quota-Free Market Access for Least-Developed Countries—Ministerial Decision—WT/MIN(13)/44 or WT/L/919;
- Monitoring Mechanism on Special and Differential Treatment—Ministerial Decision—WT/MIN(13)/45 or WT/L/920.

(ii) *Waivers under article IX of the WTO Agreement*

The General Council granted a number of waivers from obligations under the WTO Agreements including pursuant to article IX:4 of the Marrakesh Agreement Establishing the World Trade Organization:

- Kimberley Process Certification Scheme for Rough Diamonds—Extension of Waiver (WT/L/876);
- Preferential Treatment to Services and Service Suppliers of Least-Developed countries (WT/L/847);
- Preferential Tariff Treatment for Least-Developed Countries—Decision on Extension of waiver (WT/L/759);
- Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and Corr.1);
- Least-Developed Country Members—Obligations under article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products (WT/L/478);
- Waivers were also granted in respect of (a) WTO Members' Schedules of Concessions (specific commitments made by Member governments): WT/L/873, WT/L/874,

WT/L/875, and (b) preferential trading arrangements: WT/L/694, WT/L/722, WT/L/753, WT/L/754, WT/L/755, WT/L/759, WT/L/835, WT/L/836 WT/L/847 and WT/L/851.

**(d) Acceptances of the protocols amending the Agreement
on the Trade-Related Aspects of Intellectual Property Rights (TRIPS)
and the Government Procurement Agreement (GPA)**

The revised GPA, which streamlines and modernizes the obligations under the original Agreement, will enter into force when it is ratified by two thirds of the 15 parties. As of 31 December 2013, the following had ratified the agreement: Canada, Chinese Taipei, the European Union, Hong Kong, China, Liechtenstein, Norway, and the United States.

The amended TRIPS Agreement incorporating a decision on patents and public health will enter into force when two thirds of WTO Members have accepted the amendment. During 2013, Chile, the Dominican Republic, Montenegro and Trinidad and Tobago accepted the amendment, bringing the number of acceptances to 49.

17. International Criminal Court (ICC)¹⁰⁶⁷

The International Criminal Court (ICC) is an independent permanent international court established to investigate, prosecute and try individuals accused of committing the most serious crimes of concern to the international community as a whole, namely the crime of genocide, crimes against humanity, war crimes, as well as the crime of aggression, once the conditions under which the Court can exercise its jurisdiction on the latter have been fulfilled. The Court was established by the Rome Statute of the International Criminal Court, 1998.¹⁰⁶⁸

The ICC is an independent international organization and is not part of the United Nations system. However, it was born under the auspices of the United Nations, and the two organizations engage in practical cooperation under a relationship agreement.¹⁰⁶⁹

Following ratification by Côte d'Ivoire on 15 February 2013, as at 31 December 2013, 122 States were parties to the Rome Statute of the International Criminal Court.¹⁰⁷⁰

In 2013, 10 States ratified amendments on the crime of aggression and 12 States ratified amendments on certain crimes in non-international armed conflicts, bringing the total number of States to have accepted these amendments to 13 and 16, respectively. One State ratified the Agreement on the Privileges and Immunities of the International Criminal Court¹⁰⁷¹ (APIC) in 2013, bringing the total number of countries having ratified the APIC to 72.

¹⁰⁶⁷ For official documents and more information on the International Criminal Court, see <https://www.icc-cpi.int/>.

¹⁰⁶⁸ United Nations, *Treaty Series*, vol. 2187, p. 3.

¹⁰⁶⁹ *Ibid.*, vol. 2283, p. 195.

¹⁰⁷⁰ *Ibid.*, vol. 2187, p. 3.

¹⁰⁷¹ *Ibid.*, vol. 2271, p. 3.

At the end of 2013, eight situations were under investigation by the ICC: Uganda, the Democratic Republic of Congo (DRC), the Central African Republic (CAR), Darfur (the Sudan), Kenya, Libya, Côte d'Ivoire and Mali. In addition, over the course of 2013, the Office of the Prosecutor conducted preliminary examinations relating to Afghanistan, CAR, Colombia, Georgia, Guinea, Honduras, the Republic of Korea, Nigeria and, finally, a situation referred by the Union of the Comoros, concerning crimes allegedly committed aboard vessels reportedly registered in Comoros, Greece and Cambodia.

The caseload of the Court continued to increase in 2013. A number of developments took place regarding cases before the Court in 2013, including the following:¹⁰⁷²

In the situation in the DRC, the *Lubanga* and *Ngudjolo Chui* cases moved to the appeals stage, following a first conviction decision in 2012 in the *Lubanga* case and a first acquittal in 2013 in the *Ngudjolo Chui* case.¹⁰⁷³ As of the end of 2013, the decisions in the *Lubanga* and *Ngudjolo Chui* cases were subject to appeal. In addition, *Bosco Ntaganda* was the first person subject to an ICC arrest warrant to surrender himself to the Court on 22 March 2013.¹⁰⁷⁴

In the situation in the CAR, the presentation of oral evidence in the trial of *Jean-Pierre Bemba Gombo* reached its conclusion.¹⁰⁷⁵ On 20 November 2013, a warrant of arrest for *Jean-Pierre Bemba Gombo*, *Aimé Kilolo Musamba*, *Jean-Jacques Mangenda Kabongo*, *Fidèle Babala Wandu*, and *Narcisse Arido* was issued by the ICC for offences against the administration of justice allegedly committed in connection with the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*. This was followed by the arrest of four of the suspects on 23 and 24 November 2013 by the authorities of the Netherlands, France, Belgium and the DRC.¹⁰⁷⁶

In the situation in Kenya, the trial in the *Ruto and Sang* case opened on 10 September 2013.¹⁰⁷⁷ Notably, the *Ruto and Sang* case was the first criminal trial before any international court in which the accused were not in custody, having voluntarily complied with

¹⁰⁷² For a complete list of situations and cases before the Court, see Chapter VII.

¹⁰⁷³ *The Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06 and *The Prosecutor v. Mathieu Ngudjolo Chui*, Case No. ICC-01/04-02/12. *Thomas Lubanga Dyilo* was found guilty of committing the war crimes of the enlistment and conscription of children under the age of 15 into the FPLC and using them to participate actively in hostilities between September 2002 and August 2003. *Mathieu Ngudjolo Chui* was acquitted of three counts of crimes against humanity (murder, rape and sexual slavery) and seven counts of war crimes (using children under the age of 15 to take active part in the hostilities, directing an attack against a civilian population as such or against individual civilians not taking direct part in hostilities, wilful killing, destruction of property, pillaging, sexual slavery, and rape).

¹⁰⁷⁴ *The Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06. *Bosco Ntaganda* faces three counts of crimes against humanity (murder, rape and sexual slavery) and seven counts of war crimes (using children under the age of 15 to take active part in the hostilities, directing an attack against a civilian population as such or against individual civilians not taking direct part in hostilities, wilful killing, destruction of property, pillaging, sexual slavery, and rape).

¹⁰⁷⁵ *The Prosecutor v. Jean-Pierre Bemba Gombo*, Case No. ICC-01/05-01/08. *Jean-Pierre Bemba Gombo* faces two counts of crimes against humanity (rape and murder) and three counts of war crimes (rape, murder, and pillaging).

¹⁰⁷⁶ *The Prosecutor v. Jean-Pierre Bemba Gombo*, *Aimé Kilolo Musamba*, *Jean-Jacques Mangenda Kabongo*, *Fidèle Babala Wandu* and *Narcisse Arido*, Case No. ICC-01/05-01/13.

¹⁰⁷⁷ *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Case No. ICC-01/09-01/1109.

the summons to appear issued by the ICC. The trial in the *Kenyatta* case, where *Uhuru Kenyatta* is accused of five counts of crimes against humanity, was postponed by Trial Chamber V(b).¹⁰⁷⁸ On 2 October 2013, Pre-Trial Chamber II unsealed an arrest warrant against *Walter Osapiri Barasa*, initially issued on 2 August 2013, for several offences against the administration of justice.¹⁰⁷⁹

In the situation in Côte d'Ivoire, on 30 September 2013, Pre-Trial Chamber I unsealed an arrest warrant against *Charles Blé Goudé*, initially issued on 21 December 2011, for four counts of crimes against humanity.¹⁰⁸⁰

In the situation in Darfur, the Sudan, Trial Chamber IV terminated the proceedings against *Saleh Mohammed Jerbo Jamus* on 4 October 2013, upon receiving evidence pointing towards his death.

In the situation in Libya, on 31 May 2013, Pre-Trial Chamber I rejected Libya's challenge to the admissibility of the case against *Saif Al-Islam Gaddafi* and reminded Libya of its obligation to surrender the suspect to the Court.¹⁰⁸¹ As of 31 December 2013, an appeal on that decision was pending. On 11 October 2013, Pre-Trial Chamber I decided that the case against *Abdullah Al-Senussi* was inadmissible before the ICC.¹⁰⁸² On 14 November 2013, the ICC Prosecutor presented her sixth report to the United Nations Security Council pursuant to Security Council resolution 1970 (2011).

On 16 January 2013, the Prosecutor formally opened an investigation into alleged crimes committed on the territory of Mali since January 2012, following the Mali Government's referral of the situation to the Prosecutor on 13 July 2012.

¹⁰⁷⁸ *The Prosecutor v. Uhuru Muigai Kenyatta*, Case No. ICC-01/09-02/11.

¹⁰⁷⁹ *The Prosecutor v. Walter Osapiri Barasa*, Case No. ICC-01/09-01/13.

¹⁰⁸⁰ *The Prosecutor v. Charles Blé Goudé*, Case No. ICC-02/11-02/11.

¹⁰⁸¹ *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*, Case No. ICC-01/11-01/11.

¹⁰⁸² *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*, Case No. ICC-01/11-01/11.

Chapter IV

TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS

In 2013, the following instruments were concluded under the auspices of the United Nations:

- Arms Trade Treaty, New York, 2 April 2013¹
- Intergovernmental Agreement on Dry Ports, Bangkok, 1 May 2013²
- Minamata Convention on Mercury, Kumamoto, 10 October 2013.³

These instruments were not in force as of 31 December 2013.

B. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

1. World Intellectual Property Organization

On June 27, 2013, the Diplomatic Conference adopted the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled⁴ (the “Marrakesh Treaty”). The Treaty was not in force as of 31 December 2013.

¹ Not reproduced herein. For the text of the Treaty, see *Multilateral Treaties Deposited with the Secretary-General*, chapter XXVI.8.

² Not reproduced herein. For the text of the Agreement see *Multilateral Treaties Deposited with the Secretary-General*, chapter XI-E-3.

³ Not reproduced herein. For the text of the Convention see *Multilateral Treaties Deposited with the Secretary-General*, chapter XXVII-1.

⁴ Not reproduced herein. For the text of the Treaty, see <http://www.wipo.int/treaties/en/ip/marrakesh>.

Chapter V

DECISIONS OF THE ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS¹

A. UNITED NATIONS DISPUTE TRIBUNAL

By resolution 68/254 of 27 December 2013, entitled “Administration of justice at the United Nations”, the General Assembly took note of the reports of the Secretary-General on the activities of the United Nations Ombudsman and Mediation Services, and endorsed the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions. In this regard, the Assembly recalled paragraph 20 of the report of the Advisory Committee and requested the Secretary-General to submit for consideration at its sixty-ninth session a revised proposal for conducting an interim independent assessment of the system of administration of justice. The Assembly also requested the Internal Justice Council to report on the impact of the request contained in paragraph 22 of resolution 67/241, taking into account the view of all relevant stakeholders, and the Secretary General to propose amendments to the statute of the Appeals Tribunal, taking into account the recommendation of the Internal Justice Council.

In 2013, the United Nations Dispute Tribunal in New York, Geneva and Nairobi issued a total of 181 judgments. Summaries of five selected judgments are reproduced below.

¹ In view of the large number of judgments which were rendered in 2013 by the administrative tribunals of the United Nations and related intergovernmental organizations, only those judgments which address significant issues of United Nations administrative law or are otherwise of general interest have been summarized in the present edition of the Yearbook. For the full text of the complete series of judgments rendered by the tribunals, namely, Judgments Nos. UNDT/2013/001 to UNDT/2013/181 of the United Nations Dispute Tribunal, Judgments Nos. 2013-UNAT-280 to 2013-UNAT-367 of the United Nations Appeals Tribunal, Judgments Nos. 3152 to 3244 of the Administrative Tribunal of the International Labour Organization, Decisions Nos. 470 to 485 of the World Bank Administrative Tribunal, and Judgment Nos. 2013-1 to 2013-4 of the International Monetary Fund Administrative Tribunal, see, respectively, documents UNDT/2013/001 to UNDT/2013/181; 2013-UNAT-280 to 2013-UNAT-367; Judgments of the Administrative Tribunal of the International Labour Organization: 114th and 115th sessions; World Bank Administrative Tribunal Report, 2013; and International Monetary Fund Administrative Tribunal Reports, Judgment No. 2013-1 to 2013-4.

1. *Judgment No. UNDT/2013/090 (26 June 2013): Candusso v. Secretary-General of the United Nations*²

LEGAL STANDING TO BRING A CLAIM—PAYSLIPS CONSTITUTE ADMINISTRATIVE DECISIONS THAT MAY BE APPEALED—STAFF MEMBERS ARE NOT REQUIRED TO EXHAUST CONSULTATIVE OR NEGOTIATION MECHANISMS PRIOR TO FILING AN APPLICATION WITH THE TRIBUNAL—VARIATION OF CONTRACT—ACQUIRED RIGHTS—ACQUIESCENCE TO A VARIATION—WAIVER OF A RIGHT—LEGITIMATE EXPECTATION

The Applicant, a General Service level staff member in the Department of Management of the United Nations Secretariat, contested the decision of the Secretary-General rejecting his request for compensation for lack of cafeteria facilities in the building to which he was relocated in connection with the renovation of the United Nations Headquarters Complex in New York. The Applicant submitted that the cost of a cafeteria meal was a factor in determining the salary scale of General Service level staff members and was thus part of his contract of employment. He claimed that the lack of cafeteria services amounted to a unilateral change in the terms and conditions of his appointment, affecting his contractual right to a full salary. The Applicant submitted that the benefit attributable to the provision of cafeteria services, although not necessarily an express statutory or contractual right, constituted an essential component in assessing the level of his salary, thus giving him an “implied or acquired right” over time, or at the very least, a factual basis for a legitimate expectation.

The Tribunal first considered the issue of the Applicants’ standing, as it appeared that he filed his claim both in relation to his own rights as well as in his capacity as a staff representative. The Tribunal stated that, to have standing before the Tribunal, a staff member must show that the contested administrative decision affects her or his legal rights. The Tribunal found that, under article 2.1(a) of its Statute, the Applicant did not have standing to intercede in a contractual relationship that exists between other staff members and the Organization by filing applications on their behalf. However, the Tribunal found that the Applicant had standing to contest the alleged breach of his own rights.

The Tribunal dismissed the Respondent’s claim that the application was not receivable because the contested decision applied generally and not only to the Applicant. The Tribunal found that, for the purposes of legal standing, it was irrelevant whether the decision applied to other staff members and not just the Applicant. The only relevant question was whether the application concerned an administrative decision “alleged to be in non-compliance with the terms of appointment or the contract of employment” of the Applicant (article 2.1 of the Statute). The Tribunal found that the Applicant’s claim satisfied the requirements of article 2.1 of the Statute.

The Tribunal also dismissed the Respondent’s claim that the decision was time-barred as the Applicant’s request for management evaluation was filed almost two years after relocation to the new building. The Tribunal found that, for the purpose of claims regarding incorrect calculation of salary, pay slips constituted administrative decisions that may be appealed. The question of how far back in time the Applicant would be able to go in seeking recovery payments would be an issue that would arise in the determination of appropriate relief in the event he prevails on the merits.

² Judge Memooda Ebrahim-Carstens (New York).

The Tribunal further dismissed the Respondent's claim that the Applicant should have first exhausted consultation and negotiation mechanisms available through the staff association machinery. The Tribunal found that the issue raised by the Applicant was a legal issue that concerned his contractual rights, and he was not required to first engage in consultative or review mechanisms through the staff association.

Having found the application receivable, the Tribunal turned to the merits of the Applicant's claims. Dealing with the claim that the contested decision was in breach of the Applicant's acquired rights, the Tribunal took note that the general principle of acquired rights was incorporated into staff regulation 12.1, which states that "[t]he present Regulations may be supplemented or amended by the General Assembly, without prejudice to the acquired rights of staff members". The Tribunal noted that the concept of acquired rights had been dealt with by various international tribunals, including the former United Nations Administrative Tribunal Judgment, the World Bank Administrative Tribunal, and the Administrative Tribunal of the International Labour Organization. The Tribunal stated that it was unclear whether the Applicant used the term "acquired right" in his application in the same sense given to it by various tribunals.

The Tribunal indicated that the concept of acquired rights pertained to fundamental and essential terms of employment without which the staff member would not have accepted his job with the Organization and the modification of which would entail "extremely grave consequences for [him], more serious than mere prejudice to his ... financial interests". Based on the aforementioned test, the Tribunal was unconvinced that the access to a subsidized cafeteria constituted such a fundamental and essential term of employment that would have given rise to an acquired right. Therefore, the Tribunal was not persuaded that the concept of acquired rights was applicable in this case.

The Tribunal was also not persuaded that the variables associated with cafeteria services were indeed part of the formula used for the calculation of the salary of General Service staff. However, the Tribunal found that, even taking the Applicant's case at its highest—that is, accepting that a certain financial value relating to cafeteria services was indeed presently included as a component in his salary—the Applicant's claim could not succeed for the following reasons.

The Tribunal found that, having waited for approximately one year and a half to raise claims regarding the alleged lack of access to the United Nations cafeteria facilities, the Applicant acquiesced to the arrangements put in place by the Respondent in view of the renovation-related requirements. With respect to the doctrine of acquiescence, the Tribunal stated that, generally, once the parties to a contract of employment have agreed to its terms, neither party may unilaterally amend them unless the original contract provides for agreed variations. However, there may be situations where an employee consents to the variation, including through a waiver of a right. If not expressly waived, a right may be impliedly waived by acquiescence or conduct that is inconsistent with the enforcement of the right. A party to a contract may also be deemed to have waived his rights if it does not act within a reasonable time.

The Tribunal has also considered whether the Respondent put in place sufficient measures to compensate the Applicant for the loss that resulted from the move to the new building. The Tribunal stated that legitimate expectation can be created either through the application of a regular practice or through an express promise. Legitimate expectations

may result in the creation of an enforceable legal right, although the application of the doctrine is subject to a number of qualifications. Not only must the expectation be “legitimate” or have some reasonable basis, the fulfilment of the expectation must lie within the powers of the person or body creating the expectation. Furthermore, a decision that has the effect of taking away such an expectation must be shown to have been unfair, not merely adverse to the interests of the individual, and considerations of public policy could override an individual’s legitimate expectations in appropriate circumstances. The Tribunal found that, in view of the requirements that necessitated the move to the new building, the Respondent put in place alternative remedial measures, namely a complimentary shuttle service that allowed affected staff members to use the cafeteria services in the United Nations Headquarters building. This remedial measure was neither unreasonable nor unfair. The Tribunal dismissed the application.

2. *Judgment No. UNDT/2013/102 (12 August 2013): Galbraith v. Secretary-General of the United Nations*³

TERMINATION IN THE INTEREST OF THE ORGANIZATION—SECRETARY-GENERAL’S AUTHORITY TO TERMINATE APPOINTMENT OF AN ASSISTANT-SECRETARY-GENERAL—TYPES OF SEPARATION FROM SERVICE—REQUIREMENT TO DISCLOSE REASONS FOR TERMINATION—INTERESTS OF A PEACEKEEPING MISSION ARE INTERESTS OF THE ORGANIZATION—SECRETARY-GENERAL’S DISCRETION IN DETERMINING INTEREST OF THE ORGANIZATION

The Applicant, a former Deputy Special Representative of the Secretary-General (Deputy “SRSG”) for the United Nations Assistance Mission in Afghanistan (“UNAMA”) employed at the Assistant Secretary-General (“ASG”) level, contested the termination of his fixed-term contract in “the interest of the Organization”. The Applicant was appointed as a Deputy SRSG in June 2009. His letter of appointment included, as a possible reason for separation, termination “in the interest of the Organization as determined by the Secretary-General”.

Shortly after his arrival, the Applicant began to raise concerns regarding the conduct of the presidential elections held in Afghanistan in 2009. Following a number of news reports and meetings of senior officials, on 30 September 2009, the Secretary-General’s spokesperson announced in a press statement that the Secretary-General had decided to end the Applicant’s appointment “in the best interest of the mission”. On 12 October 2009, the Applicant received a letter from the Assistant Secretary General for Human Resources Management, stating that the Secretary-General had decided to terminate the Applicant’s appointment in accordance with its terms.

The Tribunal determined that the issues before it were: (i) whether the contested decision was taken by the Secretary-General; (ii) whether reason for termination was provided to the Applicant; (iii) whether the termination was in the interest of the Organization; (iv) whether the Applicant’s due process rights were breached.

With respect to the first issue, the Tribunal found that the decision to end the Applicant’s appointment as the Deputy SRSG in Afghanistan was taken by the Secretary-General and not by the Assistant Secretary-General for Human Resources Management, as was claimed by the Applicant.

³ Judge Alessandra Greceanu (New York).

Turning to the second issue, the Tribunal examined the various types of separation, noting that there were five groups of reasons for separation from service: (i) separation *ope legis* (including expiration of contract); (ii) separation by parties' agreement prior to the expiration of the contract (staff regulation 9.3(a)(vi) and staff rule 9.6(c)(vi)); (iii) separation initiated by the staff member; (iv) separation initiated by the Secretary-General; (v) termination "in the interest of the Organization as determined by the Secretary-General", as expressed in the Applicant's letter of appointment.

The Tribunal thereafter considered whether the Applicant had been informed of the reason for the termination of his appointment. The Tribunal reiterated that staff members have a right to be informed of the reasons for termination, giving rise to the Secretary-General's correlative obligation to give the reasons. The Tribunal found that the Applicant had been given the reason for the contested decision, namely that it was "in the interest of the mission". Since UNAMA is part of the Organization, the decision was made in the interest of the Organization.

The Tribunal then turned to the third issue, namely whether the Applicant's appointment was terminated in the interest of the Organization. The Tribunal held that the Secretary-General was responsible both for the implementation of the political and diplomatic mandate of UNAMA and for its good administration. The Tribunal held that the implementation of the UNAMA mandate was under the authority of the SRSG, who is the head of the mission and is accountable to the Secretary-General. The Tribunal found that, in view of the disagreements that existed between the Applicant and the Special Representative of the Secretary-General, reconciliation between them was not possible.

The Tribunal found that the decision under appeal was taken as a result of the Secretary-General's discretionary power. The Tribunal found that the decision to terminate the Applicant's appointment was not based on any improper reason prohibited by relevant international instruments and that it was not abusive or arbitrary.

Having considered the fourth issue, namely, whether the Applicant's rights to due process were breached, the Tribunal found that his due process rights were respected because the decision was based on proper reasons and he was informed of the reason for it. The Tribunal further held that the Applicant's right to appeal was thus respected as the Applicant was able to file the application in an exhaustive manner. Having rejected the Applicants' claims, the Tribunal dismissed the application.

3. *Judgment No. UNDT/2013/109 (26 August 2013): Saffir v. Secretary-General of the United Nations*⁴

STAFF UNION ELECTIONS—JUDICIAL REVIEW OF CLAIMS RELATING TO STAFF UNION ELECTIONS—STAFF UNION ARBITRATION COMMITTEE HAS THE AUTHORITY TO ISSUE BINDING RULING ON STAFF UNION MATTERS—INTERNATIONAL LABOUR STANDARDS REQUIRE NON-INTERFERENCE BY MANAGEMENT INTO STAFF UNION ELECTIONS—SECRETARY-GENERAL HAS NO LEGAL BASIS WITH THE RULINGS OF THE STAFF UNION ARBITRATION COMMITTEE OR THE FORMAT OR CONDUCT OF ELECTIONS—CERTAIN STAFF UNION-RELATED MATTERS THAT MAY CONSTITUTE MISCONDUCT UNDER THE ORGANIZATION'S REGULATIONS AND RULES, MAY GIVE RISE TO INITIATION OF APPROPRIATE PROCEDURES

The Applicant, a staff member of the Department for General Assembly and Conference Management (“DGACM”), filed an application contesting the Secretary-General’s refusal to conduct an investigation into the alleged irregularities surrounding the 7–9 June 2011 elections of the United Nations Staff Union (“UNSU”). The Applicant requested an independent investigation overseen by the Dispute Tribunal to determine whether the election results were compromised and, if so, for new elections to be held.

The Tribunal first considered the scope of the case before it, finding that it is empowered to deal with administrative decisions including alleged action or inaction by the Secretary-General, but that it has no general jurisdiction to supervise internal union affairs, including regarding any challenges to union elections. Accordingly, the Tribunal concluded that the Applicant’s claims regarding the Staff Union elections and, in particular, his claims for relief, were not properly before it. The Tribunal stated that an aggrieved person, under the terms of the Staff Union Statute, may approach the Staff Union’s Arbitration Committee, which issues rulings that are binding on all bodies of the Staff Union. The Arbitration Committee was established to review alleged violations of the Statute of the Staff Union and decide on sanctions where warranted as well as to deal with issues of interpretation of the Statute, its Regulations or any policy.

The Tribunal found that the Applicant’s application with respect to the Secretary-General’s refusal to carry out the requested investigation was receivable. Turning to the merits of the Applicant’s claims, the Tribunal held that international labour standards provide for non-interference by management in union elections. The Tribunal found that there was no evidence that the Secretary-General hindered the electoral process or frustrated organizational rights in any manner. To actively direct the conduct and manner of elections would not be in conformity with the independent status of the Staff Union and the applicable law. The Tribunal observed, however, that it was conceivable that there may be situations that may constitute misconduct under the Organization’s regulations and rules, which may give rise to the initiation of appropriate procedures against individual members engaged in misconduct. However, the Applicant did not pursue the matter as a matter of individual misconduct. Rather, as was correctly assessed by the Secretary-General, the issues raised were internal Staff Union matters. The Tribunal noted that the Arbitration Committee had already examined and rendered a binding adjudication upon the issues that the Applicant describes as “irregularities” in connection with the June 2011 elections. The Tribunal further held that there was no legal basis in the legal framework regulating

⁴ Judge Memooda Ebrahim-Carstens (New York).

the Staff Union and its Arbitration Committee allowing the Secretary-General to interfere with the Committee's rulings or the format or conduct of elections. The Tribunal concluded that the Secretary-General's refusal to initiate investigation of the Staff Union elections of June 2011 was lawful. The Tribunal dismissed the application.

4. *Judgment No. UNDT/2013/155 (2 December 2013): A-Ali et al v. Secretary-General of the United Nations*⁵

RECEIVABILITY—TIME LIMITS FOR SEEKING MANAGEMENT EVALUATION AND FILING AN APPLICATION WITH THE DISPUTE TRIBUNAL—APPLICANT'S RESPONSIBILITY TO PURSUE HIS OR HER OWN CASE—APPLICANTS ARE NOT ABSOLVED OF ERRORS OR OVERSIGHT BY COUNSEL REGARDING THE APPLICABLE TIME LIMITS—TEST FOR ABUSE OF PROCESS—COSTS

A group of forty-six Applicants working in the Department for General Assembly and Conference Management of the United Nations Secretariat ("DGACM") contested the decision to initiate recruitment of 19 candidates for the future operation of their section and DGACM's intention to abolish 59 posts.

On 6 June 2011, the Secretary-General submitted his budget for 2012–2013 to the General Assembly in which he proposed to abolish a number of posts within the Publishing Section. In December 2011, the Change Management Team submitted recommendations to the Secretary-General for the realization of his organizational reforms. In April 2012, the General Assembly requested the Secretary-General to submit for its consideration and approval proposals related to the implementation of these recommendations. During the course of 2012, staff representatives and management of DGACM held discussions regarding the future of the Publishing Section in view of its goal to reduce its staffing and budgetary levels as part of its move to a digital operation. On 4 February 2013, the staff of the Publishing Section adopted a resolution rejecting the abolition of 59 posts within the Publishing Section, and expressed their concern that management had failed to retrain staff for new functions developed since 2009.

On 10 February 2013, DGACM announced that a total of 19 posts would be advertised through the United Nations online recruitment system in view of disruption and equipment damage suffered by the Publishing Section following super-storm Sandy. On 19 March 2013, 42 Applicants filed individual requests for management evaluation of the 10 February 2013 decision. Each of the Applicants was represented by the same law firm with the same contact information.

On 25 March 2013, another staff member of DGACM filed a separate application with the Tribunal contesting the 10 February 2013 decision. He was represented by the same law firm as the Applicants in the present case. He also filed an application for interim relief seeking the suspension of the implementation of the contested decision pending a resolution of the proceedings on the merits. On 27 March 2013, the Tribunal, by Order No. 77 (NY/2013), directed the Respondent to suspend the implementation of the 10 February 2013 decision to conduct the said recruitment exercise.

On 5 April 2013, the Acting Head of DGACM held a town hall meeting whereby he announced that the contested decision of 10 February 2013 to initiate recruitment of 19 candidates for the future operation of the Publishing Section had been rescinded.

⁵ Judge Goolam Meeran (New York).

On 9 April 2013, the Management Evaluation Unit e-mailed the Counsel for the Applicants, carbon copying all the Applicants, informing them that their requests for management evaluation were rendered moot by the 5 April 2013 announcement and their files would be closed.

On 11 April 2013, four additional requests for management evaluation were filed by Counsel on behalf for applicants wishing to contest the 10 February decision. Accordingly, on 17 July 2013 an application was filed with the Dispute Tribunal on behalf of 46 Applicants, 42 contesting the decision of 10 February on 19 March 2013 and 4 contesting the decision on 9 April 2013.

A preliminary issue arose as to whether the applications were receivable. The Respondent submitted that the applications before the Tribunal were filed out of time. The Respondent submitted that the 42 initial Applicants were informed of the outcome of their request on 9 April 2013 *via* e-mail. According to article 8 (1)(d) of the Statute of the Dispute Tribunal, the 42 initial Applicants had 90 calendar days to file their applications, but failed to do so.

With respect to the 42 initial Applicants, the Tribunal found that the Applicants' legal representatives knew, or should have known, that the requests for management evaluation were completed and closed on 11 April 2013. Accordingly, the Tribunal found that the 42 initial Applicants did not preserve their rights to file applications under article 8 of the Statute of the Dispute Tribunal. In any event, under staff rule 11.2(d), the Management Evaluation Unit was only required to communicate the outcome of the requests for management evaluation to the Applicants in writing, which they did.

The Tribunal later turned to the remaining four Applicants who attempted to attach their request for management evaluation after the 42 earlier cases had been closed on 11 April 2013. The Tribunal noted that the situation was significantly different for these four staff members. In their case, the Management Evaluation Unit did not consider their applications to be properly filed and receivable, and requested that, should they so wish, new separate applications should be filed. At no time did these four staff members file new separate requests. Accordingly, the Tribunal found that their application was not receivable because they had failed to comply with article 8.1(c) of the Statute of the Dispute Tribunal. Furthermore, it was a mandatory requirement for these four staff members to request management evaluation within 60 days of the contested decision and they failed to do so.

The Tribunal stated that it cannot be accepted that, whilst claiming that they have abandoned all responsibility regarding the conduct of their cases to their legal representatives, the Applicants would at the same time be absolved of the consequences of the acts of the said legal representatives. Legal representatives act at the behest of their clients and not the other way around. The Tribunal reiterated that it is an applicant's responsibility to pursue her or his case and when the said applicant is represented by counsel he or she cannot be absolved of any error or oversight by counsel regarding the applicable time limits.

In conclusion, the Tribunal further considered whether there has been any abuse of process and, if so, whether the Applicants should be ordered to pay costs incurred as a result of default on the part of their representatives. The Tribunal found that the test for "abuse of process" was stringent and imported an element of contumelious conduct or deliberate and callous disregard for the Tribunal's proceedings. This was not the case here,

and no costs were ordered. Having rejected the Applicants' claims, the Tribunal dismissed the application.

5. *Judgment No. UNDT/2013/176 (20 December 2013): Nguyen-Kropp and Postica v. Secretary-General of the United Nations*⁶

STANDARDS THAT APPLY WITH RESPECT TO PRELIMINARY INVESTIGATIONS—TEST FOR REASON TO BELIEVE THAT MISCONDUCT MAY HAVE OCCURRED—RETALIATION—TEST FOR ESTABLISHING WHETHER RETALIATION TOOK PLACE—BURDEN OF PROOF IN CASES OF ALLEGED RETALIATION—PRINCIPLES FOR DETERMINING COMPENSATION—LEGAL COSTS (ATTORNEY FEES) AS COMPENSABLE ECONOMIC LOSS—MEDIAN COMPENSATION FOR NON-PECUNIARY HARM AS A REFERENCE POINT IN ASSESSING COMPENSATION

Two Applicants, investigators with the Investigations Division of the Office of Internal Oversight Services ("OIOS") of the United Nations Secretariat, appealed the decision to investigate them. Applicant 1 was a P-3 level investigator and Applicant 2 was her supervisor, a P-5 level investigator. They alleged that the decision to investigate them was retaliatory because they had made certain allegations of impropriety on the part of their supervisor, the Acting Director (Officer-in-Charge) of the Investigations Division.

In January 2009, the Acting Director of the Investigations Division received a complaint from a staff member suggesting serious misconduct in the Medical Services Division. The complainant provided the Acting Director with a number of e-mails and photographs. The complaint was assigned for investigation to the two Applicants, who found that the complainant was not credible. In March 2009, Applicant 2 submitted a draft case closure report to the Professional Practice Section (PPS) of the Investigations Division, which is a unit in the Investigations Division responsible for clearing investigation reports before review by the Acting Director.

In view of the Applicants' findings, a separation case was opened in May 2009 into the complainant's possible malicious complaint. Applicant 2 then also raised a concern that the Acting Director of the Investigations Division may not have provided the two Applicants with all the information provided to him by the complainant. In the period of June to October 2009, the Acting Director and Applicant 2 exchanged further e-mails regarding the evidence provided by the complainant. On 29 October 2009, Applicant 2 signed a note, co-authored with Applicant 1, alleging that the Acting Director mishandled the complainant's evidence.

In December 2009, the Under-Secretary-General for OIOS ("USG/OIOS") forwarded the Applicants' note of 29 October 2009 to PPS, asking for its review and assessment. PPS reviewed the matter and sought comments from the Acting Director, but not those from Applicant 2. In January 2010, Applicant 2 moved to another non-UN Secretariat job in Europe, with the European Anti-Fraud Office ("OLAF"). Several days later, on instruction from the Acting Director, Applicant 1 was asked to vacate her desk in an office and move to a cubicle.

PPS completed its review on 22 January 2010, finding that there was a misunderstanding as to the exact nature and number of photographs that the complainant had initially sent to the Acting Director in January 2009, but that the latter did not have any

⁶ Judge Goolam Meeran (New York).

ill-motivated purpose. The PPS report then criticized the Applicants for various anomalies found in different versions of the interview records. The PPS report was forwarded to the USG/OIOS, who, in March 2010, instructed PPS to send the report to Applicant 2 for his comments. However, this was not done as PPS viewed the instruction of the USG/OIOS as optional.

On 25 March 2010, PPS sent to the USG/OIOS two further notes on the outcome of its review of the complaint of 29 October 2009, clearing the Acting Director of allegations of misconduct and instead alleging possible misconduct by the two Applicants and recommending referring the matter to an external consultant for an independent fact-finding inquiry.

On 9 April 2010, the USG/OIOS sent a note to the Under-Secretary-General, Department of Management (“USG/DM”) requesting it to arrange for an investigation of a report of possible misconduct against the Applicants using an external independent expert. The USG/OIOS advised against approaching OLAF because of Applicant 2’s recent employment with it. The USG/OIOS thereafter informed Applicant 2 that his complaint of 29 October 2009 had been reviewed and found unsubstantiated. She, however, made no mention that there would be an investigation against the two Applicants.

In May 2010, the Office of the USG/DM started to arrange for an independent investigation of the allegations by an outside entity. It contacted several outside entities, including OLAF (despite the advice of the USG/OIOS), the Inter-American Development Bank, the United Nations Development Fund, the European Bank for Reconstruction and Development (EBRD), and the International Criminal Tribunal for the former Yugoslavia (“ICTY”). These entities were provided with a copy of the PPS note of 25 March 2010.

On 30 December 2010, the Applicants were informed by the USG/DM that an investigation into alleged irregularities set out in PPS note dated 25 March 2010 would be undertaken by an investigator from ICTY. The investigation report was finalized in May 2011 and was then provided to the new USG/OIOS, who had assumed her functions in September 2010. The new USG/OIOS then verbally informed the Applicants that they were cleared of any misconduct and that the investigation should never have taken place. This was confirmed to them formally in November 2011.

The Tribunal first identified the issues before it, which were:

- (i) whether the USG/OIOS had sufficient reason to believe that the Applicants had engaged in unsatisfactory conduct for which a disciplinary measure may be imposed;
- (ii) whether the decision to investigate the Applicants’ conduct was proper or tainted by improper motives, namely retaliation or the intent to taint their reputation;
- (iii) whether the manner in which the Office of the USG/DM sought the services of external investigators cause the Applicants reputational damage, and, if so, what the extent of this damage was;
- (iv) whether there was a disparity and inconsistency in the manner in which the allegations against the Acting Director of the Investigations Division were treated compared to the allegations against the Applicants; and
- (v) whether the Applicants were accorded due process.

As a preliminary matter, the Tribunal had to determine which version of the administrative instruction on revised disciplinary measures and procedures was applicable in

the current case: ST/AI/371, or its amended version ST/AI/371/Amend.1. The distinction was relevant as ST/AI/371/Amend.1, which entered into force on 11 May 2010 (i.e., after the complaint against the Applicants was made but before the investigation by an external entity was initiated), removed the need for the head of office to conduct a preliminary investigation prior to requesting a full-fledged investigation. On this issue, the Tribunal found ST/AI/371 to be the applicable version that was in force at the time the allegations against the Applicants were made by PPS (i.e., 25 March 2010).

The Tribunal noted that paragraph 2 of ST/AI/371 required that, where there was reason to believe that a staff member had engaged in unsatisfactory conduct for which a disciplinary measure may be imposed, the head of office or responsible officer was required to undertake a preliminary investigation. The Tribunal referred to *Aboud* UNDT/2010/011 in finding that the test for establishing whether there was “reason to believe” that misconduct may have occurred was whether, in the circumstances, such a conclusion would be reached by an objective and reasonable decision-maker. The Tribunal found that the decision that there was “reason to believe” that the Applicants may have committed misconduct was manifestly unreasonable, arrived at in breach of due process, and was thus unlawful.

The Tribunal then turned to whether the Applicants’ due process rights were respected during the preliminary investigation. The Tribunal noted that, although the due process rights envisaged by ST/AI/371 apply in full following the formal disciplinary charges, this did not mean that, during the preliminary investigation stage, staff members were not entitled to basic, fundamental due process rights and guarantees. The Tribunal referred to the OIOS Investigations Division’s Investigations Manual (dated March 2009), which mentioned the following standards that apply during preliminary investigations: confidentiality, objectivity, impartiality, fairness, and avoidance of conflicts of interest.

The Tribunal found that the Applicants’ rights were not respected during the preliminary investigation and that the preliminary investigation was flawed in several respects. The Applicants were subjected to an investigation even though, on the facts, an objective and reasonable decision-maker should not have reached the conclusion that there was “reason to believe” that misconduct may have occurred. Further, the manner in which the preliminary investigation was solicited, unbeknownst to the Applicants, among the same professional circles in which the Applicants worked, resulted in a wide dissemination among several international offices of harmful and prejudicial material concerning them.

The Tribunal further found that the decision to initiate the preliminary investigation was marred by a fundamental irregularity, namely, retaliatory intent. The Tribunal stated that retaliation has three essential elements: (i) participation in a protected activity, (ii) being subject to a detriment, and (iii) a causal connection between the protected activity and the detriment suffered. Once the complainant has made out a *prima facie* case of retaliation, the burden of proof shifts to the Administration, which must prove by clear and convincing evidence that it would have taken the same action absent the protected activity. The Tribunal found that the Applicants had engaged in a protected activity, namely, reporting of a complaint of evidence tampering by the Acting Director of OIOS. The Tribunal found that adverse actions were taken against them, including initiation of an investigation, and that the Respondent failed to demonstrate by clear and convincing

evidence that the actions taken against the Applicants would have been the same absent the protected activity.

Turning to the issue of compensation, the Tribunal reiterated that the applicable principle in determining entitlement to compensation was that the applicant be placed, as far as money can do so, in the same position she or he would have been had the contractual obligation been complied with. Compensation cannot be awarded where no harm has been suffered. It is for the Applicants to prove that the breaches of contract caused loss or injury. With regard to pecuniary damage, the Tribunal found that, as a result of the breach of their rights, the Applicants incurred direct economic loss in the form of attorney fees. In this respect, the Tribunal found it appropriate to make an order that each Applicant be paid USD 10,000 as a contribution towards the legal costs necessarily incurred by them. The Tribunal explained that this was a compensatory award that came within the meaning of article 10.5(b) of its Statute, in which costs were necessarily incurred by the Applicants as a result of the unlawful manner they were dealt with.

The Tribunal further found that the Applicants suffered non-pecuniary loss in the form of emotional distress and harm to professional reputation. The Tribunal stated that compensation for non-pecuniary loss should not be linked to the staff member's grade or status and that a principled approach should be adopted in that an assessment should first be made of the extent of the damage suffered, then a monetary value should be placed on the harm without regard to the status of the individual. The Tribunal noted that the median amount of compensation for non-pecuniary harm in final judgments of the Dispute Tribunal and the Appeals Tribunal in the period of 1 July 2009 to 31 December 2012 was USD 17,000. The Tribunal found that both Applicants suffered non-pecuniary loss of a high order, far in excess of the median sum of USD 17,000. Having taken into account a number of aggravating factors and having compared the matter with other cases that attracted higher awards, the Tribunal found that the award of USD 40,000 to each Applicant was the appropriate sum of compensation for the non-pecuniary loss suffered.

The Tribunal thus ordered compensation to each Applicant in the amount of USD 10,000 for economic loss in the form of legal costs (under article 10.5 of the Tribunal's Statute) and USD 40,000 for non-pecuniary (moral) damages.

B. DECISIONS OF THE UNITED NATIONS APPEALS TRIBUNAL

The United Nations Appeals Tribunal (“UNAT”) held three sessions in 2013 in New York: a spring session (18 to 28 March 2013), a summer session (17 to 28 June 2013) and a fall session (7 to 18 October 2013). The Appeals Tribunal issued a total of 115 judgments in 2013. The summaries of six of those judgments are reproduced below.

1. *Judgment No. 2013-UNAT-303 (28 March 2013): O’Hanlon v. Secretary-General of the United Nations*⁷

CONVERSION OF FIXED-TERM APPOINTMENT INTO PERMANENT APPOINTMENT—CRITERIA FOR CONVERSION TO A PERMANENT APPOINTMENT—FIVE YEARS OF CONTINUOUS SERVICE UNDER FIXED-TERM APPOINTMENTS—STATUS OF UNRWA STAFF MEMBER AND SECRETARIAT STAFF MEMBERS—FIXED-TERM APPOINTMENT UNDER THE 100 SERIES OF THE STAFF RULES

The Appellant was employed by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (“UNRWA”) from 4 March 2000 until 19 November 2005, when he was transferred under the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations Applying the United Nations Common System of Salaries and Allowances (“Inter-Organization Agreement”) to the United Nations Secretariat in New York. On 1 July 2008, the Appellant was again transferred, this time to the United Nations Office at Vienna (“UNOV”).

Pursuant to ST/SGB/2009/10 of 23 June 2009 entitled “Consideration for conversion to permanent appointment of staff members of the Secretariat eligible to be considered by 30 June 2009” (hereinafter referred to as “the Bulletin”), the Human Resources Management Service (“HRMS”) at UNOV advised UNOV staff members, on 29 April 2010, of a forthcoming one-time review for possible conversion to permanent appointment and invited staff members who believed they met the criteria for conversion to contact HRMS. The criteria in question were set out in Section 1 of the Bulletin, where staff members had to have completed five years of continuous service on fixed-term appointments under the 100 series of the Staff Rules by 30 June 2009 and be under the age of 53 on the completion of such qualifying service. The Appellant contacted HRMS on several occasions. He was ultimately advised that he was not eligible for conversion on the basis that, as of 30 June 2009, he had not served the required five years on a 100 series appointment.

Following an unsuccessful request for management evaluation, the Appellant filed an application with the United Nations Dispute Tribunal (“UNDT”). On 29 February 2012, the UNDT issued Judgment No. UNDT/2012/031. The UNDT found, *inter alia*, that whilst the provisions of the Inter-Organization Agreement meant that the Appellant’s service in UNRWA counted towards the minimum period of five years of employment under fixed-term contracts required for conversion to permanent appointment, the UNRWA Staff Rules and Regulations did not mention 100 series of appointments. Accordingly, the UNDT agreed with the Secretary-General that the Appellant “[d]id not meet one of the eligibility criteria” and rejected his application. On 26 June 2012, the Appellant appealed this Judgment to the UNAT, arguing that the UNDT erred in law in its interpretation of ST/SGB/2009/10 and erred in fact by stating that UNRWA staff members are not staff members of the Secretariat.

⁷ Judge Inés Weinberg de Roca, Presiding, Judge Sophia Adinyira and Judge Richard Lussick.

The Appeals Tribunal ruled in favour of the Appellant, noting that the Inter-Organization Agreement states that, “[i]n the case of a transferred or seconded staff member, service in the releasing organization will be counted *for all purposes*, including credit towards within-grade increments, as if it had been made in the receiving organization at the duty stations where the staff member actually served” (emphasis added in judgment). Finding that the principles of the UNRWA International Staff Rules are similar to those in the United Nations Staff Regulations and Rules, the Appeals Tribunal determined that the UNDT erred in deciding that the Appellant lacked the requisite five years on a 100 series contract: “When the Rules are similar but have a different name, according to the Inter-Organization Agreement, the service is counted as service in the receiving organization”.

The Appeals Tribunal concluded that the Appellant was eligible for consideration for conversion on the basis of five years’ continuous service and remanded the case to the Administration to review whether he met the remaining criteria for conversion to a permanent appointment.

2. *Judgment No. 2013-UNAT-343 (21 June 2013): Larghi v. United Nations Joint Staff Pension Board*⁸

APPLICATION OF THE CONSUMER PRICE INDEX (CPI) TO THE PENSION ADJUSTMENT SYSTEM (PAS)—PURCHASING POWER OF A RECIPIENT’S BENEFIT—PROTECTION OF PENSION AGAINST INFLATION—CONVERSION OF THE UNITED STATES DOLLAR PENSION AMOUNT INTO LOCAL CURRENCY—UNJUST AND ABERRANT RESULTS UNDER PARAGRAPH 26 OF THE PAS

The Appellant, a retired Pan American Health Organization/World Health Organization staff member who participated in the United Nations Joint Staff Pension Fund (“UNJSPF”) from 1966 to 1985, took early retirement at age 55. Whilst initially he received his monthly pension benefit in US dollars, he opted to switch to a “local track” pension in Argentina some years later.

In 2009, the Appellant began communicating with the UNJSPF over the Argentinian consumer price index (“CPI”) data and, in October 2011, he formally requested that the UNJSPF “discontinue” the “local track”, in application of paragraph 26(c) of the Pension Adjustment System (“PAS”). On 4 November 2011, the Chief Executive Officer of the Fund responded that he was “fully aware of the concerns being expressed with respect to the movement of the CPI as published by the Government of Argentina” and, indeed, the UNJSPF awaited the outcome of an International Monetary Fund study on the quality of Argentina’s CPI data, but asserted that the UNJSPF was obligated to use officially published CPI data, where it existed.

On 16 November 2011, the Appellant appealed this decision to the Standing Committee of the UNJSPB, arguing that the application of the official Argentinian CPI data resulted in an “unjust and aberrant” outcome, supporting its suspension under paragraph 26(c) of the PAS. At its 194 meeting on 9 July 2012, the Standing Committee rejected his claim, noting that “under paragraph 14 of the [PAS], the Fund is required to use the official CPI rates for each country as published in the United Nations Monthly Bulletin of Statistics”. On 27 September 2012, the Appellant appealed this decision to the Appeals Tribunal.

⁸ Judge Mary Faherty, Presiding, Judge Inés Weinberg de Roca and Judge Richard Lussick.

The Appeals Tribunal reviewed the relevant provisions of the PAS, in particular paragraphs 14 and 26. Paragraph 14 provides: “For measuring changes in the CPI for the United States and for a particular country of residence, the index used *is the official* CPI for the country as a whole issued by the national Government and published in the United Nations Monthly Bulletin of Statistics...” (emphasis added in judgment).

However, paragraph 26 provides, *inter alia*:

(a) For countries where the application of the local-currency track would lead to aberrant results, with wide fluctuations depending on the precise commencement date of the underlying benefit entitlement, establishment of a local currency base amount in accordance with section C may be discontinued by the Chief Executive Officer of the Pension Fund. ...

...

(c) For countries where up-to-date CPI data is not available, after examining possible alternative sources of cost-of-living data and taking into account the particular circumstances of the beneficiaries residing in those countries, the application of the local currency track may be suspended; such suspensions shall apply only prospectively, with due notice given to the beneficiaries concerned.

The Appeals Tribunal found that the Standing Committee failed to properly exercise the jurisdiction with which it is vested, pursuant to paragraph 26 of the PAS, when it fettered its discretion by relying to an undue extent on paragraph 14. Rejecting the UNJSPB argument that the mere existence of official CPI data for Argentina “rendered the Standing Committee impotent”, the Appeals Tribunal recalled that “[t]he very purpose of paragraph 26 is to address the issue of whether the application of official CPI data results in ‘aberrant results’ or the situation where no up-to-date CPI data is available”.

Accordingly, the Appeals Tribunal held that the Standing Committee erred in law and fact with regard to the powers vested in the Pension Fund under paragraph 26 of the PAS. The Appeals Tribunal vacated the impugned decision and remanded the Appellant’s case to the Standing Committee.⁹

3. *Judgment No. 2013-UNAT-357 (17 October 2013): Malmström et al. v. Secretary-General of the United Nations*¹⁰

CONVERSION OF ICTY STAFF MEMBERS APPOINTMENT INTO PERMANENT APPOINTMENT—FINITE MANDATE OF ICTY STAFF MEMBER—DISCRETIONARY AUTHORITY IN MATTERS OF PERMANENT APPOINTMENT—CONSEQUENCES OF THE RESCIS-
SION OF A DECISION—STAFF MEMBERS’ RIGHT TO BE CONSIDERED FOR CONVERSION

This Judgment was one of four Judgments which, collectively, disposed of sixteen related appeals; three filed by the Secretary-General and thirteen filed by current or former staff members of the International Criminal Tribunal for the former Yugoslavia (“ICTY”).¹¹

⁹ The same rationale was applied in *Pio v. United Nations Joint Staff Pension Board*, Judgment No. 2013-UNAT-344.

¹⁰ Judge Mary Faherty, Presiding, Judge Sophia Adinyira, Judge Luis María Simón, Judge Richard Lussick and Judge Rosalyn Chapman.

¹¹ See *Ademagic et al. v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-359; *Longone v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-358; and *McIlwraith et*

In Order No. 139 (2013), the President of the Appeals Tribunal noted that the cases raised “a significant question of law”, warranting consideration by the Appeals Tribunal as a whole pursuant to article 10(2) of its Statute. Accordingly, the cases were referred to the full bench for consideration.

The Appellants were staff members of the ICTY who were recruited specifically for service with the ICTY, as reflected in their letters of appointment which provided: “This appointment is strictly limited to service with [the ICTY]”. The Acting Registrar of the ICTY was granted delegated authority to appoint staff up to the D-1 level by memorandum dated 20 May 1994 from the Under-Secretary-General for Administration and Management.

On 23 June 2009, the Secretary-General issued ST/SGB/2009/10 on “Consideration for conversion to permanent appointment of staff members of the Secretariat eligible to be considered by 30 June 2009” and, thereafter, “Guidelines on consideration for conversion to permanent appointment of staff members of the Secretariat eligible to be considered as of 30 June 2009” were approved by the Assistant Secretary-General for Human Resources Management (“ASG/OHRM”) and transmitted to all Heads of Department and Office, including the ICTY. The Heads of Departments and Offices were asked to review staff members to make a preliminary determination on their eligibility for conversion and, subsequently, to submit recommendations to the ASG/OHRM on the suitability of eligible staff members.

Following debate as to whether the ICTY staff members were eligible for conversion to permanent appointment in view of the finite nature of the ICTY, the Under-Secretary-General for Management confirmed that they could be considered for conversion but that “when managers and human resources officers in ICTY are considering candidacies of staff members for permanent appointments they have to keep in mind the operational realities of ... ICTY, including its finite mandate”.

In May 2010, the ICTY transmitted a list of staff eligible for conversion to OHRM and, in August 2010, the ICTY Registrar forwarded the names of 448 eligible staff members who had been found suitable for conversion by ICTY and who were “jointly recommended by the Acting Chief of Human Resources Section” and the Registrar. OHRM disagreed with the ICTY recommendations, however, asserting it could not endorse the Registrar’s recommendations to convert ICTY staff members, on the basis that the ICTY was a “downsizing entity”. OHRM submitted the matter for review to the New York Central Review bodies, which concurred with the OHRM position.

On 6 October 2011, the ICTY Registrar informed each of the recommended ICTY staff members that the ASG/OHRM had decided not to grant them permanent appointments, “taking into account all the interests of the Organization and ... based on the operational realities of the Organization, particularly the downsizing of ICTY”. Following unsuccessful requests for management evaluation, a series of cases was then filed with the United Nations Dispute Tribunal (UNDT) in Geneva.

The UNDT issued three related Judgments, of which Judgment No. UNDT/2012/129 disposed of the Malmström *et al.* cases.¹² It found that the delegated authority granted

al. v. Secretary-General of the United Nations, Judgment No. 2013-UNAT-360.

¹² The other UNDT Judgments were Judgment No. UNDT/2012/130, *Longone v. Secretary-General of the United Nations*, and Judgment No. UNDT/2012/131, *Ademagic et al. v. Secretary-General of the United Nations*.

to the ICTY Registrar in personnel matters included the authority to grant permanent appointments and, therefore, “the contested decisions were tainted by a substantive procedural flaw” as the ASG/OHRM was not the competent decision-maker. Accordingly, the UNDT rescinded the decisions not to grant the affected staff members permanent appointments, specifying: “The rescission of the decisions ... does not mean the[y] should have been granted permanent appointments, but that a new conversion procedure should be carried out.” Recalling “the nature of the irregularity which led to the rescission, that is, a procedural irregularity as opposed to a substantive one” and the fact that “staff members eligible for conversion have no right to the granting of a permanent appointment but only that to be considered for conversion”, the UNDT ordered compensation in lieu of specific performance, pursuant to article 10(5)(a) of the Statute of the Dispute Tribunal, in the amount of EUR 2,000 per Applicant.

The UNDT Judgment was appealed by the Secretary-General, as well as the Appellants. The former argued that the UNDT erred in law in concluding that the authority to grant appointments that was delegated to the ICTY Registrar included the authority to grant permanent appointments. The latter argued, *inter alia*, that the UNDT erred in law when it determined that it was required to order compensation as an alternative to specific performance, and that the UNDT also erred in fact and in law in denying their request for compensation for non-pecuniary damages.

With respect to the Secretary-General’s appeal, the Appeals Tribunal vacated the UNDT decision that the ICTY Registrar had discretionary authority in matters of permanent appointment, holding that any legal instrument delegating authority must be read restrictively and that, in the instant matter, the memorandum in question made no mention of permanent appointments and, indeed, had other inherent and specific limitations. Although the Appeals Tribunal concluded that the decision-making authority was properly vested in the ASG/OHRM, it found that her adoption of a blanket policy of denial of permanent appointments to ICTY staff members failed to give effect to each candidate’s lawful entitlement to an “individual and a considered assessment before a permanent appointment could be granted or denied”. The Appeals Tribunal found that the staff members were discriminated against and the impugned decision was legally void, being tainted by arbitrariness and by the violation of the staff members’ rights of due process. The Appeals Tribunal rescinded the impugned decision and remanded the matter to the ASG/OHRM for consideration of retroactive conversion.

Insofar as the appeals filed by Malmström *et al.* were concerned, their pleas with respect to compensation ordered by the UNDT in lieu of specific performance were rendered moot, as the Appeals Tribunal had vacated the UNDT Judgment. The Appeals Tribunal awarded them compensation in the amount of EUR 3,000 each for moral damages, in view of the substantive due process breaches it had identified in the impugned decision-making process.

4. *Judgment No. 2013-UNAT-368 (17 October 2013): Roig v. Secretary-General of the United Nations*¹³

DEADLINE TO REQUEST MANAGEMENT EVALUATION—TIME BAR—COMMENCEMENT DATE OF THE TIME LIMIT—DISCRETION TO WAIVE THE DEADLINE FOR MANAGEMENT EVALUATION OR ADMINISTRATIVE REVIEW—IRRECEIVABILITY OF THE APPLICATION *RATIONE TEMPORIS*

On 1 July 2009, the Appellant applied for a P-4 level post in the Migration Section, Population Division, Department of Economic and Social Affairs (“DESA”). She was interviewed for the position in early 2010 but, on 29 October 2010, the Executive Officer of DESA informed her that she had not been selected. She had, however, been endorsed by the Central Review Board and was placed on a roster of candidates for future, similar vacancies.

On 17 December 2010, the Appellant became aware of the identity of the selected candidate, and, on 11 February 2011, she requested management evaluation of the selection on the grounds that the selected candidate did not meet the eligibility requirements listed in the vacancy announcement, thereby resulting in a breach of her rights as the selection process had not respected the applicable selection rules and procedures. On 23 March 2011, the Under-Secretary-General for Management advised the Appellant that, following management evaluation, the Secretary-General had decided to uphold the contested decision and, moreover, that her candidacy had been fully and fairly evaluated and that the selected candidate did indeed possess the required experience.

On 8 April 2011, the Appellant subsequently filed an application with the United Nations Dispute Tribunal (“UNDT”). In Judgment No. UNDT/2012/146, the UNDT agreed with the Secretary-General’s submission that the Appellant’s application was not receivable *ratione temporis*. The UNDT held that the impugned decision was that of 29 October 2010, when the Appellant learned she had not been successful; the fact that she learned the identity of the selected candidate some time later did not constitute a new administrative decision and did not re-start her deadline to request management evaluation. As such, the Appellant’s 60-day time limit had actually expired when she submitted her request for management evaluation on 11 February 2011 and she did not have the requisite extension of time from the Secretary-General pursuant to staff rule 11.2(c). Accordingly, the UNDT concluded “seeing that the initial request for management evaluation was time-barred it has no legal effect and the application before the [UNDT] is therefore not receivable”, pursuant to article 8 of the Statute of the Dispute Tribunal.

The Appellant appealed the Judgment of the UNDT to the Appeals Tribunal, arguing that the decisive date for the commencement of her time limit to seek management evaluation was the date on which she was informed of the identity of the selected candidate, i.e., 17 December 2010. The Appellant argued therefore that her request for management evaluation was timely and her application to the UNDT was receivable. She submitted that she was not contesting her non-selection but, rather, the fact that the successful candidate did not meet the minimum requirements for the post.

The Appeals Tribunal dismissed the Appellant’s appeal. It held that there was no second administrative decision which reset the time limit; rather, the Appellant learning the identity of the selected candidate was a consequence of the administrative decision not to

¹³ Judge Inés Weinberg de Roca, Presiding, Judge Sophia Adinyira and Judge Richard Lussick.

appoint her, of which she was notified on 29 October 2010. The Appellant did not submit a timely request for management evaluation of that decision. The Appeals Tribunal recalled that it “has been strictly enforcing, and will continue to strictly enforce, the various time limits”¹⁴ and that, pursuant to article 8(3) of its Statute, the UNDT has no discretion to waive the deadline for management evaluation or administrative review.

5. *Judgment No. 2013-UNAT-370 (17 October 2013): Bi Bea v. Secretary-General of the United Nations*¹⁵

SEPARATION FROM SERVICE DUE TO THE ABOLITION OF THE POST—COMPENSATION FOR THE NON-RENEWAL OF THE APPOINTMENT—COMPENSATION FOR MORAL INJURIES—EXECUTION OF THE JAB’S RECOMMENDATIONS—LIMITS OF THE UNDT’S POWER TO AWARD COSTS—IMPROPER USE OF THE PROCEEDINGS OF THE COURT

The Respondent (Applicant in the first instance) was a GL-7 level staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) from 4 February 1991 until 30 June 2004, when he was separated from service due to the abolition of his post. He subsequently served on a temporary assistance appointment in November and December 2004.

On 3 March 2005, UNHCR informed the Respondent that an investigation had been conducted concerning allegations against him, but that it had established no evidence of misconduct or criminal activity on his part. He had not previously been notified of such investigation. Thereafter, the Respondent sought reinstatement with UNHCR and, ultimately, appealed to the former Joint Appeals Board (“JAB”). In its report dated 13 May 2008, the JAB found that there appeared to be a link between the non-renewal of the Respondent’s appointment and the investigation, which had taken some fourteen months to conclude, and recommended compensation equivalent to six month’s net salary for the non-renewal of his appointment as well as three months net salary for moral injury.

On 8 September 2008, having received no response from the Secretary-General to the JAB report, the Respondent applied to the former United Nations Administrative Tribunal seeking the “execution” of the JAB’s recommendations. On 24 October 2008, however, the Secretary-General accepted the JAB’s findings and awarded him nine months’ net base salary. As a result, the Secretary-General submitted before the former Administrative Tribunal that the application was moot. The Respondent then filed additional observations in which he requested an additional six months’ salary in compensation, as well as costs.

The Respondent’s case was subsequently transferred to the United Nations Dispute Tribunal (“UNDT”) which, in Judgment No. UNDT/2012/150, denied his request for additional compensation on the grounds that the amount of compensation recommended by the JAB had been correctly paid, but awarded him interest for the Administration’s delay in implementing the JAB’s recommendations, as well as costs in the amount of CHF 5,000, for the Secretary-General’s “manifest abuse of the JAB proceedings”. This Judgment was appealed by the Secretary-General.

The Appeals Tribunal recalled that the UNDT’s power to award costs is limited by article 10(6) of the UNDT Statute to situations in which it determines that “a party has

¹⁴ See *Mezoui v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-043, para. 21.

¹⁵ Judge Richard Lussick, Presiding, Judge Inés Weinberg de Roca and Judge Rosalyn Chapman.

manifestly abused the proceedings before it” and that, in the absence of such abuse, each party bears its own costs.

The Appeals Tribunal rejected the Secretary-General’s argument that the UNDT erred in awarding costs for a manifest abuse of proceedings before the JAB as the Statute of the Dispute Tribunal (i.e., article 10(6) of the Statute) only provided authority to award costs for a manifest abuse of proceedings before the UNDT. The Appeals Tribunal rejected this argument, referring to the transitional provisions provided by way of article 2(7) of the Statute of the Dispute Tribunal.

The Appeals Tribunal concluded, however, that the UNDT erred in finding that the Secretary-General’s delay in responding to the JAB report constituted manifest abuse. On this issue, the Appeals Tribunal held that the delay between the transmission of the JAB report to the Secretary-General and his responding to it was not inordinate. Noting that a delay, in and of itself, was not a manifest abuse of proceedings, the Appeals Tribunal found that the UNDT had failed to determine on the evidence that the delay was “clearly and unmistakably a wrong or improper use of the proceedings of the court” and thus erred in law in making the impugned order for costs.

6. *Judgment No. 2013-UNAT-379 (17 October 2013): Andersson v. Secretary-General of the United Nations*¹⁶

PROMOTION—FAILURE TO COMPLY WITH THE PROCEDURE FOR COMPLETION OF THE PROMOTION EXERCISE—VICTIM OF A PROCEDURAL VIOLATION—RESCISSION OF THE DECISION NOT TO PROMOTE—ALTERNATIVE COMPENSATION—EVIDENCE OF MORAL HARM—CLAIM FOR MORAL DAMAGES

The Respondent (Applicant in the first instance) was a P-2 level staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) from November 2002 until November 2005 and was re-recruited in February 2006.

In July 2010, UNHCR staff members were advised of the promotions methodology applicable to the forthcoming 2009 annual promotions session, as established by the Appointments, Postings and Promotions Board (“APPB”). 35 slots were available for promotion from P-2 to P-3.

On 1 March 2011, the Respondent learned that he had not been promoted. He unsuccessfully introduced a recourse before the APPB and, following an equally unsuccessful request for management evaluation, he filed an application with the United Nations Dispute Tribunal (“UNDT”).

In Judgment No. UNDT/2012/164, the UNDT found that UNHCR had failed to adhere to the relevant procedure in completing the promotion exercise and that, if the relevant procedure had been followed, the Respondent would have had very high chances of being promoted. The UNDT thus ordered rescission of the decision not to promote him or, in the alternative, payment of CHF 10,000 “for the remuneration lost as a consequence of [his] non-promotion”. In addition, the UNDT awarded the Respondent CHF 4,000 for moral damages.

¹⁶ Judge Richard Lussick, Presiding, Judge Inés Weinberg de Roca and Judge Rosalyn Chapman.

The Secretary-General appealed the UNDT's award of moral damages to the Appeals Tribunal, on the basis that the UNDT erred in justifying both its award of alternative compensation of CHF 10,000 as well as its award of CHF 4,000 for moral damages on the same high likelihood of the Respondent's promotion. The Appeals Tribunal rejected the Secretary-General's argument, finding that the UNDT ordered moral damages for the reparation of an injury which was not compensated by the sum ordered in lieu of rescission of the impugned decision.

Insofar as the Secretary-General's claim that no evidence of moral harm had been demonstrated before the UNDT was concerned, the Respondent replied that he gave oral evidence to the UNDT of the harm to his professional reputation, injury to his dignity and moral harm suffered as a result of the impugned procedure. The Appeals Tribunal heard a recording of the UNDT oral hearing which, albeit of poor quality, left "no question that the Respondent gave evidence on the issue of moral damages". Moreover, the Appeals Tribunal was persuaded that "the particular circumstances of the case support the conclusion that the Respondent was the victim of a fundamental procedural violation which of itself [could have given] rise to an award of moral damages".

Holding that the UNDT was in the best position to conclude whether a claim for moral damages was established and that its award was moderate and within its discretion, the Appeals Tribunal affirmed the UNDT Judgment and dismissed the Secretary-General's appeal.

C. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL LABOUR ORGANIZATION¹⁷

The Tribunal rendered a total of 93 judgments in 2013 (43 in its 114th session and 50 in its 115th session). Summaries of a selection of fifteen judgments are reproduced herein.

¹⁷ The Administrative Tribunal of the International Labour Organization is competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of the staff regulations of the following international organizations that have recognized the competence of the Tribunal: International Labour Organization, including the International Training Centre; World Health Organization, including the Pan American Health Organization; United Nations Educational, Scientific and Cultural Organization; International Telecommunication Union; World Meteorological Organization; Food and Agriculture Organization of the United Nations, including the World Food Programme; European Organization for Nuclear Research; World Trade Organization; International Atomic Energy Agency; World Intellectual Property Organization; European Organisation for the Safety of Air Navigation (Eurocontrol); Universal Postal Union; European Southern Observatory; Intergovernmental Council of Copper Exporting Countries; European Free Trade Association; Inter-Parliamentary Union (IPU); European Molecular Biology Laboratory; World Tourism Organization; European Patent Organisation; African Training and Research Centre in Administration for Development; Intergovernmental Organisation for International Carriage by Rail; International Center for the Registration of Serials; International Office of Epizootics; United Nations Industrial Development Organization; International Criminal Police Organization (Interpol); International Fund for Agricultural Development; International Union for the Protection of New Varieties of Plants; Customs Cooperation Council; Court of Justice of the European Free Trade Association; Surveillance Authority of the European Free Trade Association; International Service for National Agricultural Research; International Organization for Migration; International Centre for Genetic Engineering and Biotechnology; Organisation for the Prohibition of Chemical Weapons; International Hydrographic Organization; Energy Charter Conference; International Federation of Red Cross and Red Crescent Societies; Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization;

1. *Judgment No. 3152 (6 February 2013): International Fund for Agricultural Development (IFAD) v. A.T.S.G.*¹⁸

A REQUEST FOR THE ADVISORY OPINION FROM THE ICJ DOES NOT IMPLY THE SUSPENSION OF THE EXECUTION OF A JUDGMENT—JUDGMENTS OF THE TRIBUNAL ARE FINAL AND WITHOUT APPEAL—COMPENSATION FOR THE MORAL INJURY CAUSED BY THE PROTRACTED FAILURE TO EXECUTE THE JUDGMENTS—IMPOSITION OF A PENALTY FOR FLAGRANT LACK OF GOODWILL TO HONOUR OBLIGATIONS

The Applicant was assigned to the Global Mechanism established within the framework of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification when her contract was not renewed, due to the abolishment of the post. In the first instance, by Judgment No. 2867, the Tribunal ordered the International Fund for Agriculture Development (“IFAD”) to pay the Applicant moral and material damages because the abolition was illegal.

In that context, the Tribunal confirmed its jurisdiction over the case, challenged by the IFAD on the grounds that the Global Mechanism, although housed by the IFAD, had its own separate legal identity. The IFAD decided to contest that judgment by availing itself of the option offered to international organisations by the provisions of article XII of the Statute of the Tribunal, which provided for the submission of an application to the International Court of Justice (“ICJ”) for an advisory opinion as to the validity of a decision of the Tribunal.

According to the Fund, there were several points on which the judgment could be impugned, either because it ruled on matters outside the Tribunal’s jurisdiction, or because it was tainted with fundamental faults in the procedure followed.

On 4 May 2010, relying on the fact that the case had thus been referred to the ICJ and that article XII conferred binding force on the latter’s advisory opinion, the IFAD submitted to the Tribunal an application “for the suspension of the execution of Judgment No. 2867”, by which it sought to be exempted from paying the sums awarded against it pending delivery of the judgment of the ICJ.

In Judgment No. 3003, delivered on 6 July 2011, the Tribunal dismissed this application, affirming that the request for an advisory opinion from the ICJ did not imply a

European and Mediterranean Plant Protection Organization; International Plant Genetic Resources Institute; International Institute for Democracy and Electoral Assistance; International Criminal Court; International Olive Oil Council; Advisory Centre on WTO Law; African, Caribbean and Pacific Group of States; the Agency for International Trade Information and Cooperation; European Telecommunications Satellite Organization; International Organization of Legal Metrology; International Organisation of Vine and Wine; Centre for the Development of Enterprise; Permanent Court of Arbitration; South Centre; International Organization for the Development of Fisheries in Central and Eastern Europe; Technical Centre for Agricultural and Rural Cooperation ACP-EU; International Bureau of Weights and Measures; ITER International Fusion Energy Organization; Global Fund to Fight AIDS, Tuberculosis and Malaria; and the International Centre for the Study of the Preservation and Restoration of Cultural Property. The Tribunal is also competent to hear disputes with regard to the execution of certain contracts concluded by the International Labour Organization and disputes relating to the application of the regulations of the former Staff Pension Fund of the International Labour Organization. For more information about the Administrative Tribunal of the International Labour Organization and the full texts of its judgments, see <http://www.ilo.org/public/english/tribunal/>.

¹⁸ Mr. Seydou Ba, President, Ms. Dolores M. Hansen and Mr. Patrick Frydman, Judges.

suspension of the judgment. It consequently ordered IFAD to pay the defendant costs in the amount of EUR 4,000. Notwithstanding that ruling, IFAD did not pay the sums awarded in both judgments. Instead, it asked the Applicant to provide, as a precondition for any payment, a bank guarantee against the risk of failure to reimburse those amounts were the ICJ to declare Judgment No. 2867 invalid.

These circumstances led the Applicant to file an application for the execution of both judgments with the Tribunal on 11 November 2011. In the meanwhile, in its advisory opinion rendered on 1 February 2012, the ICJ found that the Tribunal was indeed competent to hear the complaint filed against IFAD and that the decision given in Judgment No. 2867 was valid. On 9 February 2012, following the issuance of the ICJ opinion, IFAD paid the sums awarded in Judgments 2867 and 3003.

The Tribunal firstly affirmed that its sentences were “final and without appeal” and they were therefore “immediately operative”.¹⁹ The Tribunal subsequently noted that the principle that its judgments are immediately operative is also a corollary of their *res judicata* authority.²⁰ Furthermore, it pointed out that no provision in the Statute or the Rules of the Tribunal indicated that notwithstanding these principles the request for the ICJ’s advisory opinion had the effect to suspend the execution of the impugned judgment pending the rendering of that opinion.

The Tribunal noted that the Applicant suffered objective injury on account of the late payment, without interest, of the moral damages and costs previously recognized. The Tribunal qualified the IFAD’s unlawful conduct as extremely serious when, notwithstanding the dismissal of its application by the Tribunal in Judgment 3003, the Fund still refused to pay the various sums due to the complainant, behaving towards the latter with bad faith, until the Court had delivered its advisory opinion, thus flouting the *res judicata* authority of both Judgment 2867 and Judgment 3003 itself. It therefore awarded her that interest on the sums in question at a rate of 8 per cent per annum. As the Tribunal has often had occasion to state, international organisations have a period of 30 days, as from the notification of a judgment, to pay a sum awarded to a complainant where the amount of the award is specified by the Tribunal in its decision (see, for example, Judgments 1338, under 11, 1812, under 4, or 2692, under 6). As the latter condition was met with respect to the sums in question here, interest must run as from the day after the expiry of that period, i.e. 7 March 2010 for Judgment 2867 and 7 August 2011 for Judgment 3003, until the date of their payment, i.e. 9 February 2012. It also decided that the Applicant was entitled to compensation for the moral injury caused by the protracted failure to execute the judgments in the amount of EUR 50,000, having regard to the particularly serious nature of the moral injury. In addition, the flagrant lack of goodwill demonstrated by IFAD to honour its obligation justified the imposition of a penalty of EUR 25,000 for each month’s delay in the settlement of the awards. The Applicant received also EUR 3,000 for attorney’s fees.

¹⁹ See Judgment No. 82 (10 April 1965), paragraph 6 of the considerations; Judgment No. 553 (30 March 1983), paragraph 1 of the considerations; Judgment No. 1328 (31 January 1994), paragraph 12 of the considerations.

²⁰ See Judgment No. 553 (30 March 1983), paragraph 1 of the considerations; and Judgment No. 1328 (31 January 1994), paragraph 12 of the considerations.

2. *Judgment No. 3156 (6 February 2013): A.B. and C.S. v. International Telecommunication Union (ITU)*²¹

BODIES RESPONSIBLE FOR DEFENDING INTERESTS OF INTERNATIONAL ORGANIZATIONS' STAFF MEMBERS BEFORE THE ADMINISTRATION ENJOY BROAD FREEDOM OF SPEECH AND FREEDOM OF COMMUNICATION—RIGHTS TO FREEDOM OF SPEECH AND TO FREEDOM OF COMMUNICATION DO NOT ENCOMPASS ACTION THAT IMPAIRS THE DIGNITY OF THE INTERNATIONAL CIVIL SERVICE—LAWFULNESS OF A MECHANISM FOR THE PRIOR AUTHORISATION OF MESSAGES

In 2009 the Applicants were elected to the International Telecommunication Union (“ITU”) Staff Council, the body responsible for representing the interests of the staff before the Secretary-General and his representatives. From September 2009 to May 2010, the Staff Council circulated to all ITU’s staff members two messages in which it criticised the Administration’s decision to suspend, and later to dismiss, a grade G-5 staff member. The Chief of the Administration and Finance Department, having previously communicated a decision to suspend the ability of the Staff Council to send e-mails to all staff, given that, in his view, this communiqué breached the requisite confidentiality of the administrative investigation which had been opened in order to decide what action was to be taken, considered these initiatives an abuse by the Council of its freedom of expression, and, consequently, he informed the ITU’s personnel by an e-mail of 7 May 2010 that he had decided “to again suspend [its] ability to send e-mails to all staff”. This decision led most of the members of the Staff Council, including the two complainants, to resign in protest and, as a result, in a new e-mail of 21 May 2010, the Chief of the Administration and Finance Department informed the staff that there was no point in continuing the investigation and that he had decided to reinstate the e-mail “privilege” of the remaining Staff Council members.

On 18 June 2010 the two Applicants submitted a claim for compensation to the Secretary General for the injuries they suffered as a result of the decisions to censor the Council’s messages to staff members, violating the right of staff representation. This was rejected a first time on 3 September 2010 and, after the failure of the review procedure, a second time on 25 November 2010. Having retired on 30 September 2010, the Applicants impugned the decisions directly before the Tribunal, given that under the ITU’s Staff Regulations and Staff Rules they no longer had access to the internal appeal procedures, as affirmed in Judgment No. 2892.²² The Tribunal joined the two applications because they were based upon identical submissions.

Turning to the merits of the case, the Tribunal referred to its previous case-law,²³ which showed that bodies of any kind which are responsible for defending the interests of international organisations’ staff must enjoy broad freedom of speech and, consequently, freedom of communication. This principle, in the view of the Tribunal, was pertinent also

²¹ Mr. Seydou Ba, President, Ms. Dolores M. Hansen and Mr. Patrick Frydman, Judges.

²² See, in this connection, Judgment No. 2840 (8 July 2009), paragraph 21 of the considerations; Judgment No. 3074 (8 February 2012), paragraph 13 of the considerations.

²³ See Judgment No. 496 (3 June 1982), paragraph 37 of the considerations; Judgment No. 911 (30 June 1988), paragraph 8 of the considerations; Judgment No. 1061 (29 January 1991), paragraph 3 of the considerations. See, with regard to staff unions or associations, Judgment No. 1547 (11 July 1996), paragraph 8 of the considerations, and, with regard to a staff committee, Judgment No. 2228 (16 July 2003), paragraph 11 of the considerations.

to the Staff Council of the ITU as the authority responsible to represent the interests of the staff before the administration.²⁴

However, it pointed out that these liberties are subject to reservations aimed to avoid prejudices to the dignity of the international civil service and, in particular, damage to the individual interests through allusions that are malicious, defamatory or which concern private lives. Accordingly, the Tribunal's case law allowed the setting-up of a mechanism for the prior authorisation of messages circulated by bodies representing the staff. An organisation acts unlawfully only if the conditions for implementing this mechanism in practice lead to a breach of that right, for example, by an unjustified refusal to circulate a particular message.

Applying this interpretation to the instant case, the Tribunal concluded that the decisions to censor the Council's messages to staff members could not be deemed unlawful in themselves. Indeed, the written submissions did not refer to any actual refusal to distribute other Staff Council documents during the period in which the restrictions were in force. Further, the messages had a malicious character because they were brought to the attention of all the staff members without the persons concerned being able to refute them. The Tribunal dismissed the applications.

3. *Judgment No. 3159 (6 February 2013): M.F. v. World Health Organization (WHO)*²⁵

OBLIGATIONS OF THE ORGANIZATION TOWARDS STAFF MEMBERS FOLLOWING THE ABOLITION OF THE POST—THE ORGANIZATION'S DUTY TO USE REASONABLE EFFORTS TO REASSIGN A STAFF MEMBER APPLIES ONLY IN CASE OF FIXED TERM APPOINTMENT—CLEAR EVIDENCE IS REQUIRED TO DEMONSTRATE THAT SHORT-TERM CONTRACTS ARE ADOPTED AS DEVICE TO DENY STAFF MEMBERS THE PROTECTION OF AN OTHERWISE APPLICABLE RULE

Since 1992, the Applicant had been employed with the World Health Organization ("WHO") Regional Office for Europe ("EURO") through a series of short-term appointments. Following a previous communication to the Applicant from his first level supervisor and the Administration, by a letter dated 22 September 2008, the Director of the Division of Country Health Systems notified him of the abolition of his post. Subsequently, before the end of his service, he was encouraged to apply for any other positions he felt matched his qualifications.

Against this decision, the Applicant filed a notice of intention to appeal firstly with the Regional Board of Appeal ("RBA") on 19 November 2008 and then with the Headquarters Board of Appeal ("HBA") on 6 October 2009. He alleged personal prejudice, incomplete consideration of the facts and failure by the Administration to observe or apply correctly the provisions of the Staff Regulations or Staff Rules. Although the HBA found that EURO acted within its authority in deciding to abolish the post, it stated that the Administration could have included the Applicant in a reassignment process at its discretion. Further, the

²⁴ This case law, which was originally established with regard to staff unions or staff associations and their officials (see Judgments 496, under 37, 911, under 8, or 1061, under 3), also applies to bodies like the Staff Council of the ITU which are responsible for representing the interests of the staff before the administration of the organisation (See Judgment No. 2227 (16 July 2003), paragraph 7 of the considerations).

²⁵ Mr. Seydou Ba, President, Ms. Dolores M. Hansen and Mr. Michael F. Moore, Judges.

HBA was of the opinion that the use of short breaks of only one or two weeks between periods of service was insufficient to set the short-term contracts apart from a fixed term appointment in terms of continuity.

By a letter of 24 May 2010, the Director General informed the Applicant that he agreed with the HBA findings solely concerning the legality of the abolition of post. On the contrary, he did not share the remaining HBA conclusions and suggested the Applicant dismiss the appeal in order to receive a sum equal to the cost of the travel to present the case before the HBA. The Applicant appealed this decision to the Tribunal.

The Tribunal firstly determined that the wording of staff rule 1050.2 was clear enough to conclude that the duty to use reasonable efforts to reassign a staff member after the abolition of his post applied only in the case of a fixed term appointment, where the concerned staff member had served for a “continuous and uninterrupted” period of five years.

Further, the Tribunal observed that there was no evidence to support the HBA’s conclusions that the Organization adopted the short-term contracts as a device to deny the Applicant the protection of an otherwise applicable rule.²⁶ There was nothing in the history of the Applicant’s earlier employment on short-term contracts to suggest that the arrangement was anything other than a manifestation of the intention of the parties, or that they did not constitute agreements freely entered into by them. In summation, the Tribunal reached the conclusion that the WHO was not under a duty to take reasonable steps to reassign the Applicant. Accordingly, the application was dismissed.

4. *Judgment No. 3163 (6 February 2013): M.Z. v. International Organization for Migration (IOM)*²⁷

POWER NOT TO RENEW A FIXED-TERM CONTRACT REPRESENTS A LEGITIMATE EXERCISE OF THE ADMINISTRATION’S DISCRETIONARY AUTHORITY—ABOLITION OF POSITION FOR LACK OF FUNDING DOES NOT INVOLVE AN ERROR OF LAW—NOTICE TO THE EMPLOYEE ABOUT THE NON-RENEWAL OF THE FIXED-TERM CONTRACT—COMPENSATION FOR LOSS OF OPPORTUNITY

The Applicant was employed by the International Organization for Migration (“IOM”) in 2004 in a grade P-2 position as an Associate Expert/Programme Officer. Her position was funded by the Italian Government up until January 2007. In early 2009, she requested that her fixed-term contract be converted into a “regular” contract under IOM Staff Regulations and Staff Rules. As the Staff Regulations and Staff Rules required one year of funding for a “regular” contract, the Applicant was informed by an e-mail that her request was not possible. However, the author of the e-mail added that “as soon as the funding is warranted for the whole year, we will process the regular contract”. In October 2009, the Applicant was informed that her post would not be renewed and that the position would be abolished for lack of funding.

In late 2009, the Applicant applied to two positions in IOM where vacancy notices were issued: one at grade G-6 and the other at grade P-2. She was not shortlisted for the grade G-6 position and was informed by the Regional Resource Management Office that “as advised by HQ it is not considered to be a good practice to have P staff applying to

²⁶ See also Judgment No. 1385 (1 February 1995).

²⁷ Mr. Seydou Ba, President, Mr. Giuseppe Barbagallo and Mr. Michael F. Moore, Judges.

G staff positions”. With respect to the grade P-2 position, the Applicant was shortlisted and interviewed but was eventually unsuccessful.

In January 2010, the Applicant requested a review of: (i) the decision to abolish her post, (ii) the decision not to shortlist her for the grade G-6 position, and (iii) the decision to “put on hold” the awarding of a regular contract. Having received no reply within the 30-day period stipulated in Annex D to the Staff Rules, the Applicant lodged an appeal with the Joint Administrative Review Board (“JARB”). The JARB subsequently concluded that the non-renewal of her contract and the refusal to grant her a regular appointment were lawful. However, the JARB considered that her rights might have been prejudiced as the grade G-6 position “appeared to have been under-graded and her candidature ought not to have been excluded on the grounds that she was overqualified”. Accordingly, the JARB recommended that the Applicant be awarded three months’ salary at grade G-6 level in compensation. The Director General approved the JARB’s recommendation on 31 August 2010. The Applicant impugned the decision before the Tribunal.

The Applicant contended that the decision not to renew her contract was tainted with error of fact and error of law, insofar as, respectively, there was no real lack of funding and the Administration did not take into account any alternative sources of funding. According to the Applicant, there were also procedural irregularities, since she was not given the required three-month notice, and ambiguities in the selection of the G-6 position, since the vacancy was deliberately downgraded to render her ineligible for it.

Firstly, the Tribunal pointed out that the power not to renew a fixed-term contract represented a legitimate exercise of the Administration’s discretionary authority. Therefore, it observed that “it is unnecessary to descend into greater detail about whether funds were or were not available to fund the complainant’s position beyond the beginning of 2010”. On the contrary, the Applicant should have demonstrated that the competent body acted on some wrong principle, breached procedural rules, overlooked some material fact or reached a clearly wrong conclusion in order to challenge its discretionary powers.²⁸ Similarly, the Tribunal found that the Applicant’s argument, according to which there was a “dubious interpretation of accepted standards for abolitions of posts on budgetary grounds”, did not involve an error of law.

The Tribunal then observed that the period of notice given to the Applicant was reasonable, considering also the extension of the Applicant’s contract until 31 January 2010. Regarding the claim against the improper classification of the G-6 position and the rejection of the complainant’s candidature for that post, the Tribunal was of the opinion that the decision not to nullify the selection was correct, considering that the position had been filled. It also considered that the amount of compensation awarded for the loss of the opportunity was reasonable. For the above reasons, the application was dismissed.

²⁸ See Judgment No. 1044 (26 June 1990), paragraph 3 of the considerations; Judgment No. 1262 (14 July 1993), paragraph 4 of the considerations; and Judgment No. 2975 (2 February 2011), paragraph 15 of the considerations.

5. *Judgment No. 3182 (6 February 2013): M.H. v. International Labour Organization (ILO)*²⁹

DISCRETIONARY POWER OF THE DIRECTOR-GENERAL TO MAKE APPOINTMENTS—TECHNICAL PANELS PROVIDE THE FOUNDATION FOR OBJECTIVE ASSESSMENT—PRINCIPLES OF EQUALITY, IMPARTIALITY AND TRANSPARENCY—PRIORITY GIVEN TO APPLICATIONS OF TRANSFER OVER CLAIMS TO PROMOTION APPLIES ONLY WHERE THE QUALIFICATIONS OF THE APPLICANTS ARE EQUAL—ANTI-UNION DISCRIMINATION

Since 2001, the Applicant had been working as Legal Officer at grade P-3 in the International Labour Standards Department (“NORMES”), serving also as General Secretary of the Staff Union Committee from December 2008. In October 2009, she successfully passed the examinations for the position of grade P-4 in the conditions of Work and Employment Programme. In particular, the technical panel unanimously ranked the Applicant first, among three candidates, and consequently recommended her appointment to the Director-General.

In November 2009, the Director-General decided instead to appoint an internal candidate who was ranked third by the panel, and who already held a grade P-4. On 30 November, the Applicant was informed that she had not been selected.

On 12 February 2010, the Applicant submitted a grievance to the Joint Advisory Appeals Board alleging that the Director-General’s decision was tainted, *inter alia*, with errors of fact and law as well as misuse of authority. In its report dated 10 May 2010, the Board found that the Director-General had complied with the requirements of the Staff Regulations and accordingly dismissed the Applicant’s grievance. By a letter dated 12 July 2010, the Applicant was informed of the Director-General’s decision to dismiss her grievance as unfounded, in accordance with the Board’s recommendation.

The Applicant impugned that decision before the Tribunal, alleging that the Director-General’s decision to appoint the third-ranked candidate was an error of law as she was ranked as the best qualified candidate and should therefore have been appointed in accordance with article 4.2(a)(i) of the Staff Regulations. The Applicant further argued that the decision was based on an erroneous application of article 4.2(g) of the Staff Regulations, submitting that the priority established by that article applied only if the third-ranked candidate possessed qualifications that were at least equal to those of another internal candidate seeking a promotion. Lastly, she claimed that she was the victim of anti-union discrimination and that the Director-General misused his authority in appointing the third-ranked candidate.

The Tribunal firstly held that the Director’s reassessment of the candidates and the consequent change of the conclusions reached by the technical panel were not consistent with the proper procedure for the filling of the vacancies. According to its case-law,³⁰ “technical panels provide for the safeguards of the complete transparency and impartiality and provide the foundation for objective assessment”. Therefore, any exception to this rule should have been clearly expressed. The Tribunal concluded that the generic provisions of

²⁹ Mr. Giuseppe Barbagallo, President, Ms. Dolores M. Hansen and Mr. Michael F. Moore, Judges.

³⁰ Judgment No. 2083 (30 January 2002), paragraphs 9 and 10 of the considerations.

priority given to applications of transfer over claims to promotion applied only where the qualifications of the applicants were equal.³¹

The Tribunal found that no persuasive evidence was produced by the Applicant on the alleged discrimination carried out by the Administration against her due to her involvement in the Staff Union Committee. In the light of the above, the Tribunal set aside the impugned decision and cancelled the disputed appointment. It awarded moral damages in the amount of EUR 5,000 and costs in the amount of EUR 700 to the Applicant. It further required the ILO to shield the third-ranked candidate from any injury which might result from the cancellation of the appointment. The case was remitted to the Director-General for a new decisions in accordance with the considerations in the judgment.

6. *Judgment No. 3188 (6 February 2013): H.S. v. International Atomic Energy Agency (IAEA)*³²

FAILURE TO PROVIDE IN A TIMELY MANNER AN UPDATED JOB DESCRIPTION REPRESENTS A BREACH OF THE APPLICANT'S RIGHTS TO BE COMPENSATED—IN THE ABSENCE OF CLEAR EVIDENCE SUGGESTING THAT THE RECRUITMENT PANEL WAS LED INTO FACTUAL ERROR THE SELECTION PROCESS CANNOT BE REVIEWED—BREACH OF THE DUTY OF CARE OCCASIONED BY EGREGIOUS DELAYS IN ADDRESSING THE INTERNAL APPEALS

Since 1984, the Applicant had been employed with the International Atomic Energy Agency (“IAEA”) as a Clerk/Typist at level G-4 within the Division of Operations C, in the Department of Safeguards (“SGOC”). In the period from September 2001 to March 2008, she served as a Senior Office Clerk at grade G-5 under the supervision of the Director of the Division of Concepts and Planning (“SGCP”). The Applicant had made several formal requests for an updated job description since March 2004, and only received the revised job description in December 2008. The Applicant contended that the egregious delays in providing her with an updated job description lost her an opportunity for promotion during that period, including her unsuccessful application for the grade G-6 position of Administrative Assistant in the Section for Safeguards Programme and Resources (SG-CPR).

On being informed of not being selected for the G-6 post, the Applicant requested an immediate transfer, possibly at the same grade, anywhere in the SG-CPR but outside the SGCP. In parallel, the Applicant filed two consecutive appeals with the Joint Advisors Appeals Board (“JAB”), alleging procedural irregularities and challenging the IAEA’s failure to update her job description in a reasonable period of time. Following the Director’s decision to transfer the Applicant from a G-5 position to a G-4 position in April 2008, she filed a third application with the JAB. Since the JAB recommended confirming the three challenged decisions, the Applicant brought an application before the Tribunal against the Director General’s decision to endorse the JAB’s findings.

The Applicant argued firstly that the substantial delays in providing her with an updated job description implied a loss of opportunity for promotion during that period. The

³¹ Judgment No. 1871 (8 July 1999), paragraph 10 of the considerations; Judgment No. 2833 (8 July 2009), paragraph 6 of the considerations; and Judgment No. 3032 (6 July 2011), paragraph 14 of the considerations.

³² Mr. Giuseppe Barbagallo, President, Ms. Dolores M. Hansen and Mr. Michael F. Moore, Judges.

Applicant stated that the selection panel could not have made a fair evaluation of her qualifications because it was based upon duties and responsibilities she no longer performed. She also contended that the transfer was taken *ultra vires*, because it was not authorized as per Staff Regulation 10.2 by the competent body (i.e. the Director), arguing also that this was implemented as retaliation for her appeals with the JAB.

Accordingly, she asked for moral and material damages due to the IAEA's breach of duties of care, good faith and mutual trust, considering also that the internal proceedings to reply to her requests were conducted with considerable delays and without the required due diligence. She also contested the selection choices to consider candidates who did not meet the minimum requirements and to accept late applications. In this regard, she requested the disclosure of the documents relating to the recruitment process.

The Tribunal initially found that "egregious delay in responding to a reasonable request might involve a breach of the obligation to deal with the staff member in good faith". Therefore, the IAEA's failure to provide the Applicant with an updated job description over several years represented a breach of her rights to be compensated. Reaching the same conclusions concerning the IAEA's delays in the internal proceedings, the Tribunal pointed out how the Organization had not, in any substantial way, even sought to justify such delays.³³

With reference to the Applicant's claim to review the selection process, the Tribunal confirmed its restrained approach in this respect, arguing that:

"[I]n the absence of any evidence which suggests that the recruitment panel or subsequently the JAB was led into factual error by a dated job description, it would be inappropriate to view the selection decision as compromised in the way the complainant suggests. This is particularly so given that she was interviewed for the position and does not now contend she was asked questions or engaged in dialogue which manifested a misunderstanding on the part of the recruitment panel of the work she was then doing or her skills and attributes."

Turning to the Applicant's challenge on the transfer decision, the Tribunal noted that it was made to meet the Applicant's request and steps were being taken to ensure that the position had the characteristics of a G-5 grade. Finally, in dealing with the disclosure request, the Tribunal found that the Applicant was unable to provide any evidence suggesting that such documentation might be probative for the case. Ultimately, the Tribunal awarded EUR 5,000 for the delays in the internal review and for the IAEA's failure to update the Applicant's job description in a reasonable period of time. It also awarded EUR 2,000 in costs while dismissing the remaining arguments.

³³ Judgment No. 2522 (1 February 2006), paragraph 7 of the considerations.

7. *Judgment No. 3192 (6 February 2013): E.P.-M. v. World Health Organization (WHO)*³⁴

IMPLIED REJECTION UNDER ARTICLE VII, PARAGRAPH 3, OF THE TRIBUNAL'S STATUTE—FORWARDING OF THE CLAIM TO THE ADVISORY APPEAL BODY CONSTITUTES A DECISION UPON THE CLAIM UNDER ARTICLE VII, PARAGRAPH 3, OF THE TRIBUNAL'S STATUTE—FAILURE TO EXHAUST THE INTERNAL APPEAL PROCEDURE—CHARGE OF HARASSMENT MUST BE SUPPORTED BY SPECIFIC FACTS—BURDEN OF PROVING HARASSMENT FALLS ON THE APPLICANT

Since 1996, the Applicant had been employed with the World Health Organization (“WHO”). Following a successful application, she began her functions as Advisor, Human Resources for Health, in the Systems Strengthening for HIV (“SSH”) Unit of the HIV/AIDS Department, at the WHO Headquarters. Referring to various incidents, in October 2008 she reported to her first level supervisor (Mr. P.) that she felt “attacked and harassed” by the Team Leader of the Integrated Management of Adult and Adolescent Illness in HIV (Ms. G.).

As a result of restructuring, she was informed, at a meeting held in September 2009, that her post would be abolished with effect from March 2010 on the grounds that human resources planning was no longer a priority within the HIV/AIDS Department. In this regard, she filed an application with the Headquarters Board of Appeal (“HBA”). In October 2009, she also submitted a formal complaint of harassment against both Mr. P and Ms. G. to the Headquarters of Grievance Panel. In its report dated 16 March 2010, the Grievance Panel concluded that none of the Applicant’s allegations could be upheld. By letter dated 16 April 2010, the Director-General informed the Applicant about her decision to follow the Panel’s recommendations as “no evidence of harassment was found”. The Applicant appealed this decision before the Tribunal.

Considering that the Applicant’s complaint with the HBA was still pending at the time of her appeal with the Tribunal, she asked to join the two applications. In her view, since no action had been taken by the Administration on her claim regarding the abolition of the post, it would be possible to consider the internal appeal before the HBA implicitly rejected under article VII, paragraph 3, of the Tribunal’s Statute, which provided that:

“[W]here the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it, the person concerned may have recourse to the Tribunal and his complaint shall be receivable in the same manner as a complaint against a final decision. The period of ninety days provided for by the last preceding paragraph shall run from the expiration of the sixty days allowed for the taking of the decision by the Administration.”

The Tribunal, however, concluded that all claims regarding the abolition of the post were irreceivable because, as stated in Judgment No. 2948, “the forwarding of the claim to the advisory appeal body constitutes a ‘decision upon [the] claim’ within the meaning of these provisions, which is sufficient to forestall an implied rejection”.³⁵

Turning to the allegation of harassment, the Tribunal held that the Applicant did not provide any factual evidence to counter the Grievance Panel findings. With respect to this

³⁴ Mr. Giuseppe Barbagallo, President, Ms. Dolores M. Hansen and Mr. Michael F. Moore, Judges.

³⁵ Judgment No. 532 (18 November 1982); Judgment No. 762 (12 June 1986); Judgment No. 786 (12 December 1986); Judgment No. 2681 (6 February 2008); and Judgment No. 2946 (8 July 2010), paragraph 7 of its considerations..

issue, the Tribunal had consistently affirmed that any allegation of harassment should be supported by specific facts and the burden of proving the contested conduct falls on the Applicant.³⁶ Similarly, the Tribunal noted that “consistent case law holds that harassment and mobbing do not require malice or intent, but that behaviour cannot be considered as harassment or mobbing if there is a reasonable explanation for it”.³⁷

The Applicant also challenged the Grievance Panel’s refusal to consider her written comments on the replies of Mr. P and Ms. G. and the report of her treating physician. The Tribunal noted that there were no reasons to accept such a report once the proceedings had been closed. The Applicant submitted her harassment application with annexes and added, at a later stage, two letters, which were both accepted by the Grievance Panel. The Tribunal held that allowing continuous additional submissions from either party would only serve to slow down and confuse the appeal process.

Concerning the Applicant’s contention that the legal advisor coordinating the Panel was biased by his alignment with the Organization, the Tribunal observed that this was not supported by any proof. The Tribunal applied to the case the conclusions of consistent case-law,³⁸ where it held that:

“[A]lthough evidence of personal prejudice is often concealed and such prejudice must be inferred from surrounding circumstances, that does not relieve the complainant, who has the burden of proving his allegations, from introducing evidence of sufficient quality and weight to persuade the Tribunal. Mere suspicion and unsupported allegations are clearly not enough, the less so where ... the actions of the Organization which are alleged to have been tainted by personal prejudice are shown to have a verifiable objective justification.”

Regarding the allegations that the Mr. P. harassed the Applicant insofar as he ordered her to perform tasks and criticised her work in public, the Tribunal found that the role of a supervisor included the responsibility to direct her work, request work-related actions and/or to comment on what she was working on, and there was no evidence that this was done in a humiliating manner. In view of the foregoing, the Tribunal dismissed the application.

8. *Judgment No. 3200 (4 July 2013): A.A. v. Food and Agriculture Organization of the United Nations (FAO)*³⁹

INVESTIGATION ON ABUSE OF AUTHORITY AND ON HARASSMENT CONDUCTS—EGREGIOUS DELAYS IN THE INVESTIGATION AND IN ADDRESSING THE INTERNAL PROCEEDINGS REPRESENT A VIOLATION OF THE ORGANIZATION’S DUTY OF CARE—STAFF MEMBER’S RIGHT OF DUE PROCESS TO KNOW THE NAME OF THE ACCUSER AND THE ALLEGATIONS—CONFLICT OF INTEREST DURING THE INVESTIGATION

The Applicant was recruited by the World Food Programme (“WFP”) in 1989 under a fixed-term appointment at grade G-2. After a series of promotions, she reached the level

³⁶ See Judgment No. 2370 (14 July 2004), paragraph 9 of the considerations and the case-law cited therein.

³⁷ See Judgment No. 2524 (1 February 2006), paragraph 25 of the considerations; and Judgment No. 2587 (7 February 2007), paragraph 8 of the considerations.

³⁸ See Judgment No. 1775 (9 July 1998), paragraph 7 of the considerations.

³⁹ Mr. Giuseppe Barbagallo, President Ms. Dolores M. Hansen and Mr. Michael F. Moore, Judges.

P-3 and in 2004 she was reassigned to the WFP's Country Office for Somalia as a Finance Officer at the same grade. Following a harassment complaint made by a former staff member in early 2007, she was subject to an investigation by the Office of Inspections and Investigations ("OSDI"). The OSDI found that the Applicant had abused her authority and had violated the WFP's policy on the Prevention of Harassment.

By a memorandum of 26 January 2009, the Director of the Human Resources Division informed the Applicant that, having reviewed the comments on the OSDI's report, the Administration had decided to impose the disciplinary measure of demotion to grade P-2, with no possibility of promotion for one year. Against this decision, the Applicant filed an appeal with the Appeals Committee of the FAO. The Applicant alleged conflict of interests on the part of the Chief of the OSDI, requesting relief from the investigation as well as additional damages for physiological and emotional harm due to delay in the internal proceedings and to breach of confidentiality during the OSDI's investigation.

The Appeals Committee recommended reversal of the demotion decision with retroactive effect from 1 March 2009, payment to the Applicant of the resulting difference in salary and allowances, and removal of the harassment complaint from her personnel file, while rejecting her remaining claims. The Director General of the FAO decided not to accept the Committee's recommendations and rejected the Applicant's complaints. In particular, he noted that, in examining the conduct of the investigation, the Committee erred in law by making recommendations on claims that the Applicant had not raised during the Appeal. The Applicant appealed this decision before the Tribunal.

The Tribunal initially found that, "although the case was complex and detailed, and the subject matter sensitive, the time taken to complete the proceedings was indeed excessive". The Tribunal noted in particular that it took OSDI ten months to bring the investigation to a conclusion following the interviews, and it took the Director-General seven months to reject the appeal after receiving the Appeals Committee Report. It concluded that the total length of the proceedings could not be considered reasonable and thus, the Organization did not respect the need for expeditious proceedings and violated its duty of care towards the Applicant.

The Tribunal then turned to the Applicant's arguments that the investigation procedure was unlawful because she was not informed before the interview about either the allegations against her or about the name of the accuser. It observed that, although paragraph 5.2 of the OSDI Quality Assurance Manual contemplated that the release of such information might be inappropriate if it compromised the integrity of the investigation, there was no suggestion in the present complaint that this was the case. The tribunal found that the standard of process applicable in the case at the investigation stage was flawed thereby tainting the process leading to the ultimate decision.

Lastly, with reference to the allegation of conflict of interest against the Chief of the OSDI, the Tribunal considered that his appointment as the Applicant's supervisor could not have affected a decision which was taken before this point and in any event the supervisor was not responsible for the decisions taken. On this issue, the Tribunal dismissed the Applicant's claim on the merits.

Considering the above, the Tribunal set aside the decision to demote the Applicant with effect from 1 March 2009 and it ordered FAO to pay the Applicant the difference in all relevant salaries and entitlements retroactively to 1 March 2009, with an interest rate

of 5 per cent per annum. It awarded the Applicant EUR 4,000 for moral damages for the inordinate delays in the investigation and internal appeal proceedings, and for the flawed investigation process and an additional EUR 4,000 for attorney's fees.

9. *Judgment No. 3203 (4 July 2013): A.J.H.B. v. International Telecommunication Union (ITU)*⁴⁰

STAFF MEMBERS ARE NOT ENTITLED TO EMPLOYMENT BENEFITS ON THE BASIS OF A SPOUSAL RELATIONSHIP WITH SAME-SEX MARRIAGE UNDER STAFF REGULATIONS AND RULES—SAME-SEX RECOGNITION IS A MATTER NOT JUSTICIABLE BEFORE THE TRIBUNAL—THE ITU COUNCIL IS FREE TO DECIDE WHETHER TO AMEND REGULATIONS AND RULES

The Applicant was recruited by the International Telecommunication Union ("ITU") in 2001. Before the termination of his employment on his initiative in October 2009, he had been asking the ITU to recognise his Civil Solidarity Contract under French Law, for the purposes of the various employment benefits, as well as same-sex relationships more generally. The Applicant pursued these objectives through two different applications, leading towards Judgment No. 2643 and Judgment No. 2826, respectively.

In Judgment No. 2643, the Tribunal concluded that the Applicant was not entitled to the benefits he claimed under the Staff Regulations and Staff Rules in force. However, on the basis of the Appeal Board's report, it referred the case back to the ITU's Council for a reasoned decision on the action to be taken in order to amend the pertinent Staff Regulations and Staff Rules on domestic partnerships' recognition. In application of the principle of *res judicata*, the Tribunal dismissed also the complaints set out in Judgment No. 2826, observing that Judgment No. 2643 had been already executed by the Secretary-General through the referral of the matter to the ITU's Council. In April 2010, the ITU's Council decided not to amend the relevant Staff Regulations and Staff Rules. This was the decision that the Applicant appealed before the Tribunal.

The Tribunal firstly held that the matter of same-sex marriage recognition was not justiciable before it. In particular, the ITU's Council was free to decide whether to amend the Staff Rules and Regulations and the Tribunal had no authority to compel a different action.⁴¹ Secondly, it observed that, although dissenting opinions filed by individual judges had in the past supported the idea that staff rules denying access to dependency benefits to same-sex partners were unenforceable because they violated fundamental principles of law,⁴² the Applicant's attempt to assert such rights were finally rejected by the Tribunal in Judgment No. 2643. Therefore, the application was dismissed.

⁴⁰ Mr. Giuseppe Barbagallo, President, Ms. Dolores M. Hansen and Mr. Michael F. Moore, Judges.

⁴¹ Judgment No. 1118 (3 July 1991), paragraph 10 of the considerations.

⁴² See, for example, Judgment No. 2193 (3 February 2003), dissenting opinion of Mr. James K. Hugessen, Judge.

10. *Judgment No. 3206 (4 July 2013): A.M.K. v. World Intellectual Property Organization (WIPO)*⁴³

CANCELLATION OF A POSITION—CAUSE OF ACTION IN SEEKING THE SETTING ASIDE OF THE DECISION TO GIVE A POST TO ANOTHER CANDIDATE—THE COMPLAINT IS NOT MOOT IF THE DECISION HAS BEEN IMPLEMENTED AND PRODUCED LEGAL EFFECTS—RECRUITMENT BASED UPON COMPETITION—EXCEPTIONS TO THE PRINCIPLE OF RECRUITMENT BASED UPON COMPETITION ARE ALLOWED ONLY IN SPECIFIC CASES AND WITH A PROPER JUSTIFICATION

The Applicant joined the World Intellectual Property Organization (“WIPO”) in April 1998 at grade P-5, as Deputy Director of the Cooperation for Development Bureau for Arab Countries. In 2005, he unsuccessfully applied for a position of Director of the Economic Development Bureau for Arab Countries at grade D-1. Following two consecutive applications, he obtained from the Tribunal⁴⁴ the cancellation of the contested appointment because the selected external candidate (Mrs. H.) did not meet one of the conditions stipulated in the vacancy announcement. The Tribunal required also the WIPO to hold a new application procedure, specifying that Mrs. H., who accepted the appointment in good faith, had to be shielded from any injury which might result from its cancellation.

In order to give effect to the judgment, Mrs. H. was firstly appointed to a grade D-1 position in the Office of the Deputy Director General, and then to a grade D-2 as Senior Project Director in the Coordination Sector for External Relations, Industry, Communications and Public Outreach, in both cases without a competitive process of application. Considering the appointment to a D-2 position unlawful, the Applicant challenged this second outcome through the internal appeal procedures provided for in Chapter XI of the Staff Regulations and Rules.

Endorsing the recommendations of the Appeal Board by a decision dated 2 December 2010, while admitting that the Mrs. H’s transfer from a D-1 grade to a D-2 grade was unlawful, the Director-General indicated that such statement did not have any effect on Mrs. H’s administrative and legal situation. The Applicant challenged this decision, alleging in particular that the assignment of Mrs. H. to a D-2 position constituted a misuse of authority and contravened the Tribunal’s case law.

In response to the WIPO’s objections regarding the irreceivability of the complaint, because the Applicant had no cause in the action and because the claims had become moot since Mrs. H. separated from WIPO, the Tribunal held that “any staff member who is eligible to occupy a post has a cause of action in seeking the setting aside of the decision to give that post to another person”.⁴⁵ It also found that Mrs. H’s separation from WIPO—based upon her successful application to the WIPO’s voluntary separation programme—did not render moot the complaint because the decision had nonetheless been implemented and produced legal effects. Only a withdrawal from her appointment might have rendered such a challenge moot.⁴⁶

⁴³ Mr. Seydou Ba, President, Mr. Claude Rouiller and Mr. Patrick Frydman, Judges.

⁴⁴ Judgment No. 2712 (6 February 2008).

⁴⁵ Judgment No. 1272 (14 July 1993), paragraph 12 of the considerations; Judgment No. 2832 (8 July 2009), paragraph 8 of the considerations; and Judgment No. 2959 (2 February 2011), paragraph 3 of the considerations.

⁴⁶ Judgment No. 1680 (29 January 1998), paragraph 3 of the considerations; and Judgment No. 2287 (4 February 2004), paragraph 6 of the considerations.

On the merits, the Tribunal pointed out that the departure from the general principle of recruitment through competition could be allowed only in exceptional cases and with a proper justification.⁴⁷ Therefore, while Mrs. H's appointment to a grade D-1 was acceptable in the light of the WIPO's duty under Judgment No. 2712 to shield her from any injury which might result from the cancellation of her initial appointment, there was no valid reason to assign Mr. H. to a higher position following the same procedure. As a consequence, the Tribunal set aside the contested decision. It then dismissed the Applicant's complaints to reconsider Mrs. H. salaries and benefits, observing that he had no cause of action on this aspect, as these measures would have no bearing on his own situation.⁴⁸

11. *Judgment No. 3214 (4 July 2013): J.H.V.M. v. European Patent Organisation (EPO)*⁴⁹

THE ORGANIZATION ENJOYS BROAD DISCRETION WHEN DECIDING UPON RE-APPOINTMENT REQUESTS—THE PRESIDENT OF THE OFFICE IS COMPETENT TO DECIDE WHETHER TO PROPOSE THE RE-APPOINTMENT—THE ADMINISTRATIVE AUTHORITY MUST BASE ITSELF ON THE PROVISIONS IN FORCE AT THE TIME IT TAKES THE DECISION—THE ORGANIZATION IS NOT UNDER A DUTY TO PROVIDE INFORMATION OF ITS OWN ACCORD—INTEREST OF THE SERVICE—PREFERENCE TO FILL POSITIONS WITH NEW STAFF MEMBERS

The Applicant joined the European Patent Organisation ("EPO") in 1990 as a member of the Board of Appeal. More than two and a half years before reaching the retirement age, the Applicant requested to continue working until the age of 68, in application of the provisions of article 54 of the Service Regulations for Permanent Employees of the EPO. The article, as amended on 1 January 2008, allowed particular staff members to work until that age if "the appointing authority considers it justified in the interest of the service". As per its paragraph 1(b), such an option was also open to members of the Board of Appeals, "provided that the Administrative Council, on a proposal of the President Office, appoints the member concerned" under the same conditions as those governing the initial appointment.

Once the procedure for examining the request of the member of the Board of Appeals was approved by means of Communication 2/08 of 11 July 2008, the Applicant was interviewed by the selection board established under that communication. Following the committee's findings, by letter dated 13 April 2010, the President of the Office ultimately informed the Applicant that his reappointment would not be proposed to the Administrative Council. The Applicant appealed this decision before the Tribunal.

The Applicant initially challenged the lawfulness of article 54, on the grounds that the condition of re-appointment was solely based upon the will of the EPO. Accordingly, the phrase "in the interest of the organisation" turned into an "oppressive clause" that should be regarded as null and void. In this respect, the Tribunal pointed out that article 54 gave a broad discretion to the authority deciding on the re-appointment request which is subject to only limited review by the Tribunal. Thus, it would interfere only if such a "decision was taken without authority, if a rule of form or procedure was breached, if it was based on a

⁴⁷ Judgment No. 2620 (11 July 2007), paragraphs 9–11 of the considerations; and Judgment No. 2959 (2 February 2011), paragraph 3 of the considerations.

⁴⁸ Judgment No. 2281 (4 February 2004), paragraph 4(a) and (b) of the considerations..

⁴⁹ Mr. Seydou Ba, President, Mr. Claude Rouiller and Mr. Patrick Frydman, Judges.

mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority”.⁵⁰

The Tribunal then turned to the Applicant’s complaints that the decision was unlawful because it was not taken by the competent “appointing authority”, as per article 11(3) of the EPO Convention, and because it was based upon a procedure not in force when the request was submitted. In the Tribunal’s view, the President of the Office was, based on a long line of precedent, competent to decide whether to propose the Applicant’s re-appointment in application of article 54(1)(b).⁵¹ Relying on its previous case law,⁵² it also affirmed that “an administrative authority, when dealing with a claim, must generally base itself on the provisions in force at the time it takes its decision, and not on those in force at the time the claim was submitted”.

Contrary to the Applicant’s argument, the Tribunal also noted that the EPO was under no obligation to forward the document to the Applicant of its own accord⁵³ about the conditions in which individual decisions were adopted with respect to other employees. The Applicant had the right of access to all evidence on which the competent authority based its decision but he did not ask for any of the documents in question.

Against the Applicant’s argument, the Tribunal finally observed that it was in the interest of the service to recruit new members to fill the positions of the chairperson and members of the board, taking also into account that no particular factor would, in this case, have warranted an exception being made to the general preference to bring in new staff. Accordingly, the Tribunal dismissed the complaints entirely.

12. *Judgment No. 3222 (4 July 2013): A.R.B.B. v. United Nations Industrial Development Organization (UNIDO)*⁵⁴

PROCEDURES FOR THE PROSECUTION OF INTERNAL APPEALS—THE INTERNAL REMEDIES ARE NOT EXHAUSTED IF THE CLAIMS ARE BRIEFLY ANALYSED—REQUEST FOR DISCLOSURE OF DOCUMENTS—RIGHT TO OBTAIN THE REQUESTED DOCUMENTS IN A TIMELY MANNER

The Applicant joined the United Nations Industrial Development Organization (“UNIDO”) in 1995 as Head of the Agro-based Industries Branch at the D-1 level. He fell ill in March 2007 and never returned to work thereafter. Following a medical examination, the United Nations Joint Staff Pension Fund (“UNJSPF”) endorsed the findings of the Staff Pension Committee according to which the Applicant should have received disability benefits as per his Appendix D claim. However, in December 2008, the Secretary (Ms. N.) of the Advisory Board on Compensation Claims (“ABCC”) informed the Applicant about the Board’s recommendation to dismiss his Appendix D claim and

⁵⁰ Judgment No. 2969 (2 February 2011), paragraph 10 of the considerations; Judgment No. 2377 (2 February 2005), paragraph 4 of the considerations; Judgment No. 2669 (6 February 2008), paragraph 8 of the considerations; and Judgment No. 2845 (8 July 2009), paragraph 5 of the considerations.

⁵¹ Judgment No. 585 (20 December 1983), paragraph 5 of the considerations.

⁵² Judgment No. 2459 (6 July 2005), paragraph 9 of the considerations; Judgment No. 2986 (2 February 2011), paragraph 32 of the considerations; and Judgment No. 3034 (6 July 2011), paragraph 33 of the considerations.

⁵³ Judgment No. 2944 (8 July 2010), paragraph 42 of the considerations.

⁵⁴ Mr. Giuseppe Barbagallo, President, Ms. Dolores M. Hansen and Mr. Michael F. Moore, Judges.

about the approval of this recommendation by the Managing Director of the Programme Support and General Management Division—acting under the delegation of authority from the Director-General.

In order to prepare an appeal against this decision, the Applicant requested firstly to Ms. N. and subsequently to the Director-General for copies of all the pertinent documents concerning his case. Acting on behalf of the Director General, the Director of the Human Resources Management Branch (“PSM/HRM”) informed the Applicant that his request was rejected because, according to the Regulations, Rules and Pension Adjustment System of the UNJSPF, records and correspondence of the SPC were confidential. The Applicant challenged this decision before the Joint Appeals Board (“JAB”), asking for the release of the said documentation and for the award of EUR 3,700 in costs. In his rejoinder, he also requested compensation for breach of the applicable procedure, conflict of interests and breach of confidentiality.

On 19 October 2010, the Director-General decided to modify his initial decision and to endorse the Applicant’s Appendix D claim, considering the illness attributable to service. In contrast, in December 2010, the Director-General decided not to endorse the JAB’s recommendations (which provided for the disclosure of all the relevant documents) on the grounds that the request for disclosure was governed by the Regulations, Rules and Pension Adjustment System of the UNJSPF and consequently the JAB was not competent to review that appeal. This was the decision that the Applicant appealed before the Tribunal.

In considering the request for compensation, the Tribunal determined that the Applicant’s claims (insofar as they concerned matters other than the disclosure of the documents) were not receivable because the internal appeals were not exhausted as required by article VII (1) of the Tribunal’s Statute. In fact, the claims related to the Applicant’s rejoinder, which expanded the scope of the application in the internal appeals, were briefly addressed by the JAB. Consequently, it would not be possible to consider such analysis as complete enough to exhaust the internal appeal procedures. Although previous case-law⁵⁵ indicated that article VII (1) should be interpreted with some flexibility, the Tribunal pointed out that “these procedures demand more than the mere consideration of the issue at a late stage in the internal appeal process”.

The Tribunal then reached the conclusion that the Applicant was provided with the documents he was entitled to see and he was unable to show sufficient evidence to support the opposite argument. However, it noted that there was no reason why the UNIDO did not provide the said documents at the Applicant’s first request. For this reason, the Tribunal awarded the Applicant modest moral damages in an amount equal to EUR 2,000 and EUR 1,000 in attorney’s fees. The complaint was otherwise dismissed.

13. *Judgment No. 3225 (4 July 2013): S.N. v. World Intellectual Property Organization (WIPO)*⁵⁶

CONVERSION OF SHORT-TERM CONTRACTS INTO FIXED-TERM CONTRACTS—RIGHTS OF SHORT-TERM EMPLOYEES TO IMPUGN A DECISION BEFORE THE TRIBUNAL—THE TRIBUNAL HAS COMPETENCE OVER CASES INVOLVING MISUSE OF THE RULES GOVERN-

⁵⁵ Judgment No. 2360 (14 July 2004); and Judgment No. 2457 (6 July 2005).

⁵⁶ Mr. Seydou Ba, President, Mr. Claude Rouiller and Mr. Patrick Frydman, Judges.

ING SHORT-TERM CONTRACTS—TIME-LIMIT TO FILE AN APPLICATION WITH THE TRIBUNAL—A LONG SUCCESSION OF SHORT-TERM CONTRACTS GIVES RISE TO A LEGAL RELATIONSHIP EQUIVALENT TO THAT ON WHICH PERMANENT STAFF MEMBERS MAY RELY ON

The Applicant was hired by the World Intellectual Property Organization (“WIPO”) in 1999 at grade G-2. She served the Organization for many years under a series of short-term contracts, being promoted up to the G-4 grade. In August 2010, she sent a letter to the Director General asking for a retroactive conversion of her contracts into fixed-term contracts. Following the rejection of this request on 25 November 2010, she filed a complaint before the Appeal Board on 21 January 2011 and then she challenged the decision before the Tribunal on 19 February 2011.

In parallel, on 4 February 2011, she signed another short-term contract which she asked to be converted a few days later. On 16 May 2011, the Director-General informed the Applicant that her contract—together with those of 50 other short-term employees—had been brought in line with that of staff members and she would be placed in grade G-5 as from 1 June 2011. Since she sought the award of a G-5 grade, the Tribunal initially found that on this point the complaint had become moot.

Before turning to the merits of the case, the Tribunal analysed the WIPO’s observations relating to the receivability of the claim. First, the Organization contended that the Tribunal lacked competence because the Applicant was not a staff member under the Staff Rules and Regulations and also because the complaint concerned a general WIPO policy regarding staff members’ contracts. Second, the complaint was time-barred because it took more than one year (starting from the date of the notification of the contract for the period from 15 February to 31 December 2010) for the submittal of the application, while the time-limit was ninety days. Third, the Applicant breached article 6, paragraph 1, of the Rules of the Tribunal insofar as she did not file her submissions at the same time she lodged the complaint.

The Tribunal noted that, as a short-term employee of WIPO, the Applicant undeniably had a right to impugn the decision as clearly recognised by its case-law.⁵⁷ It also affirmed its competence over the case (pursuant to article II, paragraph 5, of its Statute) insofar as the Organization had committed an error of law and had misused the rules governing short-term contracts. The Tribunal also determined that the complaint was filed within the time limit specified in article VII, paragraph 2, of its Statute, although the Applicant did not attach the required supporting evidence. The correction of the complaint was made within the time limit set by the Registrar of the Tribunal as set forth in paragraph 2 of article VII.

On the merits of the case, the Tribunal applied the conclusions of its previous case-law,⁵⁸ finding that a long succession of short-term contracts had given rise to a legal relationship between the complainant and the Organization equivalent to that on which permanent staff members might rely on. In the instant case, the Applicant was given short term contracts, without any significant break, for a period of 13 years. Accordingly, it set aside the impugned decision and ordered WIPO to reclassify the Applicant’s employment relationship as if she had received a fixed-term contract as from the date on which her second contract took effect, namely 14 May 1999. It awarded compensation in the amount

⁵⁷ Judgment No. 3185 (6 February 2013), paragraph 4 of the considerations.

⁵⁸ Judgment No. 3090 (8 February 2012), paragraph 7 of the considerations.

of EUR 3,000 for moral injuries due to the Applicant's precarious situation and EUR 3,000 in costs. WIPO was also ordered to examine the Applicant's rights in relation to material injury suffered in relation to any additional salary and financial benefits accrued as from 14 May 1999. Any sums due were to bear interest at the rate of 5 per cent per annum from their due dates until date of payment.

14. *Judgment No. 3238 (4 July 2013): M.-J.C., P.D., M.F., C.G. and D.K. v. Centre for the Development of Enterprise (CDE)*⁵⁹

ABOLITION OF POST IN CASE OF RESTRUCTURING—GREATER EFFICIENCY AND BUDGETARY SAVINGS AS LEGITIMATE CAUSE FOR RESTRUCTURING—LACK OF COMPETENCE—DUTY TO FIND ALTERNATIVE EMPLOYMENTS BEFORE TERMINATING THE APPOINTMENT—DUTY TO INFORM STAFF MEMBERS ABOUT THE ABOLITION OF THE POST—BURDEN OF PROOF—RIGHT TO BE HEARD BEFORE ANY UNFAVOURABLE DECISION IS TAKEN—MATERIAL DAMAGES FOR THE UNLAWFUL REMOVAL OF THE POST

The Applicants were recruited between 1978 and 1993 by the Centre for the Development of Industry, which subsequently became the Centre for the Development of Enterprise ("CDE"). By 1 March 2008, their contracts were converted into contracts for an indefinite period of time. On 2 December 2008, as a consequence of the CDE's restructuring, they were informed by the Director of the CDE about the abolition of their posts and their subsequent dismissals (following the results of the Executive Board meeting held on the same date), as well as about the compensation and exemptions they were entitled to accordingly.

The Applicants jointly submitted an internal complaint under article 66(2) of the CDE Staff Regulations, which were rejected by the Director ad interim on 26 March 2010. Following the unsuccessful outcome of the conciliation procedure opened under article 67(1), each of the Applicants filed a complaint before the Tribunal. They asked to be reinstated in the CDE or, as a secondary alternative, that the Centre be ordered to pay the total amount of the salary and other financial benefits until they reached the retirement age. Since the complaints were for the most part identical, they were joined to obtain a single judgment.

The Tribunal firstly noted that, even if international organisations were entitled to carry out restructuring when this was required to achieve greater efficiency or undertake budgetary savings,⁶⁰ individual decisions must respect all the relevant legal rules, in particular those concerning the fundamental rights of the staff members involved.⁶¹

The Tribunal then turned to the question of whether the decisions were taken by the competent authority. In compliance with article 3(1) of the CDE Staff Regulations, it emphasized that the Executive Board (the sole responsible authority to approve the termination of the contracts on proposal from the Director) endorsed the list of staff leaving the CDE, as shown by the minutes of the meeting held on 2 December 2009.

⁵⁹ Mr. Seydou Ba, President, Mr. Claude Rouiller and Mr. Patrick Frydman, Judges.

⁶⁰ Judgment No. 2156 (15 July 2002), paragraph 8 of the considerations; and Judgment No. 2510 (1 February 2006), paragraph 10 of the considerations.

⁶¹ Judgment No. 1614 (30 January 1997), paragraph 3 of the considerations; and Judgment No. 2907 (3 February 2010), paragraph 13 of the considerations.

However, in the view of the Tribunal, the fact that the decision was taken during a single meeting supported the Applicants' other plea, namely that the Organization did not undertake all suitable steps to find them alternative employment before termination of their appointments.⁶² It also underlined that the CDE did not practically inform all the staff members concerned about its intention to dismiss them.⁶³ The revised budget proposal for 2009 and explanatory note available at that time were not indeed precise enough either to clearly identify the specific posts to be abolished or to represent a direct communication from the CDE to the Applicants about their dismissals.

In the light of the above, the Tribunal set aside the contested decisions (of 26 March 2010 and of 2 December 2009) and ordered the CDE to reinstate the Applicants as from the date on which their dismissal took effect. The Tribunal noted that, should the CDE consider itself unable to reinstate the complainants in view of its staff complement and budgetary resources, it shall pay them material damages for their unlawful removal from their posts. In this respect, it affirmed that these contracts did not guarantee an appointment until the end of their careers, having regard to the CDE's very difficult financial situation. CDE was nevertheless ordered to pay the Applicants the equivalent of salary and allowances of all kinds which they would have been entitled for a period of five years as of 4 December 2009 or upon reaching retirement age, if earlier, together with contributions to pensions, all with interest at the rate of 5 per cent per annum as from the date on which they fell due until date of payment. It awarded also each Applicant EUR 7,500 for moral damages and EUR 2,000 in attorney's fees.

15. *Judgment No. 3239 (4 July 2013): B.G.G. v. Centre for the Development of Enterprise (CDE)*⁶⁴

CORRUPTION AND FRAUD—RELEASE OF INFORMATION CONCERNING FRAUDULENT PRACTICES—ASSESSMENT REPORT—DISMISSAL FOR UNSATISFACTORY PERFORMANCE—NON-RECEIVABILITY OF APPEALS AGAINST FINAL DECISION—TIME BAR—EXHAUSTION OF INTERNAL APPEALS—ASSESSMENT PRESUPPOSES INFORMATION ABOUT THE OBJECTIVES—OBJECTIVITY OF THE ASSESSMENT—ROLE OF THE SECOND-LEVEL SUPERVISOR IN THE ASSESSMENT

The Applicant was recruited as a secretary in 1994 by the Centre for the Development of Industry, which later became the Centre for the Development of the Enterprise (CDE). On 1 March 2006, she was appointed Principal Assistant at level 3-A, and subsequently obtained a contract for an indefinite period of time with effect from 1 March 2007. In her duties as a member of the Staff Committee, she forwarded to the European Commission information regarding possible fraudulent practices carried out by the Director of the CDE (Mr. S.) and by the Deputy Director (Mr. C.).

Following inquiries that culminated in two consecutive reports, the European Anti-Fraud Office ("OLAF") concluded that there was proof of a conflict of interest, passive corruption and fraud on the part of Mr. S. (who in the meantime resigned from his post)

⁶² Judgment No. 269 (12 April 1976), paragraph 2 of the considerations; Judgment No. 1745 (9 July 1998), paragraph 7 of the considerations; and Judgment No. 2207 (3 February 2003), paragraph 9 of the considerations.

⁶³ Judgment No. 1082 (29 January 1991), paragraph 18 of the considerations; and Judgment No. 1484 (1 February 1996), paragraph 8 of the considerations.

⁶⁴ Mr. Seydou Ba, President, Mr. Claude Rouiller and Mr. Patrick Frydman, Judges.

while Mr. C. was discharged from any allegation. In parallel, the Applicant's performance deteriorated considerably (according to the CDE's assessment reports for 2006, 2007 and 2008) to the point that on 25 May 2009 the CDE's Executive Board decided to dismiss the Applicant, as subsequently communicated to her by the Director's letter of 2 December 2009.

After the Director's decision to reject the Applicant's internal complaint and after the unsuccessful outcome of the conciliation procedure provided for in article 67(1) of the CDE's Staff Regulations, on 31 March 2010 the Applicant filed a complaint before the Tribunal. She asked for the decisions of 2 December 2009 and of 31 March 2010 to be set aside, as well as the assessment reports for 2006, 2007 and 2008, while requesting the award of damages and costs.

Concerning the assessment reports, the Tribunal noted that the internal complaint filed by the Applicant contesting the report for 2006 was irreceivable because internal means of redress had not been exhausted as required by article VII of the Statute of the Tribunal, nor did it comply with the time-limit laid down in article 4 of annex IV to the CDE's regulations. However, the Tribunal held that the claim pertaining to the assessment reports for 2007 and 2008 were still receivable because the CDE had failed to correctly notify the Applicant of them. In this regard, the Tribunal specified that the placement of a document in a staff member's file could not be regarded as an act of notification in due and proper form.

On the merits, the Tribunal found that the assessment reports for 2007 and 2008 were unlawful because the CDE did not set the Applicant clear work objectives and because the required objectivity was not guaranteed during the evaluation. On the first point, the Tribunal determined that "a proper assessment of a staff member's professional merit [...] presupposes that she or he has been duly informed of the objectives forming the yardstick by which his or her performance will be judged".⁶⁵ On the second point, the Tribunal pointed out that the fact that Mr. C. was targeted by OLAF investigations based upon the information provided by the Applicant did not represent an impediment for her to take part in the Applicant's assessment. However, in order to ensure the required objectivity, the competent second-level supervisor should have overseen the two reports in question.⁶⁶ Instead, the new Director of the CDE simply signed them, without a genuine review of the draft submitted.

For these reasons, the Tribunal set aside the assessment reports for 2007 and 2008 and the above-mentioned decisions. It acceded to the Applicant's request to receive in compensation a sum equivalent to five years of her last salary allowances and other financial benefits of all kinds which the Applicant would have received had the contract continued, at the same level of emoluments, for the material injury she suffered on the account of the unlawful removal. Having regard to the damage to the Applicant's professional reputation and the humiliating manner by which she was notified of the dismissal, the Tribunal also

⁶⁵ Judgment No. 2414 (2 February 2005), paragraph 23 of the considerations; Judgment No. 2990 (2 February 2011), paragraph 3 of the considerations; and Judgment No. 3148 (4 July 2012), paragraph 25 of the considerations.

⁶⁶ Judgment No. 320 (21 November 1977), paragraphs 12, 13 and 17 of the considerations; Judgment No. 2917 (8 July 2010), paragraph 9 of the considerations; and Judgment No. 3171 (6 February 2013), paragraph 22 and 23 of the considerations.

awarded her EUR 10,000 in compensation. The Applicant was also entitled to EUR 5,000 in costs. Given that there was nothing on file to support the Applicant's submission that CDE's treatment constituted harassment, the tribunal found that the irregularities occasioned and the other factors relied upon did not constitute harassment and no additional compensation on this basis was awarded.

D. DECISIONS OF THE WORLD BANK ADMINISTRATIVE TRIBUNAL⁶⁷

1. *Decision No. 473 (13 February 2013): Ramesh Bhatia v. International Bank for Reconstruction and Development*⁶⁸

COMMENCEMENT DATE TO CHALLENGE A POLICY—TRIBUNAL'S JURISDICTION OVER A POLICY THAT DIRECTLY AFFECTS THE EMPLOYMENT RIGHTS OF A STAFF MEMBER—MANDATORY ENROLMENT IN MEDICAL INSURANCE PLAN FOR RETIREES—ALLEGATIONS OF DISCRIMINATION—PRINCIPLE OF PARALLELISM DOES NOT BIND INTERNATIONAL ORGANIZATIONS

Once retired from the Bank in 2011, the Applicant enrolled in Medicare Part B under the Retiree Medical Insurance Plan (RMIP). This enrolment became thereafter mandatory for all retirees pursuant to the RMIP reform. Following the refusal of a physician to accept the Applicant as a patient, he challenged the policy of mandatory enrolment before the Tribunal in January 2012 on the grounds that it was discriminatory, arbitrary and inconsistent with the principle of parallelism.⁶⁹ After obtaining approval from the Tribunal for a stay of proceedings until the completion of a comprehensive review of the RMIP, the Bank filed preliminary objections arguing that the Applicant failed to file the application within a timely manner (120 days from his enrolment) and that he was contesting a general policy over which the Tribunal lacked jurisdiction.

The Bank raised preliminary objections to the admissibility of the Application, arguing that the Applicant had not filed his application in a timely manner and that he

⁶⁷ The World Bank Administrative Tribunal is competent to hear and pass judgment 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 (IFC), the Multilateral Investment Guarantee Agency and the International Centre for the Settlement of Investment Disputes (collectively "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 a claim upon a right of a member of the staff as a personal representative or by reasons of the staff member's death and any person designed or otherwise entitled to receive payment under any provision of the Staff Retirement Plan. For more information on the World Bank Administrative Tribunal and full texts of its decisions, see <http://web.worldbank.org/external/default/main?pagePK=7333373&contentMDK=22956391> (accessed on 31 December 2013).

⁶⁸ The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Florentino P. Feliciano (Vice-President), Mónica Pinto (Vice-President), Jan Paulsson, Francis M. Ssekandi and Ahmed El-Kosheri.

⁶⁹ As laid down in Decision No. 38 (27 October 1987), at paragraph 35, the principle of parallelism "entails a process of consultations with the IMF, a business rationale for any differentiation in benefits and, if that is the case, to consider whether the IMF's decisions should be followed by the [World] Bank". This decision had been subsequently cited in Decision No. 205 (3 February 1999) as well as in the current decision.

was contesting a policy that was “uniformly and equitably” applied to him. The Tribunal dismissed the Bank’s preliminary objections, noting that the commencement date to challenge the policy in question began when the Applicant was detrimentally affected by its application. Further, it observed that the complaint was not directed at a general policy of the Bank, but rather against the application of the policy which the Applicant believed violated his rights.

With respect to the merits of the case, the Tribunal recalled that the scope of its review is limited when a policy of this kind is challenged, noting that its role is to examine whether there had been non-observance of the contract of employment or terms of appointment of the Applicant. The Tribunal further recalled that “[s]o long as the Bank’s resolution and policy formulation is not arbitrary, discriminatory, improperly motivated or reached without fair procedure, there is no violation of the contract of employment or of the terms of appointment of the staff member”.

The Tribunal first examined the Applicant’s claim that the policy as applied to him was discriminatory. The Tribunal found that the Bank required all eligible US retirees over the age of 65 to enrol in Medicare, and that there was no discriminatory treatment among retirees in similar situations to the Applicant. The Tribunal also rejected the Applicant’s argument that the Bank’s policy was inconsistent with the principle of parallelism because enrolment in Medicare Part B was voluntary at the International Monetary Fund (“IMF”). The Tribunal found, citing *Oinas*, Decision No. 391 (2009), paragraph 42, that the principle of parallelism does not bind the Bank to adopt the policies of the IMF or for that matter any other international organization.

Finally, the Tribunal concluded that the application of the challenged policy had not resulted in violation of any guaranteed rights of the Applicant. The Tribunal acknowledged that some retirees in the Applicant’s situation might face challenges because of the fact that an increasing number of medical specialists did not accept Medicare patients. The Tribunal noted the Bank’s undertaking that it would review its policy of mandatory enrolment if and when “limitations on access to medical specialists become more pervasive.” The Tribunal found that this undertaking addressed the Applicant’s concerns and should be taken seriously by the Bank. Though the Application was dismissed on the merits, the Tribunal ordered the Bank to contribute to the Applicant’s attorneys’ fees in the amount of USD 5,000 for the preliminary objections phase of proceedings, in which the Applicant had prevailed.

2. *Decision No. 476 (13 February 2013): CB v. International Bank for Reconstruction and Development*⁷⁰

MISCONDUCT—TRIBUNAL’S SCOPE OF REVIEW OF A DISCIPLINARY CASE—RECKLESS FAILURE TO OBSERVE GENERALLY APPLICABLE NORMS OF PRUDENT PROFESSIONAL CONDUCT—HARASSMENT CONTRIBUTING TO A HOSTILE WORK ENVIRONMENT—DEFINITION OF HARASSMENT DOES NOT REQUIRE HOSTILE OR ABUSIVE CONDUCT—ABUSE OF DISCRETION

The Applicant joined the Bank in 1996 as a Consultant. Following a series of promotions, in 2011 he was appointed Country Representative at the level GG. In February 2012,

⁷⁰ The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Florentino P. Feliciano (Vice-President), Mónica Pinto (Vice-President), Jan Paulsson, Francis M. Ssekandi and Ahmed El-Kosheri.

he was subject to an investigation by the Office of Ethics and Business Conduct (“EBC”) for repeatedly sending unsolicited or unwelcome personal e-mails to a colleague. Based on the EBC investigation, the Vice President of Human Resources (“HRSVP”) took the decision to impose disciplinary measures on him for misconduct under staff rule 3.00, paragraph 6.01(b) (reckless failure to observe generally applicable norms of prudent professional conduct) and paragraph 6.01(e) (harassment contributing to a hostile work environment). The decision, which resulted into a written censure in his personnel file for five years and reassignment to a non-managerial position at the same grade level, was contested by the Applicant before the Tribunal.

The Tribunal observed that its scope of review of disciplinary cases was not limited to a mere determination of whether there had been an abuse of discretion, but rather extended to an examination of (i) the existence of the facts; (ii) whether they legally amounted to misconduct; (iii) whether the sanction imposed was provided for in the law of the Bank; (iv) whether the sanction was not significantly disproportionate to the offence; and (v) whether the requirements of due process were observed.⁷¹ The Tribunal noted that it was undisputed that the Applicant sent his colleague several e-mail messages of a personal nature, pointing out that he had conceded that his conduct amounted to misconduct under staff rule 3.00. It then found that the sanctions imposed by the HRSVP were provided for in the Staff Rules and were not disproportionate to the misconduct of a “reckless failure to observe generally applicable norms of prudent professional conduct”. The Tribunal further determined that the Applicant was held to a higher standard due to his managerial position, and the HRSVP’s decision to reassign him to a non-managerial position at the same pay grade did not constitute an abuse of discretion. The Tribunal was satisfied that exculpatory factors were taken into consideration in determining the appropriate sanction, and the duration of the censure did not violate the principle of proportionality.

Finally, the Tribunal addressed the Applicant’s contentions regarding the definition of harassment. According to the Applicant, to meet the standards of “harassment” or “hostile work environment” there should have been a demonstration that the Applicant’s conduct was hostile or abusive, and that it was disruptive or intimidating to the Complainant. The Applicant stressed that the majority of the communications between the Applicant and the Complainant was by e-mail and that the element of intimidation was not present. The Tribunal referred to the World Bank Group Code of Conduct which defined harassment as “any unwelcome verbal or physical behavior that interferes with work or creates an intimidating, hostile, or offensive work environment.” In addition, the Code of Conduct provided that “impact—not intent—is the key factor. If conduct is reasonably perceived to be offensive or intimidating—whether or not it was intended to be so—it should be stopped.” The Tribunal held that the definition of harassment did not require conduct to be hostile or abusive, while emphasizing that it was possible that attempts to forge a “benign friendship” could constitute harassment if these were unwelcome and had the result of interfering with work or creating an intimidating, hostile or offensive work environment. The Tribunal determined that whether any act or series of acts amounts to harassment depends on the circumstances of each case. The Application was dismissed.

⁷¹ Decision No. 381 (18 March 2008), paragraph 53; Decision No. 207 (14 May 1999), paragraph 17; and Decision No. 142 (19 May 1995), paragraph 32.

3. *Decision No. 478 (3 October 2013): David Tanner v. International Bank for Reconstruction and Development*⁷²

TERMINATION OF EMPLOYMENT FOR ABANDONMENT OF OFFICE—FAILURE, WITHOUT ACCEPTABLE EXCUSE, TO PERFORM OFFICIAL DUTIES FOR A CONTINUOUS PERIOD OF TIME—E-MAIL CORRESPONDENCE AND ADEQUATE METHOD OF COMMUNICATION—REQUIREMENT OF A REASONABLE NOTICE OF PERIOD—TIMELINESS OF AN APPLICATION

In November 2009, the Applicant was appointed by the Bank on a term contract as a Senior Forensic Accountant. In October 2012, he was notified by the Bank of the decision to terminate the employment for abandonment of office pursuant to staff rule 7.01, paragraph 9.02, since he failed to resume his duties in Washington, D.C., as requested. Against this decision, the Applicant filed his complaint before the Tribunal on 1 November 2012, seeking, *inter alia*, the remainder of the income for his term contract plus Bank contribution for retirement, compensation for the wrongful dismissal and reimbursement of his legal fees. He argued that this wrongful dismissal was the culmination of a series of unjustified actions by the Bank. The Bank responded that its decision to terminate the Applicant's employment for abandonment of office was proper and not an abuse of discretion.

The Tribunal held that it was satisfied the Bank complied with the procedures in staff rule 7.01. It observed that following the decision to terminate the Applicant's Telecommuting Arrangement, he was provided with ample notice that his refusal to return to his duty station in Washington, D.C. would be treated as abandonment of office. Addressing the adequacy of e-mail correspondence as a means of providing the requisite notice, the Tribunal held that e-mail was undoubtedly the routine and familiar form of communication between the Applicant and his manager, and one which the Applicant utilized on a regular basis in the course of his employment at the Bank. It was through e-mail that the Applicant provided his supervisor with notice of his decision not to return to Washington, D.C., and his willingness to consider a mutually agreed separation. The Tribunal found that the e-mail messages from the Applicant's manager warning him of the adverse implications of his failure to resume his duties in Washington, D.C. constituted adequate notice that the employment contract would be terminated on the grounds of abandonment of office.

The Tribunal further held that the Applicant failed, without excuse acceptable to his manager, to make himself available to perform official duties for a continuous period of 20 working days. The Tribunal noted that while staff rule 7.01 provided no express notice period, the Bank respected the Applicant's right to receive the notice within a reasonable period before the termination of the employment. The Tribunal further observed that while the Applicant argued that he was always available to perform his official duties, it was insufficient for him to state that he could have performed his duties in Auckland, New Zealand. That option was not available to him once the Telecommuting Agreement was terminated. The Applicant raised other grievances which the Tribunal ruled to be inadmissible as they were not filed in a timely manner. The Tribunal reiterated the importance

⁷² The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Florentino P. Feliciano (Vice-President), Mónica Pinto (Vice-President), Jan Paulsson, Ahmed El-Koshery, Andrew Burgess and Abdul G. Koroma.

of staff filing applications in a timely manner and exhausting internal remedies prior to seeking recourse at the Tribunal.

Finally the Tribunal addressed the Applicant's contention that the Bank exercised its discretion in a prejudicial manner by withholding his Overall Performance Evaluation ("OPE") and Salary Review Increase ("SRI") pending completion of a review into his conduct by the Office of Ethics and Business Conduct. The Tribunal observed that the Applicant failed to discharge his burden of proof and did not demonstrate how the Bank's decisions were arbitrary, discriminatory, improperly motivated, carried out in violation of a fair and reasonable procedure or lacked an observable and reasonable basis. The Tribunal held that while a decision to delay completion of a staff member's OPE and withhold his SRI was never one which should be taken lightly, there was no abuse of process in the circumstances of this case. The Applicant's manager provided an observable and reasonable basis for these decisions. The application was dismissed.

4. *Decision No. 484 (3 October 2013): Daniel Lecuona v. International Bank for Reconstruction and Development*⁷³

REQUIREMENTS PRIOR TO APPROVING SPOUSAL SUPPORT CLAIMS ON STAFF MEMBER'S PENSION—SECTION 5.1(C) OF THE STAFF RETIREMENT PLAN—EFFECT OF NATIONAL COURT ORDERS—FINALITY OF NATIONAL COURT ORDER CREATING AN IMMEDIATE LEGAL OBLIGATION

After having retired from the Bank in 1987, the Applicant separated from his spouse under Argentinian law on the basis of a September 2000 Court Order. After unsuccessful motions to collect the spousal support payments, the Applicant's wife requested the Bank to deduct the pertinent amount from the Applicant's monthly pension and pay it directly to her. Pursuant to section 5.1(c) of the Staff Retirement Plan ("SRP" or "Plan"), the Pension Benefits Administrator ("PBA") demands evidence of two requirements prior to approval of the claim: (i) the legal separation or divorce of the parties; and (ii) a legal obligation of the participant or retired participant to pay spousal support from his or her pension benefits under the SRP. Endorsing the PBA's decision, the Pension Benefits Administration Committee ("PBAC") decided that section 5.1(c) of the SRP had been satisfied and quantified the deduction of spousal support payments as USD 1500 from the Applicant's monthly pension.

The Applicant first contended that section 5.1(c) required a formal decree of legal separation applying the right provisions of a country's domestic law, and that a court order that merely directed the couple to live in separate domiciles was insufficient. The Tribunal rejected such a rigid and formalistic approach. The Tribunal observed that the Pension Benefits Administrator needs only to determine whether a 'decree of legal separation' or its functional equivalent had been presented for the purposes of section 5.1(c). If the Administrator has a reasonable and objective basis to conclude that the decree at issue meets the terms of section 5.1(c), the Tribunal would not set aside such a finding. The Tribunal concluded that "it was not unreasonable for the Administrator and PBAC to conclude that a court order that establishes the separation of a couple that has endured for

⁷³ The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Florentino P. Feliciano (Vice-President), Mónica Pinto (Vice-President), Jan Paulsson, Ahmed El-Koshery, Andrew Burgess and Abdul G. Koroma.

more than 12 years satisfies the requirement that there be a ‘decree of legal separation’ for the purposes of section 5(1)(c)”.

The Applicant also argued that he had filed an appeal against the court orders on which his separated wife relied to demonstrate his legal obligation to pay spousal support. He contended that until the appeal process was complete, the court’s orders were not final, and therefore, the requirement of section 5.1(c) had not been met. The Tribunal again rejected this argument. The Tribunal noted that the “ordinary meaning or usage of the term ‘final’ is not necessarily ‘non-appealable’, and it is not necessarily the case that an order becomes final only after an appeal process is completed.” The Tribunal held that this conclusion is reinforced by a purposive interpretation of section 5.1(c) and stated that in appropriate cases, in addition to the textual interpretation, the Tribunal may have regard to the object and purpose of the rule.⁷⁴

The Tribunal found that it was reasonable to define the term ‘final order’ in the sense that it is final in the particular court in which it was pronounced even though the order might be the subject of appeal. The Tribunal further noted that “interpreting ‘final order’ to mean ‘unappealable order’ could frustrate the object of section 5.1(c) because, in some legal systems, a retiree could delay implementation of a court order by repeatedly filing appeals against it.” The Tribunal agreed with PBAC and the Administrator that in this case the court orders at issue were final, despite the appeal, because they were final in the court that issued them and entered into law in the applicable jurisdiction so as to be enforceable and legally binding. The PBAC decision was affirmed and all other pleas were dismissed.

E. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL MONETARY FUND⁷⁵

1. Judgment No. 2013–2 (13 March 2013): Mr. B. Tosko Bello v. International Monetary Fund⁷⁶

POLICY AGAINST RE-HIRING OF FORMER STAFF MEMBERS WHO VOLUNTARILY SEPARATED UNDER A DOWNSIZING EXERCISE—MEANING OF A REGULATORY DECISION—TIME LIMIT TO CHALLENGE A REGULATORY DECISION—EXTENT OF THE EMPLOYER DISCRETIONARY AUTHORITY—VALUE OF THE INDIVIDUAL DECISION TAKEN ON THE BASIS OF A VOID REGULATORY DECISION—RESCISSION OF POLICY—RESCISSION OF INDIVIDUAL DECISION—COMPENSATION

The Applicant began his employment with the International Monetary Fund (“IMF”) on 1 March 2001. Following his successful request to volunteer for separation under the

⁷⁴ Decision No. 242 (26 April 2001), paragraph 23.

⁷⁵ The Administrative Tribunal of the International Monetary Fund became operational on 1 January 1994. The Tribunal is competent to pass judgment upon any application: (a) by a member of the staff challenging the legality of an administrative act adversely affecting him; or (b) by an enrollee in, or beneficiary under, any retirement or other benefit plan maintained by the Fund as employer challenging the legality of an administrative act concerning or arising under any such plan which adversely affects the applicant. For more information on the Administrative Tribunal of the International Monetary Fund and the full texts of its judgments, see <http://www.imf.org/external/imfat/> (accessed on 31 December 2013).

⁷⁶ Ms. Catherine M. O’Regan, President, Ms. Edith Brown Wiess and Mr. Fancisco Orrego Vicuña, Judges.

2008 Fund-wide downsizing exercise, on 1 January 2012 he inquired to the Director of the Fund's Human Resources Department ("HRD") about his eligibility to compete for a contractual position in the IMF. On 12 January 2012, the Director informed the Applicant that he was ineligible for that position, in application of the Fund's policy against the re-hiring of former staff members who had separated voluntarily under the terms of the said exercise. On 12 January 2012, the Applicant filed a complaint with the Tribunal, seeking as relief rescission of the policy against re-hiring, rescission of the Director's decision, and monetary compensation in the amount of one-year's salary.

In considering whether the Applicant challenged a "regulatory decision" within the meaning of article II of the Statute, the Tribunal took note of its jurisprudence⁷⁷ indicating that the limited circulation of a decision may be relevant to that question. The Tribunal concluded that the lack of formal announcement of the re-hiring ban, however, did not preclude the Applicant's challenge to it as a "regulatory decision", given that the decision was "taken at the highest levels of Fund Management", that it was communicated to Senior Personnel Managers ("SPMs") within the Fund's departments, and that it reversed a policy that itself had been widely communicated to staff *via* the Exploring Your Options (EYO) intranet website.

The Tribunal next considered how the lack of general announcement of the decision affected the interpretation of the statutory provision that a "regulatory decision" may be contested directly within three months of the later of its "announcement or effective date". The Tribunal determined that the restricted manner in which the IMF communicated the re-hiring ban could not be permitted to shield that "regulatory decision" from direct challenge before the Tribunal within three months of its notification to the Applicant. "To conclude otherwise", held the Tribunal, "would be to create an incentive for the Fund to withhold the prompt circulation of regulatory decisions, a practice that is consistent neither with sound human resources practices nor with the responsibility of this Tribunal to determine whether a decision transgressed the applicable law of the Fund." Accordingly, in the unusual circumstances of the case, the "individual decision" of the HRD Director was functionally equivalent to the "announcement" (within the meaning of article VI, section 2) to the Applicant of the regulatory decision upon which that individual decision was based. Thus, the Tribunal reached the conclusion that the Applicant had challenged directly the "regulatory decision" and not only in the context of contesting the "individual decision".

Turning to the merits of the dispute, the Tribunal was of the view that the IMF's website communication that there was no rule barring the future re-employment of the said staff members had constrained its discretionary authority to adopt a policy reversing the contents of such information. Accordingly, that advice was deemed part of the "ensemble" of the Applicant's conditions of separation from the Fund. Accordingly, the Tribunal annulled the regulatory decision in question and considered null and void the "individual decision" of January 12, 2012, based upon it. It also awarded the Applicant USD 20,000 in moral damages for the intangible injury he incurred in being wrongfully denied the opportunity to compete for the contractual vacancy in his former department. The Tribunal

⁷⁷ Judgment No. 1996-1 (2 April 1996): *Mr. M. D'Aoust v. International Monetary Fund*; Judgment No. 2004-1 (10 December 2004): *Mr. "R" (No. 2) v. International Monetary Fund*; and Judgment No. 2008-1 (7 January 2008): *Mr. M. D'Aoust (No. 3) v. International Monetary Fund*.

also decided that the Applicant was entitled to USD 16,281 for the reasonable costs of his legal representation.

2. *Judgment No. 2013–4 (9 October 2013): Mr. “HH” v. International Monetary Fund*⁷⁸

REQUEST FOR ANONYMITY—CONVERSION OF A FIXED-TERM APPOINTMENT INTO AN OPEN-ENDED APPOINTMENT—ABUSE OF DISCRETIONARY POWER—MANAGERIAL DISCRETION TO EVALUATE STAFF PERFORMANCE—LEGITIMATE EXPECTATIONS BEFORE THE DECISION ON CONVERSION—VIOLATION OF THE IMF INTERNAL RULES—VALUE OF THE CONSENT TO TRANSFER—COMPENSABLE HARMS AS A RESULT OF A DECISION TO TRANSFER—RESCISSION OF THE NON-CONVERSION DECISION

On 1 October 2007, the Applicant was appointed by the International Monetary Fund (“IMF”) on a three-year fixed term appointment at Grade B2 in “Department 1”. In order to reverse the results of the evaluation made on his job competencies and to obtain the conversion of his contract into an open-ended status, he was transferred on his request to “Department 2” under the same contractual terms. In anticipation of the decision to convert, by Memorandum of April 2010, the “Department 2” Assistant Director communicated to the Human Resources Department (“HRD”) Deputy Director his negative assessment on the Applicant’s work performance. Subsequently in April 2010, the Fund’s Director took the decision not to convert the Applicant’s fixed-term contract to an open-ended status. Following a partial acceptance of the Applicant’s request by the Fund’s Grievance Committee,⁷⁹ on 16 May the Applicant filed a complaint with the Tribunal, asking in particular for the rescission of the non-conversion decision. The Applicant also demanded that his request for anonymity pursuant to Rule XXII be decided in advance of the Tribunal’s Judgment on the merits of the application.

As a preliminary matter, the Tribunal concluded that the Applicant had met Rule XXII’s requirement of showing “good cause” for anonymity. The Tribunal observed that “useful performance reviews were built on candor on the part of the reviewer” and that if it were not to grant Applicant’s anonymity request, the process of performance reviews going forward would be affected by the perceived risk of disclosure in future cases.⁸⁰

Turning to the merits of the Application, the Tribunal held that the Applicant’s transfer to a different Fund department during the course of his fixed-term contract, without the renewal of that appointment for another three-year period, violated the Fund’s Fixed-Term Monitoring Guidelines (the “Guidelines”). In particular, the Tribunal noted that the fixed-term appointee should remain in the same position and in the same department for the duration of the fixed term, except in those special circumstances specified in the “mobility” provision of the Guidelines when, namely: (i) the transfer is “clearly in the Fund’s

⁷⁸ Ms. Catherine M. O’Regan, President, Mr. Andrés Rigo Sureda and Mr. Jan Paulsson, Judges.

⁷⁹ The Fund’s Grievance Committee recommended that Applicant be granted a monetary award and full reimbursement of the costs of his legal representation on the basis that the transfer to Department 2 without the benefit of a new fixed term appointment violated the mobility provision of the Fixed-Term Monitoring Guidelines.

⁸⁰ In paragraph 13 of the judgment, the Tribunal affirmed that a case-by-case approach to deciding whether a decision on anonymity should be issued will better allow it to form a principled basis for its decision on anonymity, as “anonymity of applicants remains the exception and not the rule” in the Tribunal’s judgments.

interest”; (ii) the staff member and both relevant departments agree; (iii) the staff member is offered a new fixed-term appointment for three years in the position to which he or she is to be transferred; and (iv) the transfer is endorsed by the HRD. Accordingly, in the view of the Tribunal, because those narrow conditions were not met in the instant case, the transfer was not taken in compliance with the Fund’s internal law.

In considering whether that inconsistency rendered the non-conversion decision an abuse of discretion, the Tribunal found that the “purpose underlying the decision to offer the Applicant a transfer was not inconsistent with the spirit of the Fixed-Term Monitoring Guidelines, although the transfer was inconsistent with the letter of those Guidelines. The purpose,” observed the Tribunal, “was to give the Applicant an opportunity to be supervised by a ‘second pair of eyes’ in a different department to show that he was able to perform at a level which would result in his conversion to an open-ended appointment.” Had the Fund applied its internal law in this case, emphasized the Tribunal, the “Applicant would not have been given a second opportunity to establish his suitability for career employment, and, on the record before the Tribunal, would almost certainly not have had his fixed-term appointment converted to an open-ended appointment.” It therefore reached the conclusion that the IMF’s choice, with Applicant’s acquiescence, to give him a second opportunity by means of his interdepartmental transfer could not be said to be unfair or unreasonable to a point that it vitiated the non-conversion decision. It followed from the foregoing that the application was dismissed.

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. Privileges and immunities

(a) Note to the Ministry of Foreign Affairs of [State], concerning privileges and immunities extended to locally-recruited staff who are nationals of [State]

ARTICLE 105 OF THE CHARTER OF THE UNITED NATIONS—ARTICLE V OF THE CONVENTION ON PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—NO DIFFERENTIATION BETWEEN INTERNATIONALLY AND NATIONALLY RECRUITED STAFF, WITH EXCEPTION OF THOSE WHO ARE RECRUITED LOCALLY AND ASSIGNED TO HOURLY RATES—DISTINCT REGIME OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, 1961, WHICH APPLIES TO STATES AND THEIR DIPLOMATIC PERSONNEL—INTERNATIONAL TREATY OBLIGATIONS MAY NOT BE DIMINISHED ON BASIS OF NATIONAL LEGISLATION

The Legal Counsel of the United Nations presents her compliments to the Minister for Foreign Affairs of [State] and has the honour to refer to the ongoing negotiations between the [United Nations entity] and [State] for the establishment of a [United Nations entity] office in [State].

In this regard, the Legal Counsel understands that several meetings have taken place between officials of [United Nations entity] and the authorities of [State] to discuss the establishment of the [United Nations entity] office, including informal discussions with [Name], the Permanent Representative of [State] to the United Nations in [City] on [date], as well as meetings on [dates] with various individuals in the Ministry of Foreign Affairs in [City], including (i) [Name] and [Name] from [Office], (ii) [Name], the [Title] of [Office], (iii) [Name], [Title] of [Office], (iv) [Name] from [Office] and (v) [Name], the [Title] of [Office].

The Legal Counsel further understands, based on these meetings, that the Government of [State] has taken the position that privileges and immunities may not be extended to members of the [United Nations entity] office who are nationals of [State]. The Legal Counsel wishes to note that the Government's position is in direct contradiction

* This chapter contains legal opinions and other similar legal memoranda and documents.

to its obligations to the United Nations under international law and the Legal Counsel respectfully requests that the Government of [State] reconsider its position.

The Legal Counsel wishes to point out that as a member of the United Nations, [State] is bound by the Charter of the United Nations. The status of the United Nations and its staff members in [State] is governed by Article 105 of the United Nations Charter. Pursuant to paragraph 1 of Article 105 of the Charter of the United Nations, “[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.” Paragraph 2 of Article 105 of the United Nations Charter provides that “[r]epresentatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization”. Finally, paragraph 3 of Article 105 stipulates that “[t]he General Assembly may make recommendations with a view to determining the details of the application of paragraph 1 ... of this Article or may propose conventions to the Members of the United Nations for this purpose.”

In order to give effect to Article 105 of the United Nations Charter, the General Assembly of the United Nations adopted the Convention on the Privileges and Immunities of the United Nations, 1946 (“the General Convention”),* which was acceded to by [State] on [date], without reservation. As an integral part of the United Nations, [United Nations entity] is entitled to the privileges and immunities provided for in the General Convention.

The Legal Counsel wishes to note that the legal regime governing the privileges and immunities of the United Nations and its officials is separate and distinct from the regime governing the privileges and immunities enjoyed by States and their diplomatic personnel as codified in the Vienna Convention on Diplomatic Relations.** Accordingly, when considering the status of United Nations officials who are national staff, reference must be made to the provisions of the General Convention and relevant General Assembly resolutions and not to practice under the Vienna Convention on Diplomatic Relations.

Pursuant to article V, section 18, subparagraph (b) of the General Convention, officials of the United Nations are entitled to a various range of privileges and immunities, including immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity as well as immunity from national service obligations. In setting forth these privileges and immunities, the General Assembly did not differentiate between internationally recruited staff and nationally recruited staff. It should be noted in this regard that General Assembly resolution 76 (I) specifically provides for “the granting of privileges and immunities referred to in Article V ... to all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates”. Therefore, locally-recruited staff members from [State] who are not assigned to hourly rates also enjoy the privileges and immunities of article V of the General Convention.

The Legal Counsel wishes to point out that it is a fundamental principle of international law that international treaty obligations may not be diminished on the basis of the national legislation of [State]. According to article 27 of the Vienna Convention on the Law

* United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).

** *Ibid.*, vol. 500, p. 95.

of Treaties, 1969,* which codifies customary international law applicable to international treaties, “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.” This principle is also reflected in section 34 of the General Convention, according to which the Government of [State] undertook an obligation to be “in a position under its own law to give effect to the terms” of the General Convention. Accordingly, the provisions of national legislation in [State] cannot be a basis for [State] to fail to fulfil its obligations which were committed to by the Government when [State] acceded to the General Convention.

If [State] could invoke its national legislation as a basis for not adhering to the terms of the General Convention, this would not only place [State] in an unfair position *vis-à-vis* other Member States party to the General Convention, but would be an interpretation of the General Convention that would not be within the spirit of the underlying provisions of the Charter of the United Nations, and in particular, paragraph 2 of Article 2 and paragraphs 1 and 2 of Article 105 thereof. Moreover, if the 193 Member States of the United Nations could generally invoke provisions of their national legislations as a basis for failing to fulfil their obligations pursuant to the Charter of the United Nations or other international treaties, this would undermine the very essence of the principle of *pacta sunt servanda* set forth in article 26 of the Vienna Convention on the Law of Treaties, namely that “every treaty in force is binding upon the parties to it and must be performed by them in good faith”.

The Legal Counsel therefore respectfully requests the Government of [State] to ensure that the [United Nations entity] Office Agreement guarantees the privileges and immunities provided for under the General Convention to officials who are nationals of [State]. In light of the importance of this matter, the Legal Counsel would be grateful if the relevant representatives of the Government of [State] would attend a meeting with members of the Office of Legal Affairs, at a mutually convenient time, to discuss this matter further.

...

17 January 2013

(b) Note to the Ministry of Foreign Affairs of [State], concerning privileges and immunities enjoyed by certain categories of United Nations personnel in [State]

ARTICLE 105 OF THE CHARTER OF THE UNITED NATIONS—ARTICLE V OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS—GENERAL ASSEMBLY RESOLUTION 76 (I) SETS OUT THE PRIVILEGES APPLICABLE TO ALL UNITED NATIONS STAFF EXCEPT THOSE RECRUITED LOCALLY AND ASSIGNED TO HOURLY RATES—GENERAL ASSEMBLY RESOLUTION 239 (III)—STAFF ASSESSMENT PLAN DESIGNED TO IMPOSE A DIRECT ASSESSMENT ON UNITED NATIONS STAFF MEMBERS COMPARABLE TO NATIONAL INCOME TAXES—VALUE ADDED TAX DEEMED TO BE INDIRECT TAXES WITHIN MEANING OF SECTION 8 OF THE GENERAL CONVENTION—RESPONSIBILITY OF STATES FOR THE SAFETY AND PROTECTION OF UNIT-

* United Nations, *Treaty Series*, vol. 1155, p. 331.

ED NATIONS PERSONNEL—RESPONSIBILITY OF GOVERNMENT TO MAKE MONETARY AND IN-KIND CONTRIBUTIONS TOWARD THE COST OF UNITED NATIONS OPERATIONS IN THE COUNTRY

The Legal Counsel of the United Nations presents her compliments to the Minister for Foreign Affairs of [State] and has the honour to bring to the Minister's attention a number of problems that the United Nations, including the [United Nations entity 1], the [United Nations entity 2] and the [United Nations entity 3], have experienced in [State] with respect to the implementation of the privileges, immunities and facilities provided for the United Nations and its officials in accordance with applicable international legal instruments. The Legal Counsel has the further honour to refer to note verbale No. [number] of the Permanent Mission of [State] to the United Nations dated [date] seeking "clarification on the privileges and immunities for certain categories of the United Nations personnel (categories P1–P5)".*

In this regard, the Legal Counsel wishes to address the following issues: (1) privileges and immunities enjoyed by United Nations officials, including the exemption from taxation of United Nations officials, who are nationals of [State]; (2) exemption of the United Nations, its funds and programmes from Value Added Tax (VAT); (3) safety and security of United Nations personnel in the country; and (4) the obligation of the Government of [State] to provide the United Nations, its funds and programmes, with premises and to make other kinds of contributions towards the United Nations operations in the country.

The legal status, privileges and immunities of the United Nations, including [United Nations entity 1], [United Nations entity 2] and [United Nations entity 3], which are integral parts of the Organization, and their personnel in [State], are governed by Article 105 of the Charter of the United Nations.

Pursuant to paragraph 1 of Article 105 of the United Nations Charter, "[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes..." and according to paragraph 2 of the same Article, "...officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization". Paragraph 3 of this Article empowered the General Assembly to detail the application of paragraphs 1 and 2 of this Article and "propose conventions to the Members of the United Nations for this purpose". Following this provision, the Convention on the Privileges and Immunities of the United Nations, 1946 (hereinafter, the "General Convention") was adopted by the General Assembly. [State] is a party to the General Convention without any reservation.

Privileges and immunities of United Nations officials

Privileges and immunities of United Nations officials are outlined in article V of the General Convention. Section 17 of article V of the General Convention provides as follows:

"The Secretary-General will specify the categories of officials to which the provisions of this article and article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members."

* Not reproduced herein.

Further to this provision, on the basis of a proposal made by the Secretary-General, the General Assembly adopted resolution 76 (I) of 7 December 1946, whereby it approved “the granting of privileges and immunities referred to in Article V ... to all members of the staff of the United Nations, with the exception of those who are recruited locally *and* are assigned to hourly rate” (emphasis added). Therefore, all staff members of the United Nations, regardless of nationality, residence, place of recruitment or rank, are considered officials for the purposes of the General Convention, with the sole exception of those who are *both* recruited locally *and* assigned to hourly rates. This exception, therefore, only applies to individuals who meet *both* criteria. Thus, all locally-recruited staff members who are not assigned to hourly rates are fully entitled to all privileges and immunities enjoyed by United Nations officials under the United Nations Charter, the General Convention and applicable bilateral agreements.

In particular, in accordance with section 18 of article V of the General Convention and the established practice of the Organization, United Nations officials enjoy the following privileges and immunities:

- Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. In accordance with the established practice and jurisprudence, it is the Secretary-General’s prerogative to establish what constitutes “official capacity”. Many bilateral agreements also provide for the immunity from the inspection and seizure of the baggage of officials and/or arrest and detention of officials.
- Exemption from taxation on United Nations salaries and emoluments. This exemption is addressed below in more detail.
- Immunity from national service obligations, including military service.
- United Nations officials, together with their spouses and relatives dependant on them, are immune from immigration restrictions and alien registration. According to this provision, officials who need to travel on official business of the Organization, including for taking up their post, must be issued, together with their family members, entry visas and any other necessary documents as speedily as possible.
- Officials have the right to import free of duty their furniture and effects at the time of first taking up their post in the host country. According to bilateral agreements and/or national legislation of Member States, United Nations officials are often allowed to also import free of duty articles and vehicles for personal use.
- United Nations officials are entitled to exchange facilities offered to diplomats, as well as to repatriation facilities in time of international crises, together with their spouses and relatives dependant on them.

According to section 19 of the General Convention, “[i]n addition to the immunities and privileges specified in section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.” Following the United Nations reform that took place in the 1950s, diplomatic privileges and immunities were also extended to

United Nations officials at the level of Under-Secretary-General and, subsequently, to the Deputy-Secretary-General.

In addition, Member States, as a rule, extend diplomatic privileges and immunities to heads of United Nations country offices and missions and other senior United Nations officials at the P4/P5 levels and above.

The General Convention does not outline the exact scope of diplomatic privileges and immunities enjoyed by such officials. However, according to the established practice, the Vienna Convention on Diplomatic Relations, 1961 (hereinafter, the “VCDR”), codifying such privileges and immunities, is used for these purposes. In particular, senior United Nations officials are entitled to enjoy immunity from criminal, civil and administrative jurisdiction of the host country, although that immunity is subject to certain exceptions as set out in the VCDR. They cannot be obliged to give evidence as a witness and shall not be subject to any form of arrest and detention. With some exceptions, they are also exempt from all dues and taxes whether personal or real, national, regional, or municipal.

Exemption from taxation of United Nations officials

With respect to the exemption from taxation enjoyed by United Nations officials on their United Nations-sourced income, the Legal Counsel has the honour to refer to her note verbale dated [date] and to that of her predecessor dated [date] (both attached), as well as to numerous communications of the Resident Coordinator of the United Nations in [State].** The Legal Counsel also wishes to summarize the legal position of the Organization in this regard as follows.

Under article II, section 7 (a) of the General Convention, “[t]he United Nations, its assets, income and other property shall be exempt from all direct taxes.” Furthermore, pursuant to article V, section 18 (1) (b) of the General Convention, “officials of the United Nations shall be exempt from taxation on salaries and emoluments paid to them by the United Nations.” The same provision is also included, *inter alia*, in article X (2) (e) of the Cooperation Agreement between the United Nations [United Nations entity 2] and [State], 1994 (hereinafter, the “[United Nations entity 2] Agreement”); and article XIII (1) (b) of the Standard Basic Cooperation Agreement between the United Nations [United Nations entity 3] and [State], 1993 (hereinafter, the “[United Nations entity 3] Agreement”). In addition, article IX (1) of the Assistance Agreement between the United Nations [United Nations entity 1] and [State], 1995 (hereinafter, the “[United Nations entity 1] Agreement”) confirms the applicability of the General Convention, *inter alia*, to [United Nations entity 1] officials.

The Legal Counsel wishes to point out that, as stated above, all locally-recruited staff members who are not assigned to hourly rates are fully entitled to exemption from taxation on their United Nations-sourced income.

As a party to the General Convention, [State] cannot make use of United Nations salaries and emoluments for any tax purposes. In place of national taxation, and to avoid the double taxation of United Nations officials, the General Assembly, in 1948, adopted a Staff Assessment Plan designed “to impose a direct assessment on United Nations staff members which is comparable to national income taxes (General Assembly resolution 239 (III) A of

* United Nations, *Treaty Series*, vol. 500, p. 95.

** Not reproduced herein.

18 November 1948). The total funds collected from this assessment are distributed among Member States, including [State], in proportion to their contributions to the assessed budget of the United Nations. National taxation would, therefore, impose a double taxation burden on officials of the United Nations and would increase the financial burden of the Organization and its Member States.

Another rationale of the immunity from taxation of salaries and emoluments paid by the United Nations is to achieve equality of treatment for all officials of the Organization, and that no Member State should derive any national financial advantage from the presence on its territory of staff of international organizations who receive salaries and emoluments from the funds of these organizations. These principles were clearly enunciated by the General Assembly in resolution 78 (I) of 7 December 1946 as follows: “[i]n order to achieve full application of the principles of equality among Members and equality among personnel of the United Nations, Members which have not yet completely exempted from taxation, salaries and allowances paid out of the budget of the Organization are requested to take early action in that matter.”

In this regard, the Legal Counsel expresses her serious concern with the imposition of tax on the United Nations-sourced income of the officials of the United Nations, who are nationals of [State], since such practice is not consistent with the legal obligations of the Government as outlined above.

Exemption from Value Added Tax

Turning to the question of exemption of the United Nations, its funds and programmes, from VAT, the Legal Counsel wishes to highlight the following points.

Article II, section 7 (a) of General Convention provides for a general exemption of the Organization from taxation, and in particular it states that “[t]he United Nations, its assets, income and other property shall be exempt from all direct taxes.” Section 8 of the General Convention further provides that “while the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax”. In United Nations practice, value added taxes are, as a rule, deemed to be indirect taxes within the meaning of section 8 of the General Convention.

Thus, following section 8 and the established practice of the Organization in its implementation, Member States are obliged to remit or return the amount of duty or tax which has been charged or is chargeable on important purchases of goods and services. The question of whether particular purchases are “important” within the meaning of section 8 of the General Convention has been determined by reference either to purchases made on a recurring basis, or which involve considerable quantities of goods, commodities or materials. The phrase “official use” in United Nations practice is interpreted as any use in furtherance of United Nations objectives, purposes, programmes and mandates.

Section 8 of the General Convention is designed to protect the assets of the Organization from such taxes, the imposition of which would be especially heavy, and would constitute an undue burden upon it. The principle of remission or return, reflected

in the General Convention, has become a regular element in the customary practice of States parties to the General Convention. The United Nations attaches special importance to this principle because it is designed to equalize the procurement costs of the Organization throughout the world and the consequent charges upon Member States.

Another important principle applicable to this issue was formulated by the United Nations Conference on International Organization at San Francisco in 1945, in recommending that Article 105 be included in the Charter:

“But if there is one certain principle, it is that no Member State may hinder in any way the working of the Organization or take any measures the effect of which might be to increase its burdens, financial or other”. (Report of Commission IV on Judicial Organization, UNCIO, Documents, Volume 13, p. 705).

In light of this principle, it is important that the exemption of the United Nations, its funds and programmes, from taxation, be implemented in the most efficient way, using whatever process is the least cumbersome for the Organization.

In this regard, the Legal Counsel wishes to express her concern with the situation where the United Nations experiences a less preferential treatment than that offered to a number of international organizations present in the territory of [State], including the [United Nations entity 1], the [United Nations entity 2], the [United Nations entity 3], and [another United Nations entity] in [State], in terms of exemption from VAT. The Legal Counsel understands that the United Nations has so far not been allowed to use the scheme of “Advance VAT Exemption” and, therefore, incurs additional burdens associated with the process of VAT remission.

Safety and security of United Nations personnel in [State]

The Legal Counsel also wishes to address the issue of safety and security of the United Nations personnel based in [State]. The Legal Counsel understands that several heads of United Nations offices and other United Nations personnel have suffered burglaries.

In this regard, the Legal Counsel recalls that the Government of [State] bears primary responsibility under international law for the safety and security of United Nations personnel. Therefore, the Government is under a legal obligation to take effective and adequate actions as may be required to ensure the appropriate security, safety and protection of United Nations personnel in the territory of [State].

Moreover, since the heads of the United Nations offices as well as other senior United Nations officials in [State], as a rule, are to enjoy diplomatic status, the Government incurs an additional obligation under international law to “treat [them] with due respect and ... take all appropriate steps to prevent any attack on [their] person, freedom or dignity”.

Contribution of the Government

In conclusion, the Legal Counsel would like to draw the Minister’s attention to the obligation of the Government to make monetary and in-kind contributions toward the costs of United Nations operations in the country.

In particular, in accordance with articles V and VI of the [United Nations entity 1] Agreement, the Government “undertakes to furnish ... the necessary office space and other premises”, as well as make a number of other monetary and in-kind contributions. In accordance with article VI of the [United Nations entity 3] Agreement, the Government “provide[s] to the [United Nations entity 3] as mutually agreed upon and to the extent possible ... appropriate office premises for the [United Nations entity 3] office”, as well as makes other kinds of contributions. Following article VI of the [United Nations entity 2] Agreement, the Government agreed to “assist the [United Nations entity 2] officials in finding appropriate office premises” and “to provide funds up to a mutually agreed amount to cover the cost of local services and facilities for the [United Nations entity 2] office, such as establishment, equipment, maintenance and rent, if any, of the office”.

In this regard, the Legal Counsel urges the Government to consider providing premises at no cost to the United Nations in the country, as well as to provide financial support in accordance with the above-mentioned obligations.

The Legal Counsel wishes to point out that the privileges and immunities enjoyed by the United Nations and other legal obligations assumed by the Government with respect to the United Nations, its funds and programmes, in accordance with the aforementioned international legal instruments may not be diminished on the basis of the national legislation of [State]. According to article 27 of the Vienna Convention on the Law of Treaties, 1969, which codifies customary international law applicable to international treaties, “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”. This principle is also reflected in section 34 of the General Convention, which provides that Member States have an obligation to be “in a position under [their] own law to give effect to the terms of this Convention”.

In summary, the Legal Counsel kindly requests the Government to take all necessary measures to ensure respect for the privileges, immunities and other obligations toward the United Nations, its funds and programmes. In particular, the Legal Counsel requests the Government to exempt all United Nations officials, including those who are nationals of [State], from any taxation on their United Nations-sourced income; to allow the United Nations, its funds and programmes, to use the “Advance VAT Exemption” scheme as the most efficient way of VAT exemption available in [State]; to take all necessary measures to ensure the safety and security of United Nations personnel present in the country, and to provide at no cost adequate office space for the United Nations.

...

22 February 2013

(c) Note to the Ministry of Foreign Affairs of [State], concerning the privileges and immunities of a [United Nations entity] and its officials from legal process initiated against it by a former service contractor

ARTICLE 105 OF THE CHARTER OF THE UNITED NATIONS—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—AS PER ARTICLE 27 OF THE VIENNA CONVENTION ON THE LAW OF TREATIES, 1969, A PARTY MAY NOT INVOKE THE PROVISIONS OF ITS INTERNAL LAW AS JUSTIFICATION FOR ITS FAILURE TO PERFORM A TREATY—UNITED NATIONS IMMUNITY FROM LEGAL PROCESS DIFFERS IN SCOPE AND NATURE AS COM-

PARED TO THE JURISDICTIONAL IMMUNITIES OF STATES—IMMUNITY OF THE UNITED NATIONS AND ITS OFFICIALS FROM JURISDICTION OF MEMBER STATES—SERVICE CONTRACTORS CAN AVAIL THEMSELVES OF THE DISPUTE RESOLUTION MECHANISMS SET OUT IN THEIR CONTRACTS

The Office of Legal Affairs of the United Nations presents its compliments to the Ministry of Foreign Affairs of [State] and has the honour to refer to the legal proceedings instituted by a former service contractor of [a United Nations entity], [Name], against [United Nations entity]. The Office of Legal Affairs has the further honour to refer to the most recent decision of the [domestic court] of [date] requesting [United Nations entity] to appear before the Court to be formally notified of the legal complaint filed by [Name] (attached).^{*}

In this regard, the Office wishes to confirm the position outlined in the Notes Verbales of [United Nations entity] addressed to the Ministry dated [date] and [date] (attached), and to reiterate the following legal principles relating to the privileges and immunities of the United Nations.^{*}

The activities of [United Nations entity], as a joint subsidiary organ of the United Nations and [United Nations entity 2], are governed in [State] by the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations, 1946 (hereinafter the “General Convention”), to which [State] is a party, without reservation. The privileges and immunities of [United Nations entity] and its personnel were further confirmed in the [date] Basic Agreement between [United Nations entity] and [State].

Pursuant to paragraph 1 of Article 105 of the Charter of the United Nations, “[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes...”, and according to paragraph 2 of the same Article “... officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization”. Paragraph 3 of this Article empowered the General Assembly to detail the application of paragraphs 1 and 2 of this Article and “propose conventions to the Members of the United Nations for this purpose”. Following this provision, the General Convention was adopted by the General Assembly.

Pursuant to article II, section 2 of the General Convention, “[t]he United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case, it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution”. According to section 18 (a) of the General Convention, “[o]fficials of the United Nations shall: (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity”.

The Office wishes to point out that the privileges and immunities enjoyed by [United Nations entity] in accordance with the aforementioned international legal instruments may not be diminished on the basis of the national legislation of [State]. According to article 27 of the Vienna Convention on the Law of Treaties, 1969, which codifies customary international law applicable to international treaties, “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”.

^{*} Not reproduced herein.

This principle is also reflected in section 34 of the General Convention, according to which the Government of [State] undertook an obligation to be “in a position under its own law to give effect to the terms” of the General Convention. Moreover, any interpretation of the provisions of the General Convention must be carried out within the spirit of the underlying provisions of the Charter of the United Nations, and in particular, paragraphs 1 and 2 of Article 105 thereof.

The Office also wishes to recall that the United Nations operations, including those of [United Nations entity], are not governed by the Vienna Convention on Diplomatic Relations, 1961^{*}, or Vienna Convention on Consular Relations, 1963.^{**} Moreover, the absolute immunity of the United Nations, including [United Nations entity], from every form of legal process, including that related to labour matters, is different in scope and nature as compared to the jurisdictional immunities of States.

International intergovernmental organizations, including the United Nations, have a character completely different from that of States, and the requirements for and the legal basis of their immunity is consequently entirely different from that of States.

The International Court of Justice (ICJ), has held that, while the United Nations was an “international person ... that is not the same thing as saying that it is a State, which it certainly is not, or that its legal personality and rights and duties are the same as those of a State Whereas a State possesses the totality of international rights and duties recognized by international law, the rights and duties of an entity such as the Organization must depend upon its purposes and functions as specified or implied in its constituent documents and developed in practice.” (Advisory Opinion on Reparations for Injuries Suffered in the Service of the United Nations (1949)).

While the immunity of States derives from their respective sovereignty and depends on the nature of the activity in question (commercial or in exercise of governmental functions) as well as the possibility of invoking reciprocity, the immunity of intergovernmental organizations is designed to protect their ability to function independently of any government. This distinction is well established in international law. Thus changes in the laws and principles governing the sovereign immunity of States are not relevant to the differently based immunity of intergovernmental organizations as set out above.

Moreover, the United Nations, as well as its programmes and funds, carry out their functions not only in their headquarters State but in the territories of all their Members. Therefore, in order to deal equitably with all their Members, they must be able to operate on the basis of uniform application of their constituent instruments, rather than on the basis of the diverse laws of particular Member States as well as international treaties to which these States may be parties. If any State could, through its courts, bend the operations of an international organization to the laws of that State, all other States could do likewise with respect to their laws, thus possibly paralysing or fragmenting the Organization.

The Office also wishes to draw the attention of the Ministry to the established practice of the United Nations, based on the provisions of the General Convention, not to appear in local courts of Member States, as well as other bodies authorized to conduct legal proceedings in order to assert its privileges and immunities. This long standing position is

^{*} United Nations, *Treaty Series*, vol. 500, p. 95.

^{**} *Ibid.*, vol. 596, p. 261.

reflected in the Study of the practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities that was prepared by the Secretariat of the United Nations for the International Law Commission in 1967 (see the *Yearbook of the International Law Commission*, 1967, vol. II p. 223). The assertion of the immunity of the United Nations is done in a written communication to the Ministry of Foreign Affairs of the State concerned, requesting it to take the necessary steps to inform the appropriate office of government (usually the Ministry of Justice or the Attorney-General's Office) to appear or otherwise move the court to dismiss the suit on the grounds of the Organization's immunity.

Subsequently, such practice was supported, *inter alia*, by the ICJ in the ... *Cumaraswamy* case. The Court in particular stated:

"[T]he Government of [State] had an obligation, under Article 105 of the Charter and under the General Convention, to inform its courts of the position taken by the Secretary-General. According to a well-established rule of international law, the conduct of any organ of a State must be regarded as an act of that State. Because the Government did not transmit the Secretary-General's finding to the competent courts, and the Minister for Foreign Affairs did not refer to it in his own certificate, [Member State] did not comply with the above-mentioned obligation."

The Court continued by stating:

"When national courts are seized of a case in which the immunity of a United Nations agent is in issue, they should immediately be notified of any finding by the Secretary-General concerning that immunity The governmental authorities of a party to the General Convention are therefore under an obligation to convey such information to the national courts concerned, since a proper application of the Convention by them is dependent on such information. Failure to comply with this obligation, among others, could give rise to the institution of proceedings under Article VIII, Section 30, of the General Convention."

Indeed, the Organization's immunity from legal process can only be fully protected if the Organization and its personnel do not bear the burden of asserting the immunity themselves. The Organization would face an onerous burden, both in terms of financial and personnel resources, if it had to appear in court to assert its immunity in the jurisdictions of its 193 Member States.

In light of the above, the Office reiterates that the United Nations is expressly maintaining its immunity, including that of [United Nations entity], and the immunity of its officials from legal process with respect to the proceedings instituted by [Name] against [United Nations entity] in [State].

Therefore, [United Nations entity] and its officials are not in a position to appear before the [domestic court]. The Office respectfully requests the Ministry to inform the relevant authorities of the position of the United Nations in this matter and to promptly take all necessary steps to ensure full respect for the privileges and immunities of the United Nations, including [United Nations entity] and its officials.

In particular, the Office respectfully requests the competent authorities of [State] to seek dismissal of the case in accordance with the Government's obligations under international law.

Finally, the Office has the honour to assure the Ministry that, notwithstanding the immunity of the Organization and its officials from legal process under the applicable provisions of the General Convention and the Charter of the United Nations, [Name] is not without a remedy to address her complaint. Consistent with the provisions of the General Convention, service contractors, including [Name], can avail themselves of the dispute resolution mechanism set out in their contracts.

...

24 June 2013

(d) Note to the Secretary for Foreign Affairs of [State], concerning the taxation of nationals employed by the United Nations

ARTICLE 105 OF THE CHARTER OF THE UNITED NATIONS—ARTICLE V OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—OFFICIALS OF THE UNITED NATIONS EXEMPT FROM TAXATION ON THE SALARIES AND EMOLUMENTS PAID TO THEM BY THE UNITED NATIONS—GENERAL ASSEMBLY RESOLUTION 76 (I)—ALL STAFF MEMBERS OF THE UNITED NATIONS EXCEPT THOSE RECRUITED LOCALLY AND ASSIGNED TO HOURLY RATES ARE CONSIDERED OFFICIALS FOR THE PURPOSES OF THE GENERAL CONVENTION—GENERAL ASSEMBLY RESOLUTION 239 (III) A—STAFF ASSESSMENT PLAN DESIGNED TO IMPOSE A DIRECT ASSESSMENT ON UNITED NATIONS STAFF MEMBERS COMPARABLE TO NATIONAL INCOME TAXES—STAFF OF THE FUNDS AND PROGRAMMES SUBJECT TO STAFF ASSESSMENT—ARTICLE 27 OF THE VIENNA CONVENTION ON THE LAW OF TREATIES, 1969—PRIVILEGES AND IMMUNITIES ENJOYED BY THE UNITED NATIONS MAY NOT BE DIMINISHED ON THE BASIS OF NATIONAL LEGISLATION

The Legal Counsel presents her compliments to the Secretary for Foreign Affairs of [State] and has the honour to refer to the [document 1] and [document 2].*

The Legal Counsel hereby requests the Government of [State] to promptly take all necessary steps to ensure unequivocal respect for the privileges and immunities of the United Nations, including ensuring that no officials of the United Nations in [State] are taxed on their United Nations income. In this regard, the Legal Counsel wishes to reiterate the applicable legal instruments as follows:

As an international organization, the United Nations and its officials have been accorded certain privileges and immunities which are necessary for the fulfilment of the purposes of the Organization. Article 105 of the Charter of the United Nations provides the general basis for the privileges and immunities of both the United Nations and its officials. In order to give effect to Article 105 of the Charter of the United Nations, the General Assembly of the United Nations adopted the Convention on the Privileges and Immunities of the United Nations (the “General Convention”) on 13 February 1946, to which [State] acceded ... without reservation.

Pursuant to article V, section 18, subparagraph (b) of the General Convention, “officials of the United Nations shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations”. In this regard, it should be noted that General Assembly resolution 76 (I) provides that “the granting of privileges and immunities referred to in article V ... to all members of the staff of the United Nations, with the exception

* Not reproduced herein.

of those who are recruited locally and are assigned to hourly rates". Therefore, all staff members of the United Nations are considered officials for the purposes of the General Convention, with the sole exception of those who are both recruited locally and assigned to hourly rates, and are entitled to exemption from such taxation irrespective of their nationality, residence, place of recruitment or rank. Thus, locally-recruited staff members who are not assigned to hourly rates also enjoy the privileges and immunities of article V of the General Convention, including immunity from taxation on the salaries and emoluments paid to them.

The immunity from taxation of salaries and emoluments paid by the United Nations was established to achieve the equality of treatment for all officials of the Organization and in order to ensure that no Member States should derive any national financial advantage from the presence of staff of international organizations who receive salaries and emoluments from the funds of these organizations on their territory. These principles were clearly enunciated by the General Assembly in resolution 239 (III) C of 18 November 1948 in which the Assembly requested Members which had not acceded to the General Convention or had acceded to it with reservations as to section 18 (b), to "take the necessary action, legislative or other, to exempt their nationals, employed by the United Nations from national income taxation with respect to their salaries and emoluments paid to them by the United Nations, or in any other manner to grant relief from double taxation to such nationals".

The Legal Counsel recalls that no Member State of the Organization is expected to make use of United Nations salaries and emoluments for any tax purposes. It will be recalled that in place of national taxation and to avoid the double taxation of United Nations officials, the General Assembly, in 1948, adopted a Staff Assessment Plan designed "to impose a direct assessment on United Nations staff members which is comparable to national income taxes" (General Assembly resolution 239 (III) A of 18 November 1948). The total funds collected from this staff assessment are distributed as an offset among Member States who do not impose taxes on United Nations income, including [State], in proportion to their contributions to the assessed budget of the United Nations. National taxation would, therefore, impose a double taxation burden on officials of the United Nations and would increase the financial burden of the Organization and its Member States.

The Legal Counsel wishes to confirm that the staff of the funds and programmes are subject to such staff assessment. As a result, any taxes that might be applied to the income derived from the United Nations would result in double taxation on those staff members. Moreover, the Legal Counsel notes that the Staff Rules and Regulations of the United Nations imposes an obligation on the Organization to reimburse any taxes that might be assessed by national authorities on the salaries of United Nations staff. In cases where the Organization has to make such reimbursement to staff, the Organization seeks equal reimbursement from the relevant national authorities. Therefore, if United Nations national staff members should be required to pay taxes on their United Nations income in [State], the Organization would be required to reimburse them and would then seek equal reimbursement from [State].

The Legal Counsel notes that [document 1] correctly states that based on article V, section 18 of the General Convention, "officials of the United Nations shall be exempt from [State] income tax, regardless of their nationality or place of residence". The [document 1],

however, goes on to state that only those officials whose names have been communicated to the Government (through the Department of Foreign Affairs) shall be covered by the tax exemption. Article V, section 17 of the General Convention states that “[t]he Secretary-General will specify the categories of officials to which the provisions of this article and article VII shall apply... The names of the officials included in these categories shall from time to time be made known to the Governments of Members”. Accordingly, while the Organization has an obligation to identify officials to the Government of [State], it must only do so from time to time. It follows from the above provisions that an official is exempt from taxation in [State] even if the United Nations has not yet identified that individual as an official to the Government.

The Legal Counsel would like to note that [document 1] incorrectly identifies the United Nations Children’s Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Population Fund (UNFPA) as specialized agencies of the United Nations. UNICEF, UNDP, UNHCR and UNFPA are all integral parts of the United Nations and are to be accorded the privileges and immunities provided for under the General Convention, including exemption from taxation for [State] nationals and permanent residents. Accordingly, per the terms of [document 1], there is no need to consider any separate host agreements for these entities since they are not Specialized Agencies.

Under section 34 of the [General] Convention, [State] has an obligation to be “in a position under its own law to give effect to the terms of this convention”. Moreover, any interpretation of the provisions of the Convention must be carried out within the spirit of the underlying principles of the Charter of the United Nations, and in particular, paragraph 1, Article 105 thereof, which provides that the Organization shall enjoy such privileges and immunities as are necessary for the fulfilment of its purposes. Measures which might, *inter alia*, increase the financial or other burdens of the Organization have to be viewed as being inconsistent with this provision.

Additionally, the privileges and immunities enjoyed by the United Nations in accordance with the aforementioned international legal instruments may not be diminished on the basis of the national legislation of [State]. According to article 27 of the Vienna Convention on the Law of Treaties, 1969, which codifies customary international law applicable to international treaties, “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”.

The Legal Counsel therefore respectfully requests the Government of [State] to take the appropriate steps to ensure that all officials of the United Nations, including officials of its funds and programmes, are not taxed on their United Nations income. In this regard, members of the Office of Legal Affairs remain available to discuss this matter further with the relevant authorities of [State].

...

28 June 2013

(e) Note to the Secretary-General from the Legal Counsel, concerning the extension of the privileges and immunities of the officials of the Special Court for Sierra Leone and the Residual Special Court for Sierra Leone

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—RECOGNITION OF SPECIAL COURT FOR SIERRA LEONE (SCSL) AND RESIDUAL SPECIAL COURT FOR SIERRA LEONE (RSCSL) OFFICIALS AS EXPERTS ON MISSION WHEN OUT OF THE HOST COUNTRIES OF THE COURTS—ABSENCE OF FUNCTIONAL IMMUNITY AFFECTING INDEPENDENT EXERCISE OF OFFICIALS—CONSIDERING ACTIVITIES OF THE SCSL AND RSCSL AS ACTIVITIES OF THE UNITED NATIONS RESULTING FROM A MANDATE OF THE SECURITY COUNCIL

1. In the ... letter dated [date], the President and the Registrar of the Special Court for Sierra Leone (SCSL) request that the United Nations consider extending the scope of application of the privileges and immunities of the SCSL and the Residual Special Court for Sierra Leone (RSCSL) and their officials.^{*} Specifically, they suggest that the privileges and immunities should be applicable universally and not only in the host countries of the Courts (Sierra Leone and the Netherlands) and that former officials should continue to enjoy immunity in respect of words spoken and acts done by them in their official capacity.

2. For the reasons set out below, I believe that the officials of the SCSL and the RSCSL could be recognized as experts on mission under the Convention on the Privileges and Immunities of the United Nations (hereinafter the “General Convention”) when they are out of the host countries of the Courts.

3. By way of background, the SCSL was established by an agreement between the United Nations and the Government of Sierra Leone. The seat of the SCSL is in Sierra Leone but, for security reasons, its proceedings against the former President of Liberia, Mr. Charles Taylor, are taking place in The Hague. The SCSL expects to deliver the appeal judgment in that case by 30 September 2013 and to close by the end of this year. The RSCSL was also established by agreement between the United Nations and the Government of Sierra Leone, to carry out the residual functions of the SCSL upon its closure. Its permanent seat is in Sierra Leone, but it will perform its functions temporarily at an interim seat in The Hague.

4. The SCSL and RSCSL are treaty-based bodies that are not part of the United Nations. The officials of the SCSL and the RSCSL are not officials of the United Nations. As such, they do not enjoy the privileges and immunities granted to United Nations officials under the General Convention. Instead, they are accorded privileges and immunities under the SCSL and RSCSL Agreements as well as under headquarters agreements with Sierra Leone and the Netherlands. The officials do not enjoy privileges and immunities in any other States.

5. The President and Registrar are concerned that after the completion of their work, former SCSL officials will not enjoy immunity for the actions performed by them in their capacity as Court officials in the countries to which they will relocate. Further, they note that pursuant to the RSCSL Statute, the officials of the RSCSL will be expected to perform most of their functions remotely, in countries in which they do not enjoy immunity. The absence of functional immunity in those countries could affect the independent exercise of

^{*} Not reproduced herein.

their functions. The Office of Legal Affairs has discussed these concerns with the President and Registrar.

6. This problem could be resolved by treating the officials of the SCSL and the RSCSL as experts on mission for the United Nations in countries other than Sierra Leone and the Netherlands and according to them the privileges and immunities under articles VI and VII of the General Convention. The President and Registrar have informally agreed that this solution would be suitable.

7. There is no definition of “experts on mission” in the General Convention. The established principle and consistent practice of the Organization is to consider as “experts on mission” persons who are performing missions for the United Nations provided they are serving in an individual capacity and are neither officials of the Organization nor representatives of Member States.

8. The practice also shows that the United Nations has recognized the status of experts on mission of the members of human rights treaty bodies which have a separate legal status from the United Nations. The recognition was based on the fact that the human rights treaty bodies are closely linked to the United Nations.

9. In this regard, it should be noted that there is a special relationship between the United Nations and the SCSL and the RSCSL. While the United Nations is, strictly speaking, not a parent organ of the SCSL and the RSCSL, it is a founding party. The SCSL was established pursuant to Security Council resolution 1315 (2000) which mandated the creation of the Court, instructed the Secretary-General to enter into negotiations with the Government of Sierra Leone to that end, and defined the subject matter jurisdiction of the Court. The RSCSL was established with the approval of the Security Council, which was expressed by letter dated 15 July 2010 from the President of the Security Council to the Secretary-General (S/2010/385).

10. Moreover, the Security Council has supported the SCSL in a number of ways, including by: instructing the United Nations Mission in Sierra Leone (UNAMSIL) to provide administrative and related support to the SCSL (resolution 1400 (2002)); authorizing the deployment of the military personnel of the United Nations Mission in Liberia (UNMIL) to Sierra Leone to provide security for the SCSL (resolution 1626 (2005)); and authorizing UNMIL to arrest and transfer Charles Taylor to the SCSL (resolution 1638 (2005)). In addition, the Security Council and the General Assembly have approved United Nations’ subventions to the SCSL in order to enable it to complete its work and to transition to the RSCSL. The President and Prosecutor of the SCSL also periodically address the Security Council on the work of the Court.

11. It follows from this that the activities of the SCSL and RSCSL may be considered by the United Nations as activities resulting from a mandate of the Security Council. In such a case, officials of the SCSL and the RSCSL may be regarded as performing missions for the United Nations.

12. The fact that the SCSL and RSCSL officials do not have a contract from the United Nations does not prevent them from being considered as experts on mission. The International Court of Justice clarified in its advisory opinion in the *Mazilu* case that “... the experts thus appointed or elected may or may not be remunerated, may or may not have a contract, may be given a task requiring work over a lengthy period of time of a short time. The essence of the matter lies not in their administrative position but in the nature

of their mission.” Further, the fact that they are officials of the SCSL and the RSCSL does not prevent them from being considered as experts on mission. It is only officials of the United Nations who may not be considered as experts on mission.

13. In light of the foregoing, I wish to recommend that SCSL and RSCSL officials should be considered as experts on mission for the United Nations when they are outside the countries in which they already enjoy privileges and immunities under the SCSL and RSCSL Agreements or the relevant headquarters agreements.

14. If the Secretary-General agrees, I will address a communication to that effect to the President of the SCSL and will publish this communication in the United Nations Juridical Yearbook for the information of Member States.

23 July 2013

(f) Request for review and clearance of draft Memorandum of Understanding between [the Secretariat Office] and United Nations Volunteers

UNITED NATIONS VOLUNTEERS (UNVs) SERVE UNDER CONTRACT WITH UNV AND ARE NOT STAFF MEMBERS—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946, DOES NOT APPLY TO UNVs—EXPRESS AGREEMENTS WITH HOST COUNTRY ARE REQUIRED FOR PRIVILEGES AND IMMUNITIES TO BE GRANTED TO UNVs UNLESS EXISTING AGREEMENTS ALREADY PROVIDE THEM UNDER STATUS-OF-FORCES AGREEMENTS (SOFAs), STATUS-OF-MISSION AGREEMENTS (SOMAs), OR STANDARD BASIC ASSISTANCE AGREEMENTS (SBAAs) ENTERED INTO BY UNDP

1. This is with reference to your memorandum dated [date] by which you requested this Office to review and clear a draft Memorandum of Understanding between the [Secretariat Office (hereinafter the “Office”)] and United Nations Volunteers (UNV). This also refers to the subsequent correspondence and discussions between representatives of our Offices concerning this matter, including a meeting held on [date].

2. As you are aware, individual UNVs serve under contract with UNV and are not United Nations staff members or officials. Accordingly, they do not enjoy privileges and immunities under the Convention on the Privileges and Immunities of the United Nations (the “General Convention”). Therefore, in each country in which they are deployed, separate negotiations with the host country are required in order for relevant privileges and immunities to be granted to UNVs, unless existing arrangements between the United Nations and host Governments provide for privileges and immunities for UNVs. In this respect, currently, agreements that provide for privileges and immunities for UNVs are the Status-of-Forces Agreements (SOFAs) and Status-of-Mission Agreements (SOMAs) entered into by peacekeeping and political missions as well as Standard Basic Assistance Agreements (SBAA) entered into by UNDP. Thus, unless UNVs serve in countries where SOFAs or SOMAs are in force or where SBAAs have been concluded and they are performing work for UNDP, or a host country has expressly agreed to provide privileges and immunities for UNVs under a separate agreement, UNVs do not enjoy relevant privileges and immunities.

3. We understand that one of the main purposes for this MOU is for UNV to obtain agreement from [the Office] that individual UNVs will enjoy the same privileges and immunities enjoyed by United Nations officials under the General Convention. We note our serious concerns about the ability of [the Office] to enter into an MOU with UNV which

requires [the Office] to make the aforementioned arrangement for UNVs in light of our understanding that, with the exception of one Member State, [the Office] does not have its own agreements with host Governments whereby it could extend privileges and immunities to UNVs through such agreements. Even within the one host country agreement concluded by the United Nations/[the Office] with the Government of [State], UNVs do not enjoy the same privileges and immunities enjoyed by United Nations officials under the General Convention. This is because contrary to the provisions of the SOFA, SOMA or SBAA, the Agreement between the United Nations/[the Office] and the Government of [State] dated [date] does not provide for the privileges and immunities of UNVs.

4. In light of the above, we would strongly caution against [the Office] entering into this framework MOU as [the Office] cannot guarantee the necessary privileges and immunities for UNVs without concluding individual agreements with each host country in which such UNVs would be deployed. From a legal perspective, we note that deploying UNVs without the necessary privileges and immunities carries a high risk that the Organization may not be able to properly protect such UNVs in cases of arrest or detention or other forms of legal process.

5. We remain available to discuss further at your convenience.

30 July 2013

2. Procedural and institutional issues

(a) Inter-office memorandum to the Assistant Secretary-General and Deputy Executive Director of the United Nations Environment Programme, concerning the rules of procedure and participation issues of the first universal session of the Governing Council

GENERAL ASSEMBLY RESOLUTION 67/213—“UNIVERSAL MEMBERSHIP” OF THE GOVERNING COUNCIL IS LIMITED TO THE 193 MEMBER STATES OF THE UNITED NATIONS—NON-MEMBER STATES OF THE UNITED NATIONS WHO ARE MEMBER STATES OF SPECIALIZED AGENCIES CAN PARTICIPATE AS OBSERVERS IN ACCORDANCE WITH ITS RULES OF PROCEDURE—RULES OF PROCEDURE OF THE GOVERNING COUNCIL’S FIRST UNIVERSAL SESSION SHOULD BE PROPOSED BY THE PRESIDENT AND DECIDED BY THE COUNCIL—GOVERNING COUNCIL SHOULD DECIDE ON A CASE BY CASE BASIS WHICH RULES OR PRACTICES OF THE GENERAL ASSEMBLY SHALL BE APPLICABLE TO ITS PROCEEDINGS—NEW RULES OF PROCEDURE SHOULD BE ADOPTED AT UNEP’S FIRST UNIVERSAL SESSION RATHER THAN AMENDING EXISTING RULES

1. I wish to refer to your letter dated [date] in which you sought our views on how the rules of procedure of the Governing Council and the rules and practices of the General Assembly will apply to the first universal session of the Governing Council to be held from 18 to 22 February in Nairobi, Kenya. We provided you with our initial response in our memorandum of [date].

2. You will find attached to this Note a comprehensive comparison between the rules of procedure of the Governing Council and the rules and practices of the General Assembly as well as an analysis of the term “universal membership” used in paragraph 4(b) of General Assembly resolution 67/213.^{*} In summary our advice is as follows:

^{*} Not reproduced herein.

3. Under resolution 67/213 universal membership of the Governing Council appears to be limited to the 193 Member States of the United Nations. This is based on our reading of the resolution and the general practice of the General Assembly. However, we are unaware of the specific drafting history of the resolution. For the reasons explained in our Note, non-Member States of the United Nations, who are Member States of Specialized Agencies can participate as observers, on the same basis as they have participated previously in the activities of the Governing Council, in accordance with its rules of procedure. The European Union should also be able to participate as an observer given the enhanced observer status it enjoys within the General Assembly.

4. In order for the President as well as all Member States to have clarity over what rules of procedure are applicable at any given time, we would suggest that, at the beginning of the Governing Council, the President proposes and the Council decides that the rules of procedure of the Governing Council shall apply to its first universal session and that the Governing Council shall decide on a case by case basis which rules or practices of the General Assembly shall be applicable to its proceedings.

5. In taking these decisions the Governing Council may wish to consider applying those rules of the General Assembly which are more advantageous to use in light of its universal membership, such as the rule on quorums or where the Governing Council's rules have no applicable rule such as the General Assembly rule on summary records or electronic voting. The Governing Council could also take a decision to apply both the rules of procedure of the Governing Council and the rules of procedure and the practice of the General Assembly simultaneously, where the specific rule or practice could be viewed as complementary, for example on the participation of intergovernmental organizations.

6. United Nations Environment Programme ("UNEP") may wish to appraise the President and the Bureau prior to the first universal session, of this course of action. They should be briefed in advance on all decisions that will be proposed to the Governing Council by the President. In addition, UNEP may wish to consult informally with the Committee of Permanent Representatives.

7. Given that resolution 67/213 has tasked the development and adoption of the Governing Council's new rules of procedure to the Council itself, the Council will probably not seek to amend its rules of procedure which would be through a decision of the Council itself, but rather to adopt new rules which will supersede those currently applicable to its proceedings. It is important that this process begin at UNEP's first universal session. We will be available to assist UNEP and the Council in this process.

8. Finally, as far as seating is concerned, there is a practice in the General Assembly of deciding by the drawing of lots which Member State shall be seated first. For the sixty-seventh session, Jamaica's name was picked and accordingly, they are seated first in all the meetings of the General Assembly and its Main Committees with other Member States following in alphabetical order.

9. However, we would recommend seating from A-Z in alphabetical order for the first universal session which is the case for most subsidiary organs of the General Assembly, with Observer States seated alphabetically after Member States followed by the European Union.

10. Should you have any questions please do not hesitate to contact us.

11 February 2013

**(b) Inter-office memorandum to the Executive Secretary of the
United Nations Economic and Social Commission for Western Asia (ESCWA),
concerning proposal to change the name of the Commission**

ECONOMIC AND SOCIAL COMMISSION FOR WESTERN ASIA (ESCWA) RESOLUTION 302 (XXVII)—CHANGE OF THE NAME OF THE COMMISSION TO THE UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION FOR THE ARAB REGION, UPDATE OF ITS TERMS OF REFERENCE, AND REQUEST THAT THE SECRETARIAT INVITE ALL ARAB COUNTRIES TO BECOME MEMBERS OF ESCWA—ABSENCE OF A DEFINITION OF “ARAB COUNTRIES” ADOPTED BY THE INTERGOVERNMENTAL ORGANS OF THE UNITED NATIONS—COMMISSION SHOULD PREPARE AND ADOPT A DRAFT RESOLUTION TO EXPRESSLY REQUEST APPROVAL

1. This memorandum is in response to your memorandum of [date] requesting advice on the “next steps” in terms of finalizing the change of the name from the Economic and Social Commission for Western Asia (“ESCWA” or the “Commission”) to the United Nations Economic and Social Commission for the Arab Region, and updating its terms of reference, in line with resolution 302 (XXVII) of 10 May 2012 adopted at the ESCWA Ministerial Session which was endorsed by ECOSOC in its resolution 2012/1.

2. We would like to recall that ESCWA was established by ECOSOC resolution 1818 (LV) of 9 August 1973. The original membership was limited to “the States Members of the United Nations situated in Western Asia which at present call on the services of the United Nations Economic and Social Office in Beirut” in accordance with paragraph 2 of the terms of reference of ESCWA contained in resolution 1818 (LV). These States were, at the time, Bahrain, Iraq, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, the United Arab Emirates, Yemen and Democratic Yemen (the last two States later formed a single State in 1990).

3. Subsequently, ECOSOC approved the admission of Egypt, Libya, Morocco, the Sudan, Tunisia and the Palestine Liberation Organization as full members.

4. By ECOSOC resolution 1985/69 of 26 July 1985, the name “Economic Commission for Western Asia” was changed to the “Economic and Social Commission for Western Asia” and the terms of reference were amended accordingly.

5. In this regard, ESCWA resolution 133 (XII) recommended ECOSOC to “[d]esignate the Economic Commission for Western Asia as the Economic and Social Commission for Western Asia ...[and] [a]mend the terms of reference of the Commission ... to conform to the new designation.” Thereafter, ECOSOC adopted resolution 1985/69 which decided “to change the name of the Economic Commission for Western Asia to ‘Economic and Social Commission for Western Asia’” and “to amend the terms of reference of the Commission ... to reflect the new name.” Copies of these resolutions are attached for your ease of reference*.

6. Furthermore, we note that operative paragraph 3 of ESCWA resolution 302 (XXVII) adopted at the Ministerial Session in 2012, “requests the secretariat to invite all Arab countries to become members of ESCWA and to coordinate with relevant United Nations entities and the League of Arab States the re-designation of ESCWA to become the United Nations Economic and Social Commission for the Arab Region.”

* Not reproduced herein.

7. With respect to the request to “invite all Arab countries to become members of ESCWA”, we are not aware of any definition of “Arab countries” adopted by the inter-governmental organs of the United Nations. In light of this, the ESCWA Executive Secretary should not be seen to as selecting the States who fall into this category, and thus the States who should receive an invitation for membership. One option would be for the ESCWA Executive Secretary to seek further guidance from ESCWA Ministerial Session on the Member States that should receive invitations for membership in accordance with the resolution. The ESCWA Ministerial Session could then adopt a separate decision or resolution which clarifies which States should be invited under resolution 302 (XXVI). Alternatively, the Commission, if there will not be a Ministerial Session in the near future, could adopt such a decision or resolution.

8. As far as next steps in terms of finalizing the name change is concerned, the ESCWA secretariat could provide assistance to the relevant bodies of ESCWA so that the name change and the amendments to the terms of reference can be effected properly and in accordance with prior practice as outlined below.

9. As was done in ESCWA resolution 133 (XII), the Commission could adopt a resolution expressly requesting ECOSOC to approve the change in the name of ESCWA and amendments to the terms of reference, in particular paragraphs 1 and 2. The amendments to be made to the terms of reference could also be specified in that resolution. The practice suggests that ESCWA would prepare and adopt a draft resolution to be submitted to ECOSOC for its final adoption.

10. Once ESCWA adopts the necessary resolution, the issue would be ripe for action by ECOSOC. Proposals to change the name and to amend the terms of reference fall under the regular agenda item “Regional cooperation” which would be taken up at the ECOSOC substantive session normally held in July.

11. Under this agenda item, a report of the Secretary-General entitled “Regional cooperation in the economic, social and related fields” is submitted annually (see e.g. E/2012/15 of 16 April 2012). “Matters calling for action by the Council” submitted by the regional economic commissions are normally included in an addendum to this report (see e.g. E/2012/15/Add.2 of 4 June 2012). The draft resolution for adoption by ECOSOC and any relevant ESCWA resolutions should be included in that addendum.

12. Based on the recommendations from ESCWA, ECOSOC would consider a resolution to change the name of ESCWA and to amend the terms of reference of ESCWA. If such a resolution is adopted, the name change can be reflected.

13. My Office remains available should you have further questions on the matter.

14 February 2013

(c) Inter-office memorandum to [a Secretariat Office], concerning the terms of reference for the Scientific Advisory Board to the Secretary-General

MEMBERS OF ADVISORY BOARD MAY BE ACCORDED THE STATUS OF “EXPERTS ON MISSION”—ST/SGB/177, THE SERVICES OF OUTSIDE EXPERTS AS PARTICIPANTS IN ADVISORY MEETINGS SHALL BE OBTAINED UNDER A LETTER OF INVITATION—STATUS OF MEMBERS AS EXPERTS SHOULD BE INCLUDED IN THE SECRE-

TARY-GENERAL'S INVITATION LETTER TO THE PROSPECTIVE MEMBERS—TERMS OF REFERENCE SHOULD ALSO SPECIFY THAT PARTICIPANTS SERVE IN THEIR PERSONAL CAPACITY

1. I refer to your e-mail messages of [date] and [date], seeking the Office of Legal Affairs' (OLA) feedback on a revised version of the draft Terms of Reference (TOR) for the establishment of a proposed [...] Advisory Board to the Secretary-General (hereinafter, the "Advisory Board"). We had exchanged e-mail messages on this matter at [date] when you had sought OLA's review of a draft version of the TOR that had been prepared by [a specialized agency], which had consulted in the preparation of that draft with various United Nations System organizations. At that time, I had advised that the essential legal issue concerned the terms relating to the appointment and conditions of service of the members of the Advisory Board, which had yet to be elaborated. I had suggested that [the specialized agency] elaborate such terms of appointment of the members of the Advisory Board and provide them to both OLA and the [specialized agency's] legal office, with whom OLA could liaise, in order to finalize such terms.

2. Your e-mail messages of [date] informed OLA that [the specialized agency] had revised the draft TOR to further elaborate on the appointment and status of the members of the Advisory Board, and that the TOR would be the subject of discussions between the Deputy Secretary-General and the [executive head of the specialized agency], which are scheduled to take place tomorrow. Accordingly, for purposes of reviewing and providing feedback on the revised draft TOR for the Advisory Board in advance of that meeting, we set out below our comments on the revised TOR. In order to facilitate the finalization of the TOR, we have inserted our comments in redline in the attached draft TOR.*

3. Insofar as members of the Advisory Board are expected to provide advice to the Secretary-General, it is useful to recall the policies for obtaining the services of individuals on behalf of the Organization. The Secretary-General's bulletin, ST/SGB/177, of 19 November 1982, entitled, "Policies for Obtaining the Services of Individuals on Behalf of the Organization," sets forth, *inter alia*, the basis for the participation of experts in official meetings or other official activities of the Organization. Paragraph 9 of the Bulletin provides that the "temporary services of individuals who provide outside expertise ... as participants in advisory meetings, such as *ad hoc* expert groups, workshops and seminars, shall be obtained under a letter of invitation." It further provides that "participants in such meetings serve in their personal capacity and do not represent any Governments or institution," and that such participants "shall receive no fee or other remuneration for their participation in such meetings but they may be paid travel expenses, including a travel subsistence allowance."

4. Most of these points are already reflected in the draft TOR for the Advisory Board, including, in particular, that the members serve in their personal capacities and do not represent other Government or institutions. Consistent with the Secretary-General's bulletin, we would also recommend that the TOR specify whether the members of the Advisory Board will receive travel expenses, including subsistence allowance. We have added a provision to this effect in the enclosed revision of the draft TOR. We have added the provision within square brackets, should it be decided that the members will receive travel expenses and subsistence allowance. If not so decided, the provision may be omitted.

* Not reproduced herein.

If so decided, mention of this should also be made in the letters of invitation sent to prospective members of the Advisory Board.

5. In addition to the foregoing, it should also be recalled that paragraph 7 of Administrative Instruction ST/AI/296, of 19 November 1982, entitled “Consultants and Participants in Advisory Meetings”¹ provides, in pertinent part, as follows:

“Individuals whose services are required as participants in advisory meetings such as *ad hoc* expert groups ... will be invited to participate in the meeting by means of a letter which will give details of the meeting, the legal status and obligation of the participants and the Organization’s arrangements for their travel, compensation for service-incurred death, injury, illness and their own responsibility for insurance”

6. With respect to the legal status of participants in advisory meetings, paragraph 9 of the Administrative Instruction provides as follows:

“Individuals ... invited to participate in advisory meetings serve in their personal capacity and not as representatives of a Government or of any other authority external to the United Nations. They are neither ‘staff members’ under the Staff Regulations of the United Nations nor ‘officials’ for the purpose of the Convention of 13 February 1946 on the Privileges and Immunities of the United Nations. They may, however, be given the status of ‘experts on mission’ in the sense of Section 22 of Article VI of the Convention. If they are required to travel on behalf of the United Nations, they may be given a United Nations certificate in accordance with Section 26 of Article VII of the Convention.”

Consistent with the Administrative Instruction, the fact that members of the Advisory Board may be accorded the status of “experts on mission” should, therefore, be added to section IV of the draft TOR, and we have done so in the enclosed revised version of the draft TOR. We also recommend that this be included in the Secretary-General’s invitation letter to the prospective members of the Advisory Board.

7. In addition to information regarding the legal status of the prospective members of the Advisory Board, the invitation letter should inform them of: (i) their entitlements in case of death, injury or illness attributable to service with the United Nations (as set forth in paragraph 25 of the Administrative Instruction), (ii) their obligations not to seek or accept instructions from Governments or other external authorities (as per paragraph 10 of the AI), (iii) the limitations on the duration of their service (as per paragraph 13 of the AI); (iv) the Organization’s arrangements for and conditions for their travel (as per paragraph 23 of the AI); and (v) the fact that they are responsible for their own insurance (as per paragraph 28 of the AI). These requirements are addressed in section III of the enclosed revised draft of the TOR.

8. [...]

11 June 2013

¹ ST/AI/296 was amended by ST/AI/296/Amend.1 of 5 July 1995. However, the amendment only concerns paragraph 26 of the Administrative Instruction regarding the medical clearance of consultants. Given that, as we understand, the members of the Advisory Board are not being retained as consultants, the amendment does not apply in this case.

(d) Inter-office memorandum to the Legal Adviser of [a Secretariat Office], concerning partnership arrangements with entities that would engage in cause-related marketing campaigns using a logo of the [Secretariat Office's Campaign]

USE OF SPECIFIC UNITED NATIONS LOGO BY OUTSIDE ENTITIES—ARTICLE 6 *TER* OF THE PARIS CONVENTION—PROHIBITION OF THE USE OF TRADEMARKS, OTHER EMBLEMS, ABBREVIATIONS, AND NAMES OF INTERNATIONAL ORGANIZATIONS WITHOUT AUTHORIZATION BY THE COMPETENT AUTHORITIES—SUCH PROTECTION EXTENDS TO THE DISTINCT SUBSIDIARY BODIES OF THESE ORGANIZATIONS THAT HAVE A PERMANENT CHARACTER—LICENSING OF LOGO FOR GARNERING PRIVATE VOLUNTARY CONTRIBUTIONS

1. This refers to your request for the Office of Legal Affairs' (OLA) advice regarding the use of the "[...] Logo," which is the distinctive visual symbol of the [Secretariat Office's Campaign] (the "Campaign"), in connection with the sale of products and services in return for a share of proceeds of such sales benefitting the Campaign. I refer also to many subsequent communications between representatives of our Offices on this matter.

ISSUES RAISED

2. OLA understands that for several years, [the Secretariat Office (the "Office")] has been carrying out the Campaign in order to raise awareness about and to combat human trafficking. The Campaign has employed the [...] Logo as a symbol of that fight against human trafficking. OLA also understands that the [...] Logo is also used in connection with the United Nations Voluntary Trust Fund for [...] (the "Trust Fund"), which was established by the General Assembly and is administered by [the Office] upon the advice of a Board of Trustees appointed by the Secretary-General. The Campaign calls for contributions to the Trust Fund to enable [the Office] to further the aims and activities of the Campaign.

3. [The Office] now seeks OLA's advice on whether [it] may license the [...] Logo for use by private sector entities in connection with the sales of their products or services. A certain portion of the proceeds from such sales would be donated by such entities to the Trust Fund to benefit the Campaign. [The Office]'s proposal for such a cause-related marketing approach raises the following questions:

(a) What are the legal or policy implications of engaging in a cause-related marketing campaign?

(b) On what basis can [the Office] claim to have intellectual property rights over the [...] Logo so as to be able to license its use by third parties?

(c) Are there any legal impediments to [the Office]'s seeking contributions to the Trust Fund from third party entities where such contributions are derived from the proceeds of sales of products or services using the [...] Logo?

CAUSE-RELATED MARKETING GENERALLY

4. [The Office]'s proposal to raise money for the Campaign through contributions of a portion of proceedings from the sale by third party entities of products or services bearing the [...] Logo is an example of cause-related marketing. [...]

5. [...]

6. The long-standing policy of the Organization is that outside fundraisers should not be used to generate voluntary contributions to the Organization. This is because such fundraisers could expose the Organization to oversight by regulatory bodies of Member States, which would be inconsistent with the status and the privileges and immunities of the United Nations. Moreover, the activities of outside fundraisers could expose the Organization to reputational risk, whether as a result of their messaging or their other fundraising activities, particularly if alleged to be fraudulent or otherwise of a political nature inconsistent with the aims and activities of the Organization. The only exception has been the use of not-for-profit organizations having a specific relationship agreement with the Organization to generate contributions, including the National Committees of UNICEF, the United Nations Associations in Member States, the United Nations Foundation, and similar organizations. The United Nations has never entered into such arrangements, however, with for-profit entities.

7. In this case, as OLA understands, [the Office] proposes to manage the proposed [...] Logo cause-related marketing campaign itself. The Organization would not use an outside entity to manage and conduct the proposed [...] cause-related marketing campaign [...]. Thus, as OLA understands, [the Office] proposes that the United Nations itself would enter into licensing arrangements with partner companies authorizing them to use the [...] Logo in connection with the sale of their products or services, and in return such partner companies would contribute a portion of their proceeds from such sales to the Trust Fund. In principle, the Organization itself could enter into such arrangements, as it has the legal capacity to do so. The questions that arise are both of a policy nature, concerning the implications of entering into such arrangements, as well as of a legal nature concerning the basis for and the requirements for such licensing, marketing and contribution arrangements.

POLICY IMPLICATIONS OF CONDUCTING CAUSE-RELATED MARKETING CAMPAIGNS

8. Cause-related marketing campaigns have been subjected to serious criticism, and such criticism should be considered by [the Office] when deciding whether or not to engage in the proposed [...] Logo cause-related marketing campaign. Thus, some critics have suggested that cause-related marketing invites corporations, and their self-interested incentives, to wield considerable influence in the pursuit of a particular cause, thus permitting corporations to manipulate the conversation surrounding the cause to serve their own interests.¹

9. [...]

10. [...]

11. The implications of such types of criticism are many for the proposed [...] Logo cause-related marketing campaign. Thus, [the Office] may wish to consider how it would screen partner companies to ensure that their business practices and corporate interests are in keeping the objectives of the [...] Campaign generally, as well as the aims, activities and purposes of the Organization. For example, if a partnering company's labour practices used in the creation of products that bore the [...] Logo were alleged to involve

¹ See Berglind & Nakata, "Cause-Related Marketing: More Buck than Bang?", 48 *Bus. Horizons* 443, 449 (2005).

so-called sweatshop practices, the Campaign and the reputation of the Organization and of [the Office] could suffer substantial set-backs. In particular, [the Office] should assess whether it has the resources to conduct the necessary due diligence not only to initially screen would-be partner companies but also to monitor them after entering into the [...] cause-related marketing campaign arrangement. Likewise, [the Office] may wish to consider whether the products and services on which the [...] Logo would appear might end up trivializing the serious nature of the campaign to raise awareness for and to combat human trafficking. In this regard, consideration might be given to the perceptions of victims of human trafficking on the product or service related endorsements using the [...] Logo.

12. The foregoing concerns, of course, are of a policy nature and not necessarily of a legal nature. Thus, of course, it is for [the Office], and not for OLA, to consider such concerns and to determine whether and how [the Office] should proceed with the proposed cause-related marketing approach. If [the Office] decides to undertake such an approach, then the following legal concerns should be addressed.

PROTECTION AND LICENSING OF THE [...] LOGO

13. OLA is not aware that the [...] Logo itself is the subject of any intellectual property protection. In order to license its use to third parties and to prevent other persons or entities from appropriating its use, the Organization will have to assert some form of intellectual property protection over the [...] Logo.

14. OLA understands that [the Office] asked WIPO whether protection for the [...] Campaign could be obtained under article 6 *ter* of the Paris Convention for the Protection of Industrial Property. Under that provision, the Members of the Convention have agreed to prohibit by appropriate measures the use, without authorization by the competent authorities, either as trademarks or as elements of trademarks, armorial bearings, flags, other emblems, abbreviations, and names, of international intergovernmental organizations. Under guidelines established by the Members of the Paris Convention, such protection is also accorded to the names and emblems of distinct subsidiary bodies of international intergovernmental organizations having a permanent character (e.g., the name and emblem of UNICEF). In the case of the [...] Logo, however, such protection is not available because [the Office] is not separate from the Secretariat, and the [...] Logo is designed to promote the Campaign as opposed to a distinct subsidiary body of the United Nations.

15. OLA does not consider that the [...] Logo should be registered as a trademark or service mark under national law. Doing so would subject the Organization to the regulatory authorities of the Member States concerning trademark registration and enforcement, and could require the Organization to appear before administrative or judicial forums of Member States in order to prosecute or defend the trademark. All of this would be inconsistent with the privileges and immunities of the Organization. That said, [the Office] should consider undertaking, or hiring a company or consultant to undertake, a worldwide trademark and copyright search to ensure that the design elements of the [...] Logo have not been claimed as intellectual property by another person or entity.

16. While OLA does not recommend seeking trademark protection for it, the [...] Logo itself is a distinctive design and might be copyrightable. The Organization copyrights many publications and other works and possibly even designs. International treaties and national treatment of copyright under the Universal Copyright Convention accord

automatic protection to works published by the United Nations. [The Office] may wish to liaise with the DPI to determine how copyright protection might be available for the design and related public relations materials for the [...] Logo. Obtaining such copyright protection would be a prerequisite to licensing the [...] Logo, as partner companies would require a representation that the Organization had the exclusive ownership of the [...] Logo and the right to license it to them.

17. [...]

18. [...]

19. Once intellectual property rights for the [...] Logo have been established, appropriate licensing arrangements will have to be prepared for the use of the [...] Logo by partnering companies. Such licensing agreements will have to address how the logo will be licensed and can be used, its placement on products or use in connection with services, the duration of such use, the messaging of any advertising or marketing of such products or services in connection with such use, the determination of what amount of proceeds from sales will be contributed to the Trust Fund, termination of the arrangement, settlement of disputes, and other general aspects of any agreement between the Organization and an outside entity. All such proposed licensing agreements with partnering companies would have to include, in particular, various protections, so that other than the licensing of the [...] Logo, the United Nations would not bear responsibility for the products or services being sold (products liability disclaimers) and so that the partnering companies would not be seen to be agents of the Organization in any respect. If [the Office] decides to proceed with the proposed cause-related marketing campaign approach using the [...] Logo, then OLA will be prepared to collaborate with [the Office] to develop an appropriate form of such a licensing agreement.

RECEIPT OF CONTRIBUTIONS FROM PARTNERING COMPANIES

20. Finally, the question arises as to whether [the Office] would face any legal impediments to receiving contributions from partnering companies from proceeds of the sale or products using the [...] Logo. In this regard, paragraph 18 of the Terms of Reference of the Trust Fund (the “TOR”) provides that, “Acceptance of funds from the private sector will be guided by criteria stipulated in the United Nations Secretary-General’s guidelines on cooperation between the United Nations and Business Community (<http://www.un.org/partners/business/otherpages/guide.htm>)” (the “Business Guidelines”). Therefore, the TOR for the Trust Fund appear to envisage collaboration between the United Nations and the business sector to raise funds for the Trust Fund.

21. Section VI of the “Guidelines on Cooperation between the United Nations and the Business Sector”, revised in 2009 (the “Business Guidelines”), and noted by the General Assembly in its resolution 66/223 of 28 March 2012, set out, *inter alia*, the modalities of cooperation between the United Nations and the business community. That section provides, in relevant part, as follows: “Partnership projects: This modality, would involve . . . partnerships arrangements requiring an agreement between the United Nations and the Business Sector.” Further, section IV of the Business Guidelines establishes the general principles of cooperation with the private sector, including the requirement that partnership arrangements maintain the principles of *Integrity*, *Independence*, *No Unfair Advantage*, and *Transparency*. In particular, paragraph 12 (c) of section IV provides that:

“When, in accordance with the Financial Regulations and Rules of the United Nations, a partnership arrangement with the Business Sector will have financial implications for the United Nations, such arrangement should be implemented only pursuant to a formal written agreement between the private entity and the United Nations, in accordance with the applicable United Nations regulations and rules, delineating the respective responsibilities and roles of each parties.”

Thus, all partnership arrangements for the proposed cause-related marketing campaign would require the conclusion of written agreements (*i.e.*, the licensing arrangements mentioned above).

22. In addition, section III of the Business Guidelines establishes the basic criteria for choosing business sector partners, requiring that the partner selection be subject to due diligence processes and appropriate screening. Thus, as discussed above, [the Office] would be responsible for vetting its potential partnering companies for the proposed campaign. With respect to the selection of companies that would be licensed to use the [...] Logo, such as is proposed by [the Office] in the case of [two companies], [the Office] may wish to consult with the Procurement Division of the Office of Central Support Services (OCSS), DM, for advice concerning the suitability and capacity of any proposed partnering companies. The Procurement Division may have tools that would assist [the Office] in evaluating the financial and managerial fitness of the companies. Likewise, [the Office] may wish to consult with the Global Compact Office (UNGCO) to determine whether its assistance could be provided in determining the fitness and background of proposed partnering companies.

23. Article 1 (“Introduction”) of the TOR states that the Trust Fund “shall be administered in accordance with the Financial Regulations and Rules of the United Nations”, while article 20 of the TOR expressly establishes that “[c]ontributions to the Fund may be accepted from governments, intergovernmental or non-governmental organizations, private-sector organizations and the public at large, in accordance with the Financial Regulations and Rules of the United Nations.” The acceptance of funds from the private sector in support of the Trust Fund is then subject to the applicable provisions of the Financial Regulations and Rules of the United Nations, specifically to financial regulation 3.11 which provides that “voluntary contributions, whether or not in cash, may be accepted by the Secretary-General provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Organization and provided that the acceptance of such contributions that directly or indirectly involve additional financial liability for the Organization shall require the consent of the appropriate authority.” According to the Administrative Instruction on the delegations of authority under the Financial Regulations and Rules of the United Nations, ST/AI/2004/1, the acceptance of financial contributions for the Trust Fund would require the Controller’s approval. In practice, this means that each licensing agreement with a proposed partnering company should be cleared by and signed by the Controller.

24. Finally, it is important that agreements with partnering companies for the cause-related marketing arrangements for the [...] Campaign be structured to ensure that the companies would be contributing voluntarily to the Organization. This is necessary to prevent the arrangement from being considered to be a “revenue-producing activity” within the meaning of the Financial Regulations and Rules of the United Nations. Under financial rule 103.7, “[p]roceeds from revenue-producing activities ... shall be credited as miscellaneous income” and, pursuant to financial regulation 3.13, miscellaneous income

must be credited to the General Fund. Such income would not be available to benefit the Trust Fund. This would undermine the whole purpose of the proposed cause-related marketing effort.

CONCLUSION

25. OLA will continue to be available to work with [the Office] to further the proposed cause-related marketing approach for the [...] Campaign. However, before this can be undertaken, [the Office] should carefully consider the policy related issues raised in this memorandum. In addition, before engaging with any proposed partnering companies, [the Office] should ensure that the [...] Logo can be protected and that the [...] Logo has an adequate intellectual property basis to be licensed. Finally, [the Office] should determine how it will initially screen and monitor partnering companies on an ongoing basis.

3 July 2013

(e) Note to [United Nations Mission] concerning the use of United Nations license plates

VEHICLES OF CONTRACTORS USED EXCLUSIVELY IN THE PERFORMANCE OF THEIR SERVICES FOR MISSIONS ARE ENTITLED TO ENJOY FULL AND UNRESTRICTED FREEDOM OF MOVEMENT INDEPENDENT OF THE USE OF UNITED NATIONS LICENCE PLATES UNDER THE STATUS OF FORCES AGREEMENT (SOFA)—CONTRACTORS SHOULD BE MADE AWARE THAT ISSUANCE OF UNITED NATIONS LICENCE PLATES HAS NO IMPLICATION WITH RESPECT TO INSURANCE OR LIABILITY

We note that code cable [number] of [date], states that [United Nations Mission] [Contractor] has been facing challenges in the delivery of food rations to the Mission, and that following the killing of the [Tribe Chief] on [date], the [Tribe] community has refused to allow [United Nations Mission] contractors, including [Contractor], entering from [State] to pass through parts of the [location] Area. The code cable also notes that, to date, the [location] Area does not have a local governmental authority with which [United Nations Mission] contractors could register their vehicles and obtain “neutral” license plates.

The code cable states that in light of these circumstances, [United Nations Mission] has “decided to temporarily allow [Contractor] to utilise [United Nations Mission] licence plates on its delivery trucks pending the establishment of the [location] Area Administration and the establishment of a mechanism for vehicles to be registered inside the [location] Area”.

As you know, under the SOFA, vehicles of contractors used exclusively in the performance of their services for [United Nations Mission] are, in principle, entitled to enjoy full and unrestricted freedom of movement. Such right does not depend on the use of United Nations licence plate. The use of [United Nations Mission] licence plates by contractors may, however, give the impression to the local population that this is a United Nations owned vehicle and potential victims of an accident with such vehicles would then feel legitimately entitled to file a claim against the United Nations. It cannot be discarded that the United Nations would have to first cover the costs before eventually reverting to the contractor.

In view of the foregoing, we would be grateful if you could confirm that the temporary use of United Nations licence plate by [Contractor] is actually based on security considerations which triggered the necessity to allow [Contractor] to use such licence plates and that no other efficient measures could be taken in the circumstances to ensure adequate protection of the Contractor's vehicles and drivers. Otherwise, we would strongly advise [United Nations Mission] to consider taking any other measures than United Nations licence plate to ensure the freedom of movement of vehicles operated by [United Nations Mission] contractors—for example, providing them with distinctive marking displayed on the contractors' vehicles (e.g., stickers, papers behind the windshield) clearly identifying them as Contractors performing official business for the United Nations/[United Nations Mission]. [United Nations Mission] would then verify whether such an identification is acceptable to any existing local authorities/communities. Alternatively, the contractor could be requested to ensure that its vehicles carry licence plates from another acceptable source.

In the meantime, we recommend [United Nations Mission] to have a clear understanding with the Contractor in respect of this arrangement, i.e., that the issuance of United Nations licence plates is only for security purposes in order to ensure access of the vehicles to the mission area but that it has no implication in respect of insurance (for which they have to submit valid documentation) or in terms of any liability which may arise from the driving of the vehicles, both of these issues remaining the contractor's responsibility.

6 December 2013

(f) Inter-office memorandum to the Executive Office of the Secretary-General, concerning the bestowing of an award to the Secretary-General from the President of a Member State

ACCEPTANCE OF HONOURS, GIFTS, OR AWARDS FROM MEMBER STATES RISKS NEGATIVELY REFLECTING ON THE SECRETARY-GENERAL'S INDEPENDENCE AND IMPARTIALITY AS WELL AS HIS ABILITY TO MAINTAIN RELATIONSHIPS WITH ALL MEMBER STATES ON AN EQUAL BASIS—DISCRETIONARY DECISION OF THE SECRETARY-GENERAL TO ACCEPT OR NOT A GIFT OR AWARD FROM A MEMBER STATE—SPIRIT OF STAFF REGULATIONS WHICH PROHIBIT STAFF MEMBERS FROM ACCEPTING SUCH GIFTS OR AWARDS—CONSIDERATION SHOULD BE GIVEN TO ACCEPTING A GIFT ON BEHALF OF THE ORGANIZATION SHOULD THE SECRETARY-GENERAL DECIDE TO ACCEPT A GIFT OR AWARD

Dear [Name],

I refer to the e-mail . . . , [date], from the [Title] of [State] to you, forwarding [a note] on the "[Award of the President of the State]" (the "Award").* The [note] indicates that the President of [State] has decided to bestow the Award upon the Secretary-General. [...] The Award ceremony is to be held on [date] in the capital city of [State] in connection with [the State's National Day] celebrations. The Award consists of a diploma [in subject matter] and a monetary amount of [over USD 50,000].

[...]

As a general matter, OLA has advised in the past that, from a legal perspective, there are certain risks associated with the Secretary-General accepting honours or awards from

* Not reproduced herein.

the Government of a Member State. The nature and responsibilities of the Office of the Secretary-General require him to maintain relationships with all Member States on an equal basis. The acceptance of an award from a Member State might reflect negatively on the Secretary-General's position and duty of independence and impartiality. Moreover, if he accepts honours from one Government, he would subsequently be constrained in exercising his discretion when honours from other Member States are proposed to him. Lastly, while the absolute prohibition in the Staff Regulations regarding the acceptance of gifts and awards from Governments does not apply to the Secretary-General as he is not a staff member, he would wish, as the Chief Administrative Officer of the Organization, to abide by the spirit of those Staff Regulations even though they are not directly binding on him. Ultimately, however, it is for the Secretary-General to decide in each case whether to accept a specific award or not, and OLA has generally advised that he should exercise his discretion conservatively.

Applying the foregoing considerations to the present case, and since the Award is an honour bestowed by the President of a Member State, it cannot be excluded that the Secretary-General's acceptance of the Award may create an unintended perception of favouritism toward that Member State, especially since it is also a significant monetary award. Its acceptance might also put him in a difficult position should he subsequently wish to refuse similar honours from other Member States. It would therefore seem advisable that the Secretary-General exercise his discretion conservatively in this case. Should it be decided that, for specific policy reasons, the Award should be accepted, consideration could be given to the Secretary-General accepting the Award on behalf of the Organization of which he is the Chief Administrative Officer. For example, Mr. Waldheim, in accepting the Atatürk Award from the Turkish Government in 1981, received it on behalf of the Organization. In addition, given that the Award is to be bestowed during the celebrations of the [State's National Day], it seems advisable to obtain more information from the Permanent Mission of the [State] as to how the acceptance of the Award will be made public, in order to avoid publicity that might not be fully aligned with the purposes of the Secretary-General and the United Nations.

November 2013

(g) Inter-office memorandum to the Officer-in-Charge of the International Civil Service Commission (ICSC), concerning a request from a Member State to provide information and clarification on a number of issues within the purview of the ICSC

SINGLE AUDIT PRINCIPLE APPROVED BY MEMBER STATES—GENERAL ASSEMBLY RESOLUTION 59/272—ROLE OF THE BOARD OF AUDITORS AND THE JOINT INSPECTION UNIT—ANY EXTERNAL REVIEW OF THE OFFICE OF INTERNAL OVERSIGHT SERVICES (OIOS) CAN BE UNDERTAKEN ONLY BY SUCH BODIES OR THOSE MANDATED TO DO SO BY THE GENERAL ASSEMBLY—ANY EXTERNAL AUDIT OR REVIEW INCLUDING BY GOVERNMENTAL AUTHORITIES IS PRECLUDED

1. I refer to your memorandum of [date] indicating that the International Civil Service Commission (ICSC) has been approached by [State] with a request to provide information and clarification on a number of issues within the purview of the ICSC. [...]

2. At the outset, as noted in your memorandum, the Organization follows a “single audit” principle approved by the Member States of the Organization and set forth in the Financial Regulations and Rules of the United Nations. Financial regulation 7.6 provides that “the Board of Auditors shall be completely independent and *solely* responsible for the conduct of audit.” (Emphasis added in original). Further, and in the context of Office of Internal Oversight Services (OIOS), General Assembly resolution 59/272 of 2 February 2005, in its operative paragraph 11, “[r]eaffirms the role of the Board of Auditors and the Joint Inspection Unit as external oversight bodies, and, in this regard, affirms that any external review, audit, inspection, monitoring, evaluation or investigation of [OIOS] can be undertaken *only* by such bodies or those mandated to do so by the General Assembly”. (Emphasis added in original).

3. Thus, in view of the legislation cited above, any review by an external authority, including Governmental authorities, in the nature of an “audit” would be precluded. There are no exceptions to the single audit principle and the Secretary-General does not have the authority to make any exceptions to the financial regulation or the General Assembly resolution.

4. ICSC may, however, wish to consider cooperating with the [State’s] request to the extent that is possible without contravening the terms of financial regulation 7.6 and General Assembly resolution 59/272. ICSC could respond to the [State] as it would respond to a request by any Member State which might approach it for clarification on an official matter, and access should be granted only to information which the Organization is prepared to share with all Member States. Any such response, however, should make clear that the information is being provided on a voluntary basis, and without prejudice to the Organization’s privileges and immunities.

5. Thus, in providing any non-public information and documentation to the [State], it is important to consider whether ICSC is prepared to share such information with all Member States. In this context, you may wish to consider, for example, whether the responses to the [State] queries contain any sensitive information that the Organization would not want shared with all Member States, such as information contained in documents classified as restricted. The ICSC may also wish to consider whether its responses would require it to undertake analyses of the information provided that it would not be prepared to do at the request of all Member States. In this regard, we note that ICSC considers that certain information requested by the [State] is restricted. If the ICSC is not prepared to share restricted information with other Member States or the public, we recommend that the same position be applied to the request of the [State].

6. [...]

January 2013

3. Procurement

Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, concerning effective competition in public procurement

UNITED NATIONS FINANCIAL REGULATION 5.12 REQUIRES “EFFECTIVE INTERNATIONAL COMPETITION” IN PROCUREMENT—ABSENCE OF INTERNATIONAL AGREEMENT SETTING RULES AND PRINCIPLES FOR INTERNATIONAL COMPETITION LAW AND REGULATING UNIVERSAL ANTICOMPETITIVE BEHAVIOUR—GENERAL ASSEMBLY RESOLUTION 35/63—UNITED NATIONS SET OF PRINCIPLES AND RULES FOR CONTROL OF RESTRICTIVE BUSINESS PRACTICES (THE “UNITED NATIONS SET”) TO DEAL WITH RESTRICTIVE BUSINESS PRACTICES ADVERSELY AFFECTING INTERNATIONAL TRADE—COLLUSIVE TENDERING CONTRAVENES FINANCIAL REGULATIONS AND RULES OF THE UNITED NATIONS AND IS ILLEGAL IN MOST UNITED NATIONS MEMBER STATES

1. This refers to the Procurement Division’s (PD) memorandum of 1 March 2013, requesting the Office of Legal Affairs’ (OLA) advice with respect to the issue of effective competition in public procurement. In particular, PD seeks advice on whether the principles of fair and open competition allow for subsidiaries of the same parent company, as well as the parent company itself, to bid on one United Nations solicitation. The concern is that such entities could collude in pricing and prevent the United Nations from conducting a procurement exercise in accordance with financial regulation 5.12, which requires “effective international competition” in procurement. PD further requested OLA’s guidance on mechanisms to avoid “any potential complaints concerning antitrust issues and/or alleged impediment of a competitive marketplace” in this respect.

2. At the outset, as you may be aware, no single national legislation regulating fair market competition applies to the United Nations. Further, we are unaware of any international agreement or agreements setting rules and principles for international competition law which would regulate anticompetitive behaviour universally on the international level. Indeed, certain international standards on fair market competition have begun to emerge. Such international standards have been set out for example in the United Nations Set of Principles and Rules for the Control of Restrictive Business Practices (the “United Nations Set”), adopted by the General Assembly in its resolution 35/63, of 5 December 1980. The United Nations Set states, in relevant part, that “[a]ppropriate action should be taken in a mutually reinforcing manner at national, regional and international levels to eliminate or effectively deal with, restrictive business practices, including those of transnational corporations, adversely affecting international trade.” However, notwithstanding the emergence of such international standards, we are unaware of any legal regime on which the United Nations could rely in preventing collusive practices among affiliated entities involved in United Nations procurement activities.

3. Collusive tendering (i.e., agreement to submit identical bids, agreement as to who shall submit the lowest bid or a voluntary cover bid, agreement on common norms to calculate prices or set other proposal terms) is inherently anti-competitive. It contravenes the very purpose of inviting tenders, which is to procure goods or services on the most favourable prices and conditions. Indeed, such anti-competitive tendering would contravene the requirements of United Nations financial regulation 5.12(c), which requires “effective international competition” in United Nations procurement exercises. Moreover, according

to a study conducted by the United Nations Conference on Trade and Development (UNCTAD), collusive tendering is illegal in most of the United Nations Member States (see UNCTAD, Model Law on Competition, Substantive Possible Elements for a Competition Law, Commentaries and Alternative Approaches in Existing Legislation, Part II, pp. 24–25, paras. 36 and 37). UNCTAD concluded that most countries treat collusive tendering more severely than other horizontal agreements, because of its fraudulent aspects and particularly its adverse effects on public spending (see *ibid.*).

4. The likelihood of collusion increases where there is a potential for communication occurring among bidders, particularly in cases of affiliated companies participating in the same solicitation. Allowing subsidiaries of the same company and/or the parent company and its subsidiaries to participate in the same solicitation exercise could increase the opportunity of such bidders to engage in collusive agreements.

5. Because it would be difficult to seek to import any particular legal regime—whether it be antitrust laws, international agreements, or otherwise—into United Nations procurement exercises, we recommend that the terms and conditions for participation in United Nations procurement exercises specifically limit or exclude affiliated entities from participating in any one solicitation. This would effectively remove the risk of collusion.

6. In this regard, PD may wish to consider including in its solicitation documents a limitation on bidding by several subsidiaries of the same parent company and/or by the subsidiaries of a parent company and the parent company itself. In this context, the solicitation document could specify as follows:

(a) Bids or proposals submitted by a vendor and its parent entity, or vendors having the same parent entity, shall not be accepted, and if submitted, shall result in their bids or proposals being rejected as non-compliant with the requirements of the ITB or RFP, as the case may be.

(b) Only one bid from a vendor and its parent entity, or vendors having the same parent entity, will be accepted in any given procurement exercise; if the services of both or all of such entities are for some reason required, then one must take the lead with the other affiliated entities serving as sub-contractors under the bid or proposal, as the case may be.

(c) For purposes of the foregoing, bids or proposals submitted in the same solicitation by the following entities will be rejected:

- (i) The parent entity and any entity or entities in which more than 50% of the voting shares or other relevant indicia of ownership or control are owned or controlled, whether directly or indirectly, by such parent entity; or
- (ii) Two or more entities having a common related entity which owns or controls, whether directly or indirectly, more than 50% of the voting shares or other relevant indicia of ownership or control of such entities; or
- (iii) Entities which would otherwise meet the requirements of subparagraphs (c)(i) or (c)(ii), above, but for the requirement of 50% voting share or other relevant indicia of ownership or control, where in the sole opinion of the United Nations effective operational control by a parent or other related entity creates a risk of collusion among the entities in the tendering process.

(d) To the extent that it may be difficult to monitor compliance with the above requirement in every solicitation, we further recommend that PD include as part of the requirements of the ITB or RFP, as the case may be, a representation by the vendors that no such entities, as defined above, are participating in the solicitation exercise. Such representation could be made in a separate document to be signed by the participating vendors.

7. Should you have any questions or seek any clarification regarding the foregoing, please do not hesitate to contact us.

30 March 2013

B. LEGAL OPINIONS OF THE SECRETARIAT OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

United Nations Industrial Development Organization

(Submitted by the Legal Adviser of the United Nations Industrial Development Organization)

(a) Internal e-mail message to a UNIDO Branch, concerning updated requirements for the employment of private household help

UNIDO HEADQUARTERS AGREEMENT—EMPLOYMENT OF FOREIGN HOUSEHOLD HELP TO STAFF—FOREIGN SERVANTS OF MEMBERS OF THE MISSION ARE ONLY EXEMPT FROM TAXATION ON THEIR EMOLUMENTS—ARTICLE 37 OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, 1961—A RECEIVING STATE CAN EXERCISE JURISDICTION OVER FOREIGN SERVANTS ONLY IF IT DOES NOT INTERFERE UNDULY WITH THE PERFORMANCE OF THE FUNCTIONS OF THE MISSION

1. I refer to your e-mail of [date]. You enclosed a [Circular note] dated [date] from the [State] communicating new legal requirements regarding the conditions of employment of private servants, who are not nationals of or permanently resident in [State], of diplomats and officials of international organizations.

2. You expressed your concerns about the financial implications of a paragraph in the circular which invites the heads of diplomatic missions and international organizations in [State] to assume responsibility for the behaviour of their staff and to make use of all internally available regulations and measures to ensure that the prescriptions of [State] labour law for private household employees are complied with.

3. You added that, while you are sure the information in the circular will be useful for many colleagues, you do not see how and why UNIDO would assume responsibility for enforcing [State] law. You asked: “Is the text suggesting that UNIDO also has a financial liability and would be called to pay penalties if a staff would be found violating the fee levels or any other legal condition?”

4. You also asked me to intervene through the appropriate channels in case I share your concerns.

5. In the meantime, I wish to share a few observations on the matter. As far as I can tell, the formulation used by the [State] is the same as in previous years. The issue of household help, who are members of the household of UNIDO officials, is governed

by UNIDO's Headquarters Agreement,¹ in particular by article X, section 29(a)(iii) and (c) and article XII, section 37(i) as well as international law (e.g., the Vienna Convention on Diplomatic Relations, 1961)². The employment of foreign household help is thus one of the privileges afforded to staff under the said instruments. Under the Headquarters Agreement, the Organization is obliged to ensure that there is no abuse of this or any other privilege (see sections 48 and 49). The only way UNIDO could avoid involvement in the matter is if the right to employ foreign household help were withdrawn.

6. According to two legal opinions by the Office of Legal Affairs of the United Nations dated 14 July 1992³ and 24 January 1994⁴, private servants of members of the mission, if they are not nationals or permanent residents, are exempt only from taxation on their emoluments. The Vienna Convention on Diplomatic Relations, 1961, provides that private servants may enjoy additional privileges and immunities, to the extent granted by the receiving State. The labour law of the receiving State may be made applicable to private servants in such a manner which would not infringe upon the jurisdictional diplomatic immunities or otherwise. In addition, in the context of the matter under consideration, an important principle, codified in paragraph 4 of article 37 of the Vienna Convention, should be stressed, that in exercising its jurisdiction over foreign servants, the authorities of the receiving State must do this "in such a manner as not to interfere unduly with the performance of the functions of the mission." As a matter of policy and practice, the United Nations does not intervene to prevent disputes between household employees and staff members from being taken up by the local courts of the host country.

7. As I read it, the circular note is mainly a call on [host State-based organizations] to take appropriate measures to ensure that their staff respect [State] law on the subject. Such measures could include promulgating the circular note, intervening in problem cases (e.g. instructing a staff member to meet their private obligations or imposing a disciplinary sanction) and, if necessary, waiving a staff member's immunity before the local courts. How we respond would have to be decided on a case-by-case basis.

18 February 2013

**(b) External e-mail message to the Permanent Mission of [State],
concerning [State]'s [Year] contribution language**

UNIDO CONSTITUTION AND FINANCIAL REGULATIONS DO NOT ALLOW MEMBER STATES TO ATTACH UNILATERAL CONDITIONS TO THEIR ASSESSED CONTRIBUTIONS—THE DIRECTOR-GENERAL IS NOT AUTHORIZED TO ACCEPT CONDITIONS OR TO REFUND CONTRIBUTIONS

1. I refer to your e-mail of [date], and subsequent phone call in the week of [date] on the above-mentioned subject. You requested me to approve a text that is intended to accompany [State]'s payment of its assessed contributions to UNIDO for [Year], or to refer you to another service if need be.

¹ Available from <http://www.unido.org/en/overview/legal/basic-legal-documents.html>.

² United Nations, *Treaty Series*, vol. 500, p. 95.

³ *Juridical Yearbook*, 1992, pp. 492–494

⁴ *Ibid.*, 1994, pp. 443–444

2. The draft text sets out what appear to be certain conditions that would attach to the payment, including that [State]’s assessed contributions would not be used for “any illegal, corrupt, or unethical practice” or for “direct or indirect support to or funding of resources for organisations and/or individuals associated with terrorism”. In the event of proven misappropriation, [State] may “request [UNIDO] to either promptly return any such funds to [State] or credit the funds to another mutually agreed activity”.

3. Having consulted the relevant services in the Secretariat, I wish to offer the following brief comments on the draft text.

4. The payment by Member States of their assessed contributions is regulated by the Constitution (e.g. article 15) and the Financial Regulations of UNIDO (e.g. Regulation 3.3). In my view, neither the Constitution nor the Financial Regulations allow Member States to attach unilateral conditions to their assessed contributions to UNIDO. Likewise, neither the Constitution nor the Financial Regulations authorize the Director-General to accept such conditions or to refund assessed contributions in the event that the conditions are not met. To my knowledge, the Policymaking Organs of UNIDO have also taken no decision that could be interpreted as authorizing any conditions with respect to assessed contributions.

5. Thus, while we have taken due note of the sentiments expressed in the draft text, the Secretariat has no mandate to accept or approve conditions for the payment of [State]’s assessed contributions to UNIDO. Nevertheless, I wish to assure you that UNIDO has a range of safeguards in place to prevent direct or indirect support to or funding of organizations and individuals associated with illegal, corrupt or unethical practices.

March 2013

(c) Inter-office memorandum to the Secretary of the Joint Appeals Board (JAB), concerning a request for the JAB to recommend suspension of action on an administrative decision

NO STAFF RULE INDICATES HOW THE JAB SHOULD DECIDE WHETHER TO RECOMMEND SUSPENSION OF ACTION ON A DECISION—THE JAB CAN RELY ON THE CRITERIA SET OUT IN THE STATUTE OF THE UNDT—PRIMA FACIE UNLAWFULNESS OF THE DECISION, PARTICULAR URGENCY OF THE MATTER AND IRREPARABLE DAMAGES ARE THE CONDITIONS TO BE FULFILLED TO ORDER SUSPENSION OF ACTION ON A DECISION

1. I refer to your e-mail of [date] regarding a request made by an appellant, pursuant to staff rule 112.02(d), for the Joint Appeals Board to submit an urgent recommendation to the Director-General to suspend action on a decision to separate the appellant from service with effect from [date].

2. Staff rule 112.02(d) reads as follows:

(d) The filing of an appeal with the Joint Appeals Board shall not have the effect of suspending action on an administrative decision that is the subject of the appeal. However, *upon request of the staff member, the Board may, after a preliminary hearing, recommend to the Director-General the suspension of action on that decision*; the Director-General’s decision on such a recommendation is not subject to any appeal. [Emphasis added]

3. Besides providing for a preliminary hearing, staff rule 112.02(d) does not indicate how the JAB should decide whether or not to recommend suspension of action on a decision. The rules of procedure of the JAB are likewise silent on this point. In view of the urgency of the appellant's request, the JAB has requested my views on the following two questions:

1. What are the principles of law that guide the JAB in such cases?
2. How should the hearing be conducted?

QUESTION 1: WHAT ARE THE PRINCIPLES OF LAW THAT GUIDE THE JAB IN SUCH CASES?

4. The question here is whether general principles of law reflect any criteria or conditions that should be fulfilled before the JAB recommends suspension of action in a particular case. In my view, the absence of express criteria or conditions in staff rule 112.02(d) implies that the JAB is able to take into account all relevant considerations that are brought to its attention and weigh those considerations as it sees fit. In doing so, it would not be inappropriate for the JAB to rely on the criteria or conditions set out in the rules of other United Nations organizations, which in turn borrow from the legal requirements for preliminary measures under national law. In particular, the Statute of the United Nations Dispute Tribunal empowers the Tribunal to issue judgments and orders suspending the implementation of administrative decisions in the following situations:

Article 2, paragraph 2

2. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

Article 10, paragraph 2

2. At any time during the proceedings, the Dispute Tribunal may order an interim measure, which is without appeal, to provide temporary relief to either party, where *the contested administrative decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage*. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination. [Emphasis added]

5. There are consequently three conditions which have to be fulfilled in order for the UNDT to order suspension of action on an administrative decision: the decision should appear *prima facie* to be unlawful, the case should be urgent, and implementation of the decision would cause the applicant irreparable harm. There is a substantial body of UNDT jurisprudence shedding light on the meaning of these requirements.

* Available from <http://www.un.org/en/oaj/dispute/statuterules.shtml>.

6. A decision that “appears *prima facie* to be unlawful” would be a decision that, upon initial examination of the rules and available evidence, seems to be unlawful or an abuse of discretion. In *Judgment No. 003 (22 July 2009): Hepworth v. UNSG (UNJY 2009, p. 338)*, the UNDT noted that, since suspension of action is only an interim measure and not the final decision of a case, it may be more appropriate to assume that *prima facie* does not require more than serious and reasonable doubts about the lawfulness of the contested decision. In *Judgment No. 2009/097 (31 December 2009): Lewis v. UNSG (UNJY 2009, p. 351)*, the Tribunal reasoned that on balance the applicant had a reasonably arguable case, and that the prerequisite of *prima facie* unlawfulness therefore was satisfied. In *Judgment No. 2011/126 (12 July 2011): Villamorán v. UNSG (UNJY 2011, p. 436)*, the UNDT recalled that it is enough for an applicant to present a fairly arguable case that the contested decision was influenced by some improper considerations, was procedurally or substantively defective, or was contrary to the Administration’s obligations to ensure that its decisions are proper and made in good faith.

7. Whether a case is particularly urgent will depend on the prevailing circumstances, such as the nature of the contested decision, when it will become effective, and when the JAB may be expected to submit its final report on the appeal to the Director-General.

8. Regarding the requirement of “irreparable damage”, such damage is normally understood to mean injury or harm that is not merely financial or that cannot be made good through an award of compensation. Irreparable damage might result, for example, from the premature termination of a staff member’s career or the loss of rights that are contingent upon retirement from UNIDO, such as the right to reside in the Host State. In *Judgment No. 2012/029 (22 February 2012): Diop v. UNSG* the UNDT stated that, whereas mere economic loss deriving from the loss of employment can be compensated in damages, there is more harm caused by the non-renewal of a contract than that, namely loss of career prospects, loss of self-esteem, and unquantifiable potential harm to the applicant’s professional reputation. Likewise, the Tribunal held in *Judgment No. 2012/058 (26 April 2012): Khambatta v. UNSG* that:

“Loss of employment is to be seen not merely in terms of financial loss, for which compensation may be awarded, but also in terms of loss of career opportunities. This is particularly the case in employment within the United Nations which is highly valued. Once out of the system the prospect of returning to a comparable post within the United Nations is significantly reduced. The damage to career opportunities and the consequential effect on one’s life chances cannot adequately be compensated by money. The Tribunal finds that the requirement of irreparable damage is satisfied.”¹

QUESTION 2: HOW SHOULD THE HEARING BE CONDUCTED?

9. The expression “hearing” in staff rule 112.02(d) implies an opportunity for both sides to be heard before the JAB decides on the matter. As regards the procedure for the hearing, the JAB must determine its own rules in this regard: the duty to do so flows from paragraph (d) of Appendix K to the staff rules, which stipulates that the JAB shall establish its own rules of procedure. To the extent that the staff rules contain procedural rules—for example, on the composition of the JAB—they must naturally be followed as well.

¹ *Diop v. UNSG* and *Khambatta v. UNSG* are available at http://www.un.org/en/oaj/dispute/judgments_2012.shtml.

10. In order to implement staff rule 112.02(d), the JAB could:
- Notify the parties that the JAB intends to take up the appellant’s request for an urgent recommendation on suspension of action at a preliminary hearing to be held on a particular date, which they are invited to attend;
 - Inform the parties of the composition of the responsible panel (which need not be the same as that handling the merits of the appeal);
 - Inform the parties that, in order to facilitate the hearing, it intends to take into account the requirements for a judgment or order on suspension of action set out in the Statute of the United Nations Dispute Tribunal, i.e. *prima facie* unlawfulness, particular urgency, and irreparable damage;
 - Invite the parties to provide advance written representations on the matter, focusing on the elements of *prima facie* unlawfulness, particular urgency, and irreparable damage;
 - Advise the parties that if they do not attend the hearing or make any written representations, the JAB will proceed on the basis of the available material;
 - Give the parties the opportunity to make oral submissions during the hearing and to respond to possible questions from the panel (the parties should not question each other).

11. Following the hearing, the JAB should decide on the appellant’s request right away. If a recommendation is sent to the Director-General, it should explain the reasons why suspension of action would be advisable in the circumstances. The JAB should also include the reasons for issuing (or not issuing) the recommendation in its final report on the appeal. It should be noted that, even if the JAB recommends suspension of action at this stage, it may still conclude subsequently that the appeal should be dismissed.

July 2013

**(d) Internal e-mail message to a Human Resource Specialist,
concerning an offer of settlement to [UNIDO staff]**

THE ADMINISTRATION OR THE APPELLANT ARE FREE TO PROPOSE THAT THE JAB USE OTHER CRITERIA THAN THOSE SET OUT IN THE UNDT STATUTE TO DETERMINE THE CONDITIONS TO BE FULFILLED TO SUSPEND AN ACTION—THE APPLICATION OF UNDT CRITERIA CANNOT AFFECT THE ILOAT JURISDICTION TO HEAR COMPLAINTS—ILOAT JURISPRUDENCE OFFERS NO USEFUL GUIDANCE TO DETERMINE IN WHICH CIRCUMSTANCES AN INTERNAL APPELLATE BODY SHOULD RECOMMEND A SUSPENSION OF THE ACTION—THE DIRECTOR-GENERAL’S DECISIONS CANNOT BE APPEALED—FAILURE TO CONSIDER THE STAFF MEMBER’S REQUEST COULD LEAD TO A SEPARATE CLAIM FOR DAMAGES

1. I refer to your e-mail of [date] concerning a staff member’s request for the [Joint Appeals Board] to recommend suspension of action on a decision under appeal ([Case number]). The JAB will hold a preliminary hearing on the matter on [date] and has indicated that it “intends to take into account the requirements for an order on suspension of action set out in the statute of the United Nations Dispute Tribunal, i.e. *prima facie* unlawfulness of the decision, particular urgency of the matter and irreparable damage.”

2. You ask me for my opinion on the JAB's proposal to rely on the requirements set out in the UNDT statute and for my views on the jurisprudence of the ILOAT on suspension of action. As concerns the application of the UNDT criteria, your e-mail notes:

- the jurisdiction of the ILOAT results from a decision of the policy-making organs and is reflected in our staff regulations and rules. The m/s have not recognized the jurisdiction of the UNDT;
- Jurisprudence of ILOAT on applying other tribunals' statute;
- Article 2.2 of the UNDT statute provides a timeframe for the submission of a request for suspension of the decision (i.e., during the request for review process.) Applying bits and pieces of the statute may create problems.

3. In accordance with staff rule 112.02(d),

The filing of an appeal with the Joint Appeals Board shall not have the effect of suspending action on an administrative decision that is the subject of the appeal. However, *upon request of the staff member, the Board may, after a preliminary hearing, recommend to the Director-General the suspension of action on that decision*; the Director-General's decision on such a recommendation is not subject to any appeal. [Emphasis added]

4. Although the JAB is empowered to recommend suspension of action after a preliminary hearing, staff rule 112.02(d) provides no guidance on when such a recommendation would be appropriate. Under paragraph (d) of Appendix K to the staff rules, the JAB shall establish its own rules of procedure but these are likewise silent on this point. As a practical matter, therefore, the JAB needs to determine what criteria or conditions should be fulfilled if it is to make a recommendation on suspension of action in this case. Given the power of the JAB to establish its own rules of procedure, I see no difficulty with its having recourse to the criteria or conditions set out in article 2(2) of the UNDT statute in order to fill the gap in UNIDO's rules. Several other organizations have similar requirements,¹ though the UNDT criteria are arguably the most stringent and hence the most difficult for the appellant to prove.

5. Should the Administration or the appellant have reservations about the UNDT criteria, they are free to comment on the criteria or to propose that the JAB use other criteria instead. In this regard, and turning to the arguments mentioned in your e-mail, I do not think that the approach of the JAB raises any jurisdictional problem or that it implies recognition of the statute of the UNDT: the mere application of the UNDT criteria cannot give the UNDT jurisdiction over UNIDO or affect the existing jurisdiction of the ILOAT to hear complaints emanating from UNIDO. Nor will reliance on the UNDT criteria mean that the ILOAT would have to apply the statute of another tribunal: the ILOAT remains bound by its own statute and in the event of a complaint would adjudicate the matter in accordance with the powers conferred on it under that statute. At any rate, given that

¹ For example, according to information received in 2009, section 10.32.1 of the *Human Resources Procedures Manual* of IFAD allows for suspension of a decision under appeal when: (a) the appellant has made a *prima facie* case for suspension; (b) the administrative decision in question has not already been implemented; (c) the administrative decision is, in fact, the subject of the appeal; and (d) the immediate and irreparable harm would be caused to the appellant's interest.

decisions of the Director-General on recommendations for suspension of action are not subject to appeal, these issues are unlikely to arise.

6. You point out that, in terms of article 2(2) of the UNDT statute, suspension of action can only occur during the request for review process, or during what the statute terms the “management evaluation”. However, the process of management evaluation is only partially analogous to the process of request for review at UNIDO. In addition, article 10(2) of the UNDT statute provides that the UNDT can order temporary relief *at any time during the proceedings*, under the same conditions as are set out in article 2(2), i.e. where the contested administrative decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. According to article 10(2), this temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

7. Finally, the jurisprudence of the ILOAT offers no useful guidance on the circumstances in which it would be appropriate for an internal appellate body to recommend suspension of action. What emerges from this lack of jurisprudence and from the odd passing reference to recommendations on suspension of action is that the ensuing decisions of the executive head are generally not subject to appeal, as is the case at UNIDO. On the other hand, even if the Director-General’s decision cannot be appealed, failure to consider the staff member’s request fairly could potentially lead to a separate claim for damages, in the same way as damages may be claimed for unreasonable delay in the internal appeal.

6 August 2013

**(e) Internal e-mail message concerning the legal basis for
UNIDO tax exemption in [State]**

THE PRINCIPLE OF FUNCTIONAL IMMUNITY SET FORTH IN ARTICLE 21.1 (UNIDO CONSTITUTION) SERVES AS A BASIC POINT OF REFERENCE IN ALL MATTERS PERTAINING TO THE PRIVILEGES AND IMMUNITY OF THE COUNTRY OFFICE AND ITS STAFF—THE GOVERNMENT SHALL APPLY TO UNIDO COUNTRY OFFICES AND ITS STAFF THE PRIVILEGES AND IMMUNITIES SET OUT IN THE UNIDO CONSTITUTION AND THE SPECIALIZED AGENCY CONVENTION

1. I refer to your e-mail of [date] concerning the above-mentioned subject. Attached to your e-mail was an e-mail of the same date from UNIDO’s programme coordinator in [State] asking you for a copy of a formal document which regulates UNIDO’s tax exempt status in [State].

2. I wish to inform you that the [State], as a Member State of UNIDO, has agreed that UNIDO “shall enjoy in the territory [of State] such legal capacity and such privileges and immunities as are necessary for the exercise of its functions and for the fulfillment of its objectives” (UNIDO Constitution, Art. 21.1). [State] also has agreed that “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” (UNIDO Constitution, Art. 21.1). Although generally worded, the principle of functional immunity that is set forth in article 21.1 serves as a basic point of reference in all matters pertaining to the privileges and immunities of the Country Office and its staff in [State].

3. Further, on [date] [State] and UNIDO signed the “[Title of the agreement]” (the “MOU”). In accordance with article II.2 of the MOU,

“[T]he Government shall apply to UNIDO, including its property, funds, assets and its officials and experts during official missions, the privileges and immunities in accordance with the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations in 1947.”

4. Sections 9 and 10 of the 1947 Convention regulate the issue of taxation as follows:

“[S]ection 9:

The specialized agencies, their assets, income and other property shall be:

- (a) Exempt from all direct taxes; it is understood, however, that the specialized agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialized agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country;
- (c) Exempt from duties and prohibitions and restrictions on imports and exports in respect of their publications.

Section 10:

While the specialized agencies will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which forms part of the price to be paid, nevertheless when the specialized agencies are making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, States parties to this Convention will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.”

5. The Constitution, the MOU and Specialized Agencies Convention, to which [State] acceded on [date] without reservations, can be accessed on the Intranet or the public website legal resources pages.¹

6. From the above, it follows that the privileges and immunities of the UNIDO Country Office in [State] and its staff are those set out in the Constitution of UNIDO and the Specialized Agencies Convention.

9 October 2013

^{*} United Nations, *Treaty Series*, vol. 33, p. 261.

¹ For the UNIDO Constitution: http://intranet.unido.org/intra/Legal_Documents/Basic_Legal_Documents or <http://www.unido.org/en/overview/legal/basic-legal-documents.html>. For the Specialized Agencies Convention: http://intranet.unido.org/intra/Legal_Documents/Treaties_related_to_the_activities_of_UNIDO or <http://www.unido.org/en/overview/legal/relevant-treaties.html>.

(f) Internal e-mail message to a UNIDO Director, concerning the rules for the election of an External Auditor at General Conference (15th session)

LAWFULNESS OF VOTING BY PROXY—A REPRESENTATIVE CANNOT REPRESENT MORE THAN ONE GOVERNMENT AT THE SAME TIME—PARAGRAPH 2 OF RULE 101 GOVERNS THE BALLOTING FOR THE ELECTION OF AN EXTERNAL AUDITOR—NUMBER OF UNSUCCESSFUL CANDIDATES ADMITTED TO SECOND ROUND OF VOTING

1. I refer to your e-mail of [date] concerning voting by proxy for the election of an external auditor for UNIDO and the exact rules that govern the related balloting. Two Member States ([State A and State B]) have inquired whether voting by proxy would be possible. You think that this could become an issue for Member States who will not be able to participate in the General Conference in [City]. To [UNIDO Secretariat Division]'s knowledge, there has not been any precedent of proxy voting at UNIDO. You therefore ask me whether a Member State can authorize another Member State to vote on its behalf. If so, in which format that Member State should inform the Secretariat/President of the General Conference.

2. In this connection, I would like to refer to a legal opinion given by the Office of Legal Affairs of the United Nations in 1965^{*}. After stating that “there is no voting or representation by proxy at meetings or conferences of the United Nations”, the opinion went on to say:

“Although there is no such express prohibition, representation of more than one government by a single representative has never been permitted and interested governments have been so informed. However, representation of a member by a national of another State (or by a member of a different delegation) has been permitted in cases where the representative does not simultaneously serve as a representative of both States.”

3. I wish to add that the matter is one on which the Office of Legal Affairs of the United Nations has taken a consistent stand—namely, that a representative cannot represent more than one government at the same time. The Rules of Procedure of UNIDO's Policymaking Organs, like those of the United Nations, are silent on the matter of proxy votes. Nevertheless, it seems that voting by substitute or proxy would be possible provided that the individual concerned is duly accredited and does not represent more than one country. For example, if country A will not send a delegation of its own to the General Conference, it could appoint a delegate from country B as its representative (but not the representative of country B) by issuing that delegate with credentials in the manner prescribed in Rule 27 of the Rules of Procedure of the General Conference. The delegate from country B would then serve as the representative of country A and only of country A.

4. Your second question is whether a candidate for the position of the External Auditor of UNIDO who obtains the fewest votes in the first ballot would automatically be eliminated before the Conference proceeds to the second ballot. [UNIDO Secretariat Division] did not find a legal basis in the rules of procedure for removing from the second ballot the candidate with the fewest votes in the first ballot. However, you found out that [at the 9th session of the General Conference] the candidate with the fewest votes was removed from the second ballot. You therefore asked me whether indeed the candidate obtaining the least number of votes is eliminated before starting the second ballot.

^{*} Opinion of 22 October 1965, *Juridical Yearbook*, 1965, pp. 223–224.

5. In my view, your question is addressed in paragraph 2 of Rule 101 (Balloting). According to this paragraph, the voting is restricted to the unsuccessful candidates having obtained the largest number of votes in the previous ballot, but not exceeding twice the number of places remaining to be filled. As there is one place to be filled, this means that only the two candidates having obtained the largest number of votes in the first ballot will make it through to the second round. However, in case of a tie between a greater number of unsuccessful candidates in the first ballot, a special ballot shall be held for the purpose of reducing the number of candidates to the required number. The rest of paragraph 2 of Rule 101 regulates the latter situation.

6. Finally, in the course of the informal consultations that took place today, delegates of [State C] and [State B] approached me informally and asked me the above questions ([State B] asked your first question and [State C] your second). I addressed their questions along the above lines.

17 October 2013

**(g) Internal e-mail message to a UNIDO Head of Operation
concerning income tax and pension status of local employees in [State]**

MANDATORY CONTRIBUTIONS TO SOCIAL SECURITY SCHEMES UNDER NATIONAL LAW—UNIDO TAX EXEMPTION—UNIDO SOCIAL SECURITY SCHEME FOR STAFF MEMBERS—LOCALLY-RECRUITED STAFF WHO ARE NOT ASSIGNED TO HOURLY RATES ARE EXEMPTED FROM TAXATION ON SALARIES AND EMOLUMENTS—UNIDO EXPERTS ON MISSION ARE SUBJECT TO NATIONAL SECURITY TAXES

1. Reference is made to your e-mail of [date], which informed us of the request from the [State] Pension Funds Administrator to comply with the tax and pension regulations of the country. You request our advice to prepare UNIDO's reply.

2. In my opinion, the strongest and most effective UNIDO response would be to join and/or coordinate with the United Nations System's response to the Government's démarche. You are kindly requested to speak to the United Nations Resident Coordinator about this issue and to inform us of the UN's actions in this respect. Ideally, a United Nations letter written on behalf of all United Nations agencies in the country would produce a more effective response than a lone letter sent by UNIDO.

3. For your information, and to assist you when discussing the issue with the United Nations colleagues, I would also like to share the following views on the legality of the government's position.

4. [State] is a member state of UNIDO, and in accordance with article 21 of the UNIDO Constitution, it has agreed under international law that UNIDO shall enjoy in its territory the privileges and immunities defined in the Convention on the Privileges and Immunities of the United Nations of which [State] became a party on [date] without reservation.*

5. As a Specialized Agency of the United Nations and consistent with the terms of the Convention and United Nations practice, it is my opinion that mandatory contributions

* State in question was party to the Convention on the Privileges and Immunities of the United Nations, and not to the Convention on Privileges and Immunities of the Specialized Agencies. Accordingly, article 21 (2)(b) of the UNIDO Constitution applied.

to social security schemes under national legislation are considered a form of direct taxation and, therefore, contrary to the Convention.

6. Pursuant to the provisions of article II, section 7, sub-paragraph (a) of the Convention, UNIDO, its assets, income and other property shall be exempt from all direct taxes. Furthermore, pursuant to article V, section 18, sub-paragraph (b) of the Convention, UNIDO officials “shall be exempt from taxation on the salaries and emoluments paid to them by” UNIDO.

7. It should be noted in this regard that General Assembly resolution 76(1) provides “the granting of the privileges and immunities referred to in Article V ... to all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates.” Thus, consistent with United Nations law and practice, locally-recruited staff of UNIDO who are not assigned to hourly rates are entitled, irrespective of their nationality, to the exemption from such taxation.

8. The exemption from national security schemes is further evidenced by the fact that UNIDO has its own comprehensive social security scheme for its staff members. The establishment of such scheme is required under the Staff Regulations of UNIDO, which are established by the General Conference of UNIDO pursuant to the UNIDO Constitution.

9. Although persons who are not UNIDO officials but who are engaged by UNIDO on special service agreements may be deemed to be experts on mission for UNIDO, they do not enjoy an exemption from taxation and could therefore be subject to national social security taxes. Such persons are personally responsible for the fulfillment of their private legal obligations including reporting taxable income and paying applicable social security taxes.

10. Based on the foregoing, UNIDO may not engage in national social security schemes either on behalf of staff or on behalf of other persons engaged by the Organization.

25 November 2013

Part Three

**JUDICIAL DECISIONS ON QUESTIONS
RELATING TO THE UNITED NATIONS AND
RELATED INTERGOVERNMENTAL ORGANIZATIONS**

Chapter VII

DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS

A. INTERNATIONAL COURT OF JUSTICE¹

The International Court of Justice is the principal judicial organ of the United Nations. It was established in June 1945 by the Charter of the United Nations and began work in April 1946.

1. Judgments

- (i) *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)*, Judgment, 11 November 2013.
- (ii) *Frontier Dispute (Burkina Faso/Niger)*, Judgment, 16 April 2013.

2. Advisory Opinions

No advisory opinions were delivered by the Court in 2013.

3. Pending cases and proceedings as at 31 December 2013

- (i) *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia)* (2013–).
- (ii) *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)* (2013–).
- (iii) *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia)* (2013–).
- (iv) *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)* (2013–).

¹ The texts of the judgments, advisory opinions and orders are published in the ICJ Reports. Summaries of the judgments, advisory opinions and orders of the Court are provided in English and French on its website, <http://www.icj-cij.org>. In addition, the summaries can be found in all six official languages of the United Nations on the website of the Codification Division of the United Nations Office of Legal Affairs, <http://www.un.org/law/ICJsummaries/>. For more information about the Court's activities, see, for the period 1 August 2012 to 31 July 2013, Report of the International Court of Justice, *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 4 (A/68/4)*, and see, for the period 1 August 2013 to 31 July 2014, Report of the International Court of Justice, *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 4 (A/69/4)*.

- (v) *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)* (2011–).
- (vi) *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* (2010–).
- (vii) *Whaling in the Antarctic (Australia v. Japan; New Zealand intervening)* (2010–).
- (viii) *Maritime Dispute (Peru v. Chile)* (2008–).
- (ix) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)* (1999–).
- (x) *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* (1999–).
- (xi) *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)* (1993–).

B. INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA²

The International Tribunal for the Law of the Sea is an independent permanent tribunal established by the United Nations Convention on the Law of the Sea, 1982.³ The Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea,⁴ signed by the Secretary-General of the United Nations and the President of the Tribunal on 18 December 1997, establishes a mechanism for cooperation between the two institutions.

1. Judgments

Case No. 18—The M/V “Louisa” Case (Saint Vincent and the Grenadines v. Kingdom of Spain), Judgment, 28 May 2013.

2. Advisory Opinions

No advisory opinions were delivered by the Court in 2013.

3. Pending cases and proceedings as at 31 December 2013

- (i) *Case No. 19—The M/V “Virginia G” Case (Panama/Guinea-Bissau)* (2011–).
- (ii) *Case No. 21—Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)* (2013–).

² For more information about the Tribunal’s activities, including relating to orders rendered in 2013, see the Annual report of the International Tribunal for the Law of the Sea for 2013 (SPLoS/267) and the Tribunal’s website at <http://www.itlos.org>.

³ United Nations, *Treaty Series*, vol. 1833, p. 3.

⁴ *Ibid.*, vol. 2000, p. 468.

C. INTERNATIONAL CRIMINAL COURT⁵

The International Criminal Court is an independent permanent international court established by the Rome Statute of the International Criminal Court, 1998.⁶ The Relationship Agreement between the International Criminal Court and the United Nations, 2004,⁷ outlines the relationship between the two institutions.

Following ratification by Côte d'Ivoire on 15 February 2013, as of 31 December 2013, 122 States were parties to the Rome Statute of the International Criminal Court.

In 2013, 10 States ratified the amendments on the crime of aggression and 12 States ratified amendments on certain crimes in non-international armed conflicts, bringing the total number of States to have accepted these amendments to 13 and 16, respectively; one State ratified the Agreement on the Privileges and Immunities of the International Criminal Court ("APIC") in 2013⁸, bringing the total number of countries having ratified the APIC to 72.

In 2013, the Court continued to consider the situations in Uganda, the Democratic Republic of the Congo, Darfur (the Sudan), the Central African Republic, Kenya, Libya and Côte d'Ivoire. On 16 January 2013, the Prosecutor opened an investigation in Mali following a referral by the country in July 2012.

Furthermore, the Office of the Prosecutor opened a preliminary examination of the situation on registered vessels of Comoros, Greece and Cambodia forming part of the flotilla bound for the Gaza Strip, and continued preliminary examinations in Afghanistan, Central African Republic, Colombia, Georgia, Guinea, Honduras, the Republic of Korea and Nigeria.

Notably, on 25 October 2013, the Appeals Chamber ruled that the absence of an accused person from trial is permissible under exceptional circumstances.⁹ The Appeals Chamber concluded that the Trial Chamber enjoys discretion under article 63(1) of the Rome Statute, which states that "[t]he accused shall be present during the trial", but that such discretion is limited and must be exercised with caution. The Appeals Chamber held that the following limitations exist: (i) the absence of the accused can only take place in exceptional circumstances and must not become the rule; (ii) the possibility of alternative measures must have been considered, including, but not limited to, changes to the trial schedule or a short adjournment of the trial; (iii) any absence must be limited to that which is strictly necessary; (iv) the accused must have explicitly waived his or her right to be present at trial; (v) the rights of the accused must be fully ensured in his or her absence, in particular through representation by counsel; and (vi) the decision as to whether the

⁵ For more information about the Court's activities, see, for the period 1 August 2012 to 31 July 2013, *Report of the International Criminal Court for 2012/13* (A/68/314), and see, for the period 1 August 2013 to 31 July 2014, *Report of the International Criminal Court for 2013/14* (A/69/321). See also the Court's website, <http://www.icc-cpi.int>.

⁶ United Nations, *Treaty Series*, vol. 2187, p. 3.

⁷ *Ibid.*, vol. 2283, p. 195.

⁸ *Ibid.*, vol. 2271, no. 1-40446.

⁹ *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Case No. ICC-01/09-01/11, Judgment on the appeal of the Prosecutor against the decision of Trial Chamber V (a) of 18 June 2013 entitled "Decision on Mr. Ruto's Request for Excusal from Continuous Presence at Trial", 25 October 2013.

accused may be excused from attending part of his or her trial must be taken on a case-by-case basis, with due regard to the subject matter of the specific hearings that the accused would not attend during the period for which excusal has been requested.¹⁰

Situations and cases before the Court as at 31 December 2013

(a) Situation in Uganda

In December 2003, the situation concerning Northern Uganda was referred to the Court by Uganda. In July 2004, the Prosecutor opened an investigation.

Pending cases and proceedings

The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen (ICC-02/04-01/05).

(b) Situation in the Democratic Republic of the Congo

In March 2004, the situation concerning the Democratic Republic of the Congo was referred to the Court by the Democratic Republic of the Congo. In June 2004, the Prosecutor opened an investigation.

(i) *Judgment delivered by the Appeals Chamber*

The Prosecutor v. Germain Katanga, Case No. ICC-01/04-01/07-3363, Judgment on the appeal of Mr. Germain Katanga against the decision of Trial Chamber II of 21 November 2012 entitled "Decision on the implementation of regulation 55 of the Regulations of the Court and severing the charges against the accused persons", 27 March 2013.

(ii) *Pending cases and proceedings*

(a) Trial

- (1) *The Prosecutor v. Germain Katanga*, Case No. ICC-01/04-01/07.
- (2) *The Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06.
- (3) *The Prosecutor v. Sylvestre Mudacumura*, Case No. ICC-01/04-01/12.

(b) Appeal

- (1) *The Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06.

¹⁰ *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Case No. ICC-01/09-01/11, Judgment on the appeal of the Prosecutor against the decision of Trial Chamber V (a) of 18 June 2013 entitled "Decision on Mr. Ruto's Request for Excusal from Continuous Presence at Trial", 25 October 2013, paras. 1–2.

- (2) *The Prosecutor v. Mathieu Ngudjolo Chui*, Case No. ICC-01/04-02/12.

(c) Situation in Darfur, the Sudan

On 31 March 2005, the Security Council referred the situation in Darfur, the Sudan, to the Prosecutor of the Court.¹¹ In June 2005, the Prosecutor opened an investigation.

(i) Judgment delivered by the Appeals Chamber

The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus, Case No. ICC-02/05-03/09-501, Judgment on the appeal of Mr. Abdallah Banda Abakaer Nourain and Mr. Saleh Mohammed Jerbo Jamus against the decision of Trial Chamber IV of 23 January 2013 entitled “Decision on the Defence’s Request for Disclosure of Documents in the Possession of the Office of the Prosecutor”, 28 August 2013.

(ii) Pending cases and proceedings

Trial

- (1) *The Prosecutor v. Ahmad Muhammad Harun (“Ahmad Harun”) and Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”)*, Case No. ICC-02/05-01/07.
- (2) *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Case No. ICC-02/05-01/09.
- (3) *The Prosecutor v. Abdallah Banda Abakaer Nourain*,¹² Case No. ICC-02/05-03/09.
- (4) *The Prosecutor v. Abdel Raheem Muhammad Hussein*, Case No. ICC-02/05-01/12.

(d) Situation in the Central African Republic

The situation was referred to the Court by the Central African Republic in December 2004. The Prosecutor opened an investigation in May 2007.

Pending cases and proceedings

The Prosecutor v. Jean-Pierre Bemba Gombo, Case No. ICC-01/05-01/08.

(e) Situation in Kenya

On 31 March 2010, Pre-Trial Chamber II granted the Prosecutor’s request to open an investigation *proprio motu* into the situation in Kenya.

¹¹ Security Council resolution 1593 (2005).

¹² Proceedings against Saleh Mohammed Jerbo James were terminated by Trial Chamber IV on 4 October 2013 after information was received indicating he had died.

(i) *Judgment delivered by the Appeals Chamber*

The Prosecutor v. William Samoei Ruto and Joshua Arap Sang, Case No. ICC-01/09-01/11-1066, Judgment on the appeal of the Prosecutor against the decision of Trial Chamber V(a) of 18 June 2013 entitled “Decision on Mr. Ruto’s Request for Excusal from Continuous Presence at Trial”, 25 October 2013.

(ii) *Pending cases and proceedings***Trial**

- (1) *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Case No. ICC-01/09-01/11.
- (2) *The Prosecutor v. Uhuru Muigai Kenyatta*, Case No. ICC-01/09-02/11.
- (3) *The Prosecutor v. Walter Osapiri Barasa*, Case No. ICC-01/09-01/13.

(f) **Situation in Libya**

On 26 February 2011, the United Nations Security Council referred the situation in Libya to the Prosecutor of the Court.¹³ On 3 March 2011, the Prosecutor opened an investigation.

*Pending cases and proceedings***Trial**

The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi, Case No. ICC-01/11-01/11.

(g) **Situation in Côte d’Ivoire**

On 3 October 2011, Pre-Trial Chamber III granted the Prosecutor’s request for authorization to open an investigation *proprio motu* into the situation in Côte d’Ivoire.

(i) *Judgment delivered by the Appeals Chamber*

The Prosecutor v. Laurent Gbagbo, Case No. ICC-02/11-01/11-548-Red (OA 4), Judgment on the appeal of Mr. Laurent Gbagbo against the decision of Pre-Trial Chamber I of 11 July 2013 entitled “Third decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute”, 29 October 2013.

¹³ Security Council resolution 1970 (2011).

(ii) *Pending cases and proceedings***Trial**

- (1) *The Prosecutor v. Laurent Gbagbo*, Case No. ICC-02/11-01/11.
- (2) *The Prosecutor v. Charles Blé Goudé*, Case No. ICC-02/11-02/11.
- (3) *The Prosecutor v. Simone Gbagbo*, Case No. ICC-02/11-01/12.

(h) Situation in Mali

The situation was referred to the Court by the Government of Mali in July 2012. The Prosecutor opened an investigation in January 2013.

D. INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA¹⁴

The International Criminal Tribunal for the former Yugoslavia is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 827 (1993) of 25 May 1993.¹⁵

1. Judgments delivered by the Appeals Chamber

- (i) *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR98bis.1, Judgment, 11 July 2013.
- (ii) *Prosecutor v. Momčilo Perišić*, Case No. IT-04-81-A, Judgment, 28 February 2013.

2. Judgments delivered by the Trial Chambers

- (i) *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Judgment, 30 May 2013.
- (ii) *Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić*, Judgment, Case No. IT-04-74-T, Judgment, 29 May 2013.

¹⁴ The texts of the indictments, decisions and judgments referred to herein are published in the *Judicial Reports/Recueils judiciaires* of the International Criminal Tribunal for the former Yugoslavia for each given year. The texts are also available in English and French on the Tribunal's website at <http://www.icty.org>. For more information about the Tribunal's activities, see, for the period 1 August 2012 to 31 July 2013, *Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991* (A/68/255-S/2013/463), and see, for the period 1 August to 31 July 2014, *Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991* (A/68/225-S/2014/556).

¹⁵ The Statute of the Tribunal is annexed to the report of the Secretary-General pursuant to Security Council resolution 808 of 22 February 1993 (S/25704 and Add.1).

- (iii) *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-T, Judgment, 27 March 2013.

E. INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA¹⁶

The International Criminal Tribunal for Rwanda is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 955 (1994), adopted on 8 November 1994.¹⁷

1. Judgments delivered by the Appeals Chamber

- (i) *Justin Mugenzi and Prosper Mugiraneza v. Prosecutor*, Case No. ICTR-99-50-A, Judgment, 4 February 2013.
- (ii) *Grégoire Ndahimana v. Prosecutor*, Case No. ICTR-01-68-A, Judgment, 16 December 2013.

2. Judgments delivered by the Trial Chambers

The work of the Trial Chambers was completed upon the judgment in the *Ngirabatware* case, which was rendered on 20 December 2012.¹⁸

F. THE INTERNATIONAL RESIDUAL MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS¹⁹

The International Residual Mechanism for International Criminal Tribunals (“the Mechanism”) is a subsidiary body of the United Nations Security Council. The Mechanism

¹⁶ The texts of the orders, decisions and judgments are published in the *Recueil des ordonnances, décisions et arrêts/Reports of Orders, Decisions and Judgments* of the International Criminal Tribunal for Rwanda. The texts are also available in English and French in the Tribunal’s Judicial Records Database at <http://www.jrad.unmict.org/>. For more information about the Tribunal’s activities, see, for the period 1 July 2012 to 30 June 2013, the *Eighteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994* (A/68/270–S/2013/460). For the period 1 July 2013 to 30 June 2014, see the *Nineteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994* (A/69/206–S/2014/546).

¹⁷ The Statute of the Tribunal is contained in the annex to the resolution.

¹⁸ *Prosecutor v. Augustin Ngirabatware*, Case No. ICTR-99-54-T, Judgment, 20 December 2012.

¹⁹ The text of the judgments and decisions of the Mechanism are available on its website at <http://www.unmict.org>. For more information on the Mechanism’s activities, see, for the period 1 July 2012 to 30 June 2013, the *First Annual Report of the International Residual Mechanism for Criminal Tribunals* (A/68/212–S/2013/464). For the period 1 July 2013 to 30 June 2014, see the *Second annual report of the International Residual Mechanism for Criminal Tribunals* (A/69/226–S/2014/555).

was established by Security Council resolution 1966 (2010), adopted on 22 December 2010. It is tasked with continuing the “jurisdiction, rights and obligations and essential functions”²⁰ of the ICTR and the ICTY. Accordingly, the Mechanism consists of two branches. The branch for the ICTR, which is located in Arusha, commenced functioning on 1 July 2012 and the branch for the ICTY, which is located in The Hague, commenced functioning on 1 July 2013.²¹

During 2013, the Arusha branch of the Mechanism continued to carry out certain residual functions of the ICTR, including conducting trial and appellate proceedings, supervising and enforcing sentences, rendering assistance to national authorities, monitoring cases referred to national jurisdictions, tracking the remaining fugitives, and updating fugitive files in anticipation of arrest. As of 1 July 2013, the Hague branch had assumed the corresponding set of responsibilities and functions from the ICTY.

1. Judgments delivered by the Appeals Chamber

No judgments were delivered by the Appeals Chamber of the Mechanism in 2013.

2. Judgments delivered by the Trial Chambers

No judgments were delivered by the Trial Chambers of the Mechanism in 2013.

G. SPECIAL COURT FOR SIERRA LEONE AND RESIDUAL SPECIAL COURT FOR SIERRA LEONE²²

The Special Court for Sierra Leone (SCSL) is an independent court established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone.²³ The Court was mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone from 30 November 1996.

On 26 September 2013, the Appeals Chamber upheld the judgment of the Trial Chamber in the case of *Prosecutor v. Charles Ghankay Taylor*,²⁴ and affirmed the sentence of fifty years imprisonment imposed against Charles Taylor, the former President

²⁰ Security Council resolution 1966 (2010), para. 4.

²¹ The Statute of the Mechanism is contained in annex 1 to Security Council resolution 1966 (2010).

²² The texts of the judgments and decisions of the Special Court for Sierra Leone are available on the Court’s website at <http://www.scsldocs.org>. For more information on the Court’s activities, see, for the period of 1 June 2012 to 31 May 2013, *First Annual Report of the International Residual Mechanism for Criminal Tribunals* (A/68/219–S/2013/464). For the period 1 July 2013 to 30 June 2014, see *Second annual report of the International Residual Mechanism for Criminal Tribunals* (A/69/226–S/2014/555).

²³ For the text of the Agreement and the Statute of the Special Court dated 16 January 2002, see United Nations, *Treaty Series*, vol. 2178, p. 137.

²⁴ *Prosecutor v. Charles Ghankay Taylor*, Case No. SCSL-03-01-A, Judgment, 26 September 2013.

of Liberia. By its order of 4 October 2013, the Court decided that Taylor would serve his sentence in the United Kingdom.²⁵

The Taylor appeal was the final case before the SCSL. From 2 December 2013, the SCSL's essential functions will be continued by the Residual Special Court for Sierra Leone (RSCSL), which was established pursuant to an Agreement on the Establishment of a Residual Special Court for Sierra Leone (RSCSL), concluded between the United Nations and Sierra Leone in August 2010.²⁶ The functions²⁷ of the RSCSL will include reviewing judgments, conducting trials for contempt cases, protecting and supporting witnesses, preserving and managing the archives of the SCSL and supervising the enforcement of sentences. Sixteen judges were sworn in for the RSCSL on 2 December 2013.

1. Judgments delivered by the Appeals Chamber of the SCSL

- (i) *Independent Counsel v. Prince Taylor*, Case No. SCSL-12-02-A-068, Judgment in Contempt Proceedings, 30 October 2013.
- (ii) *Prosecutor v. Charles Ghankay Taylor*, Case No. SCSL-03-01-A, Judgment, 26 September 2013.
- (iii) *Independent Counsel v. Prince Taylor*, Case No. SCSL-12-02-A-068, Judgment in Contempt Proceedings, 14 May 2013.
- (iv) *Independent Counsel v. Bangura, et. al.*, Case No. SCSL-11-02-A-097, Judgment in Contempt Proceedings, 21 March 2013.

2. Judgments delivered by the Trial Chambers of the SCSL

- (i) *Independent Counsel v. Prince Taylor*, Case No. SCSL-12-02-T-051, Judgment in Contempt Proceedings, 25 January 2013.

H. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA²⁸

The Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the period

²⁵ *Prosecutor v. Charles Ghankay Taylor*, Case No. SCSL-03-01-ES, Order designating State in which Charles Ghankay Taylor is to serve his sentence, 4 October 2013.

²⁶ Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Residual Special Court for Sierra Leone (with statute), United Nations, *Treaty Series*, No. 50125 available at <http://treaties.un.org/doc/Publication/UNTS/No%20Volume/50125/Part/I-50125-08000002802a67cf.pdf>. The Agreement entered into force on 2 October 2012.

²⁷ Article 1 (para. 1) of the Statute of the Residual Special Tribunal for Sierra Leone.

²⁸ The texts of the decisions of the Extraordinary Chambers in the Courts of Cambodia are available on its website, <http://www.eccc.gov.kh>. For more information on the Court's activities, see the *Court Reports of the Extraordinary Chambers in the Courts of Cambodia* available at <http://www.eccc.gov.kh/en/public-affair/publication/report>. Related United Nations documents are available on the United Nations Assistance to the Khmer Rouge Trials (UNAKRT) website, <http://www.unakrt-online.org/documents>. For the latest report on the progress achieved by the Court, see *Report of the Secretary-General — Khmer Rouge trials (A/67/380)*.

of Democratic Kampuchea, signed in Phnom Penh on 6 June 2003,²⁹ entered into force on 29 April 2005 and established the Extraordinary Chambers in the Courts of Cambodia to prosecute the crimes committed during the period of Democratic Kampuchea.

Judgments

No judgments were delivered by the Supreme Court Chamber or the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia in 2013.

I. SPECIAL TRIBUNAL FOR LEBANON (STL)³⁰

The Special Tribunal for Lebanon was established in 2007 pursuant to the Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon, dated 22 January and 6 February 2007,³¹ and Security Council resolution 1757 (2007) of 30 May 2007 to prosecute persons responsible for the attack of 14 February 2005 resulting in the death of former Lebanese Prime Minister Rafiq Hariri and in the death or injury of other persons.

Judgments

No judgments were delivered by the Trial Chamber or the Appeals Chamber of the Special Tribunal for Lebanon in 2013.

²⁹ United Nations, *Treaty Series*, vol. 2329, p. 117.

³⁰ For more information about the activities of the Special Tribunal, see the Tribunal's website at <http://www.stl-tsl.org>.

³¹ United Nations, *Treaty Series*, vol. 2461, p. 257.

Chapter VIII

DECISIONS OF NATIONAL TRIBUNALS

A. THE UNITED MEXICAN STATES

1. *Amparo directo DT-558/2013, [Petitioner], Cuarto Tribunal Colegiado en Materia de Trabajo del Primo Circuito*¹

EXTENT OF IMMUNITY DEPENDS ON THE NATURE OF THE ACT UNDERLYING THE CLAIM—A DISTINCTION MUST BE MADE BETWEEN ACTS *JURE IMPERII* AND ACTS *JURE GESTIONIS* IN DETERMINING WHETHER THE IMMUNITY FROM NATIONAL JURISDICTION APPLIES TO THE CLAIM—ACTS REPRESENTING A MANIFESTATION OF THE EXERCISE OF SOVEREIGN POWERS MUST ENJOY FULL IMMUNITY FROM JURISDICTION—ACTS PERFORMED BY A STATE OR AN ORGANIZATION IN THE SAME FASHION AS ANY PRIVATE PERSON ARE JUSTICIABLE BEFORE NATIONAL COURTS—THE IMMUNITIES GRANTED TO INTERNATIONAL ORGANIZATIONS ARE EXCLUSIVELY BASED ON STATES’ WILLINGNESS—INADMISSIBILITY OF SUBMISSION OF TWO COMPLAINTS BASED UPON THE SAME EMPLOYMENT RELATIONSHIP BEFORE TWO DIFFERENT SYSTEMS OF JUSTICE

The Applicant was hired by the International Labour Organization (“ILO”) in 2010 at grade A-1. She served the Organization’s office in Mexico under a series of short-term contracts, acting as coordinator of the “Stop Child Labour in Agriculture” project. Following a mid-term evaluation on the programme, in April 2012 the Applicant was informed about the Director-General’s decision not to extend her contract beyond June 2012. She challenged that decision before the ILO administrative authorities, alleging that the Director-General was required under national law to refer the decision on the renewal of her contract to the Federal Board of Conciliation and Arbitration (“FBCA”). The ILO administrative authorities reached the conclusion that the Applicant was entitled only to monetary compensation.

Against this decision, the Applicant filed a complaint with the FBCA, without referring the case to the ILO Administrative Tribunal. In declining its competence over the case, the FBCA specified that the ILO enjoyed jurisdictional immunities as an international organization in compliance with the relevant treaties and in accordance with the memorandum sent by the ILO to the Permanent Mission of Mexico to the United Nations Office and other international organizations in Geneva. The Applicant impugned the FBCA’s decision through a direct appeal to the Mexican Fourth Collegial Tribunal of the

¹ Ms. Idalia Peña Cristo, President, Ms. Guadalupe Madrigal Bueno and Mr. Victor Ernesto Maldonado Lara, Judges.

First Circuit (the “Tribunal”)² on the grounds that it violated her fundamental rights as established in the Mexican Constitution and in the Federal Labour Law.

As initial matter, the Tribunal confirmed its jurisdiction over the case. Relying on the restrictive immunity theory, it asserted that a distinction must be made between acts *jure imperii* and acts *jure gestionis* in determining whether the immunity from national jurisdiction provided by the ILO Constitution³ applies to the present claim. In particular, the Tribunal noted that the extent of the immunity in question depended on the nature of the act underlying the claim. Recalling the jurisprudence of the Mexican Supreme Court,⁴ it found that acts representing a manifestation of the exercise of sovereign powers must enjoy full immunity from jurisdiction; while those performed by the State or the Organization in the same fashion as any private person are justiciable before national courts.

In establishing whether the ILO was protected by jurisdictional immunities for the acts related to its employment relationship with the Applicant, the Tribunal observed that the immunities granted to international organizations are exclusively based on the States’ willingness as enshrined in the applicable treaty law. In this respect, referring mainly to Article 10 (“Functions of the Office”) of the ILO Constitution, the Tribunal concluded that these acts were justiciable before national courts, being only accessory and instrumental to the main objectives and functions of the Organization.

Notwithstanding the above, the Tribunal rejected the Applicant’s request to refer the case back to the FBCA. In the view of the Tribunal, the previous submittal of an application before the ILO’s internal means of redress prevented the FBCA from having jurisdiction over the second application. The Tribunal pointed out that the potential of two complaints based upon the same employment relationship coming before two different systems of justice is inadmissible, because this may result in two contradictory decisions or in a double condemnation of the defendant. It followed from the foregoing that the application was dismissed in its entirety.

² In the Mexican jurisdictional system, this means of appeal is called “*amparo directo*”. It allows applicants to impugn final judgments, arbitral awards and awards determined in labour-related matters directly before the Collegial Tribunals of the Circuit. More information is available at <https://www.scjn.gob.mx/conocelacorte/Paginas/atribucionesSCJN.aspx>.

³ The text of the ILO Constitution is available at http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO.

⁴ *Suprema Corte de Justicia de la Nación, Seminario Judicial de la Federación y su gaceta, “Inmudidad jurisdiccional internacional. No es prerrogativa ilimitada”*, tomo XVIII, noviembre de 2003, p. 149.

Part Four
BIBLIOGRAPHY

A. INTERNATIONAL ORGANIZATIONS IN GENERAL

1. General

- Blanc Altemir, A., *Las Relaciones entre las Naciones Unidas y la Unión Europea: seguridad, cooperación y derechos humanos* (Madrid: Tecnos, 2013). 463 p.
- Boulden, J., *Responding to Conflict in Africa: The United Nations and Regional Organizations* (Basingstoke: Palgrave Macmillan, 2013). 352 p.
- Dunoff, J.L., Is Sovereign Equality Obsolete?: Understanding Twenty-First Century International Organizations, *Netherlands Yearbook of International Law*, vol. 43 (2013): p. 99–127.
- Jura, C., Legal Personality of Inter-Governmental International Organisations, *EIRP Proceedings* (2013): p. 97–104.
- Klabbers, J., Unity, Diversity, Accountability: The Ambivalent Concept of International Organisation, *Melbourne Journal of International Law*, vol. 14 (2013): p. 149–170.
- Lagrange, E., Sorel, J., and Ndior, V., *Droit des organisations internationales* (Paris: LGDJ: Lextenso éditions, 2013). 1248 p.
- Tams, C.J., and Fitzmaurice, M. (eds), *Legacies of the Permanent Court of International Justice* (Leiden: Nijhoff, 2013). 413 p.
- Tomuschat, C., The European Court of Human Rights and the United Nations, in Follesdal, A., Peters, B., and Ulfstein, G. (eds), *Constituting Europe: The European Court of Human Rights in a National, European and Global Context* (Cambridge: Cambridge University Press, 2013): p. 334–388.
- Trachtman, J.P., *The Future of International Law: Global Government* (Cambridge: Cambridge University Press, 2013). 302 p.
- Williams, P., Regional and Global Legitimacy Dynamics: The United Nations and Regional Arrangements, in Zaum, D. (ed), *Legitimizing International Organizations* (Oxford: Oxford University Press, 2013): p. 41–62.

2. Particular questions

- Arato, J., Treaty Interpretation and Constitutional Transformation: Informal Change in International Organizations, *Yale Journal of International Law*, vol. 38 (2013): p. 289–357.
- Reinisch, A., *The Privileges and Immunities of International Organizations in Domestic Courts* (Oxford: Oxford University Press, 2013). 400 p.

3. Responsibility of international organizations

- De Boer, T.M., Netherlands Juridical Decisions Involving Questions of Private International Law: Can the United Nations be Sued for its Role in the Srebrenica Massacre? *Netherlands International Law Review*, vol. 60 (2013): p. 121–130.

- Jacob, P., Les définitions des notions d'« organe » et d'« agent » retenues par la CDI sont-elles opérationnelles ? *Revue belge de droit international*, vol. XLVII (2013): p. 17–44.
- Kerbrat, Y., Sanctions et contre-mesures: risques de confusion dans les articles de la CDI sur la responsabilité des organisations internationales, *Revue belge de droit international*, vol. 47 (2013): p. 103–110.
- Klein, P., Les articles sur la responsabilité des organisations internationales: quel bilan tirer des travaux de la CDI? *Annuaire français de droit international*, vol. 58 (2013): p. 1–27.
- Mégret, F., La responsabilité des Nations Unies au temps du choléra, *Revue belge de droit international*, vol. XLVII (2013): p. 161–189.
- Osterdahl, I., The Responsibility to Protect and the Responsibility while Protecting: Why did Brazil Write a Letter to the UN? *Nordic Journal of International Law*, vol. 82 (2013): p. 459–486.
- Quereyazu Escobari, A., Responsabilidad de las organizaciones internacionales por actos ultra vires, *Revista de Derecho de la División de Ciencias Jurídicas*, vol. 39 (2013): p. 1–29.
- Ragazzi, M. (ed), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie* (Leiden: Nijhoff, 2013). 470 p.
- Richard, V., Les organisations internationales entre *responsibility* et *accountability*: le régime de responsabilité esquissé par la CDI est-il adapté aux organisations internationales ? *Revue belge de droit international*, vol. XLVII (2013): p. 190–205.

B. UNITED NATIONS

1. General

- Amin, S., Whither the United Nations? in Finizio, G., and Gallo, E. (eds), *Democracy at the United Nations: UN Reform in the Age of Globalisation* (Brussels: Lang, 2013): p. 81–111.
- Annan, K.A., and Michel, N., Two Cases in Perspective: Boundary Delimitation in the Bakassi Peninsula and Criminal Accountability in Kenya, in Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013): p. 281–290.
- Boutros-Ghali, B., The Challenges of Preventive Diplomacy: The Role of the United Nations and its Secretary-General, in Cahill, K.M. (ed), *History and Hope: The International Humanitarian Reader* (New York: The Center for International Humanitarian [etc.], 2013): p. 178–191.
- Charlesworth, H., and Chinkin, C.M., The New United Nations “Gender Architecture”: A Room with a View? *Max Planck Yearbook of United Nations Law*, vol. 17 (2013): p. 1–60.
- Cummings-John, T., Cooperation between the United Nations and the International Criminal Court, *International Organizations Law Review*, vol. 10 (2013): p. 223–246.

- De Coning, E., and Stølsvik, G., United Nations Office on Drugs and Crime, *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 189–204.
- Edström, H., and Gyllensporre, D., *Political Aspirations and Perils of Security: Unpacking the Military Strategy of the United Nations* (Basingstoke: Palgrave Macmillan, 2013). 280 p.
- Fernández Sola, N., The European Union as a Regional Organization within the Meaning of the UN Charter, *Polish Yearbook of International Law*, vol. 32 (2013): p. 259–269.
- Finizio, G., and Gallo, E. (eds), *Democracy at the United Nations: UN Reform in the Age of Globalisation* (Brussels: Lang, 2013). 359 p.
- Freedman, R., *The United Nations Human Rights Council: A Critique and Early Assessment* (London: Routledge, 2013). 332 p.
- Freedman, R., The United Nations Human Rights Council: More of the Same? *Wisconsin International Law Journal*, vol. 31 (2013): p. 208–251.
- Ingravallo, I., UN Territorial Administrations: Between International Humanitarian Law and Human Rights Law, in Kolb, R. (ed), *Research Handbook on Human Rights and Humanitarian Law* (Cheltenham: Edward Elgar, 2013): p. 391–415.
- Nemer Caldeira Brant, L., and Soares Amaral, J., A Centralização Normativa Representada Pela Atuação Dos Órgãos Políticos Da Organização Das Nações Unidas, *Anuário Brasileiro de Direito Internacional*, vol.8 (2013): p. 11–33.
- Polsi, A., Changing the United Nations: The Key Role of Governance and Managerial Reform, in Finizio, G., and Gallo, E. (eds), *Democracy at the United Nations: UN Reform in the Age of Globalisation* (Brussels: Lang, 2013): p. 125–146.
- Rasche, A., The United Nations and Transnational Corporations: How the UN Global Compact has Changed the Debate, in Lawrence, J.T., and Beamish, P.W. (eds), *Globally Responsible Leadership: Managing According to the UN Global Compact* (Thousand Oaks, Calif.: SAGE Publications, 2013): p. 33–49.
- Schlesinger, S.C., Act of Creation: The Founding of the United Nations, in Williams, A. (ed), *The Brilliant Art of Peace: Lectures from the Kofi Annan Series* (Washington, DC: United States Institute of Peace Press, 2013): p. 111–118.
- Staur, C., *Shared Responsibility: The United Nations in the Age of Globalization* (Montreal: McGill-Queen's University Press, 2013). 318 p.
- Tavernier, P., L'année des Nations Unies—Problèmes juridiques, *Annuaire français de droit international*, vol. 58 (2013): p. 331–348.
- Thakur, R., and Weiss, T., Global Law and Global Governance: The UN's Role in Filling Gaps, in Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 571–591.
- Trent, J.E., The Need for Rethinking the United Nations: Modernizing through Civil Society, in Reinalda, B. (ed), *Routledge Handbook of International Organization* (London: Routledge, 2013): p. 391–402.

2. Principal organs and subsidiary bodies

General Assembly

- Anderson, G., Unilateral Non-Colonial Secession in International Law and Declaratory General Assembly Resolutions: Textual Content and Legal Effects, *Denver Journal of International Law and Policy*, vol. 41 (2013): p. 345–395.
- Bellamy, A.J., Making R to P a Living Reality: Reflections on the 2012 General Assembly Dialogue on Timely and Decisive Response, *Global Responsibility to Protect*, vol. 5 (2013): p. 109–125.
- Panke, D., *Unequal Actors in Equalising Institutions: Negotiations in the United Nations General Assembly* (New York: Palgrave Macmillan, 2013). 272 p.
- Panke, D., Regional Power Revisited: How to Explain Differences in Coherency and Success of Regional Organizations in the United Nations General Assembly, *International Negotiation*, vol. 18 (2013): p. 265–291.
- Ryngaert, C., and Cuyckens, H., The General Assembly, in Zyberi, G. (ed), *An Institutional Approach to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2013): p. 109–129.

International Court of Justice¹

- Al-Khasawneh, A.S., The International Court of Justice and Human Rights, in Sheeran, S. (ed), *Routledge Handbook of International Law* (New York: Routledge, 2013): p. 353–370.
- Alvarez Jiménez, A., Private Rights, the use of Maps, State Responsibility, and Other Issues in the International Court of Justice's Boundary Jurisprudence: 2000–10, *Canadian Yearbook of International Law*, vol. 49 (2012): p. 177–211.
- Bennouna, M., The Advisory Function of the International Court of Justice in the Light of Recent Developments, in Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 95–100.
- Bennouna, M., La Cour internationale de Justice et son environnement politique, *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 429–433.
- Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013). 356 p.
- Bordin, F.L., Procedural Developments at the International Court of Justice, *The Law and Practice of International Courts and Tribunals: a Practitioners' Journal*, vol. 12 (2013): p. 81–111.
- Boschiero N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013). 951 p.

¹ Please also see other sections of this Bibliography, in particular section 39 on State Immunity

- D'Argent, P., Les déclarations de non-violation du droit international dans les arrêts de la Cour internationale de Justice, *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 471–481.
- Deppermann, L.J.F., Increasing the ICJ's Influence as a Court of Human Rights: The Muslim Rohingya as a Case Study, *Chicago Journal of International Law*, vol. 14 (2013): p. 291–316.
- Drobysz, S., L'avis consultatif de la CIJ sur le jugement n° 2867 du TAOIT sur requête contre le Fonds international de développement agricole, *Annuaire français de droit international*, vol. 58 (2013): p. 181–204.
- Gowlland-Debbas, V., The Role of the International Court of Justice in the Development of the Contemporary Law of Treaties, in Tams, C.J., and Sloan, J.G. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013).
- Higgins, R., S. Rosenne and the International Court of Justice, *The Law and Practice of International Courts and Tribunals: A Practitioners' Journal*, vol. 12 (2013): p. 163–175.
- Kamga, M.K., L'assistance judiciaire aux fins du règlement pacifique des différends internationaux devant la Cour internationale de Justice et le Tribunal international du droit de la mer, *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 519–532.
- Kohen, M.G., Le Kosovo entre le droit et la puissance (les questions négligées par l'avis consultatif de la Cour), *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 533–547.
- Koroma, A.G., The Application of International Law by the International Court of Justice, in the Xiamen Academy of International Law (eds), *Collected Courses of the Xiamen Academy of International Law* (Leiden: Nijhoff, 2013): p. 1–156.
- Lang, A., The Role of the International Court of Justice in a Context of Fragmentation, *International and Comparative Law Quarterly*, vol. 62 (2013): p. 777–812.
- Lee-Iwamoto, Y., The ICJ as a Guardian of Community Interests? Legal Limitations on the use of Provisional Measures, in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 71–92.
- Lopez Martin, A.G., Principios y reglas de solución aplicables a las controversias territoriales a la luz de la jurisprudencia de la Corte Internacional de Justicia, *Anuario Colombiano de Derecho Internacional*, vol. 6 (2013): p. 15–45.
- McIntyre, J., Declaratory Judgments of the International Court of Justice, *Hague Yearbook of International Law*, vol. 25 (2013): p. 107–157.
- Miles, C.A., The Origins of the Law of Provisional Measures before International Courts and Tribunals. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (ZaöRV)*, vol. 73 (2013): p. 615–672.

- Murphy, S.D., What a Difference a Year Makes: The International Court of Justice's 2012 Jurisprudence, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 539–552.
- Paparinskis, M., Procedural Aspects of Shared Responsibility in the International Court of Justice, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 295–318.
- Pellet, A., Remarques cursives sur les contentieux “africains” devant la C.I.J., *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 277–295.
- Tams, C.J., and Sloan, J. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013). 400 p.
- Thirlway, H.W.A., *The Law and Procedure of the International Court of Justice: Fifty Years of Jurisprudence* (Oxford: Oxford University Press, 2013). 1104 p.
- Thirlway, H.W.A., Quelques observations sur le concep. de “dispute” (différend, contestation) dans la jurisprudence de la C.I.J., *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 611–622.
- Uchkunova, I., Provisional Measures before the International Court of Justice, *The Law and Practice of International Courts and Tribunals: a Practitioners' Journal*, vol. 12 (2013): p. 391–430.
- Villalpando, S., On the International Court of Justice and the Determination of Rules of Law, *Leiden Journal of International Law*, vol. 26 (2013): p. 243–251.
- Webb, P., *International Judicial Integration and Fragmentation* (Oxford: Oxford University Press, 2013). 253 p.
- Webb, P., The Use of Force and the Emerging International Judicial System, in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 121–143.
- Zammit Borda, A., A Formal Approach to Article 38 (1)(d) of the ICJ Statute from the Perspective of the International Criminal Courts and Tribunals, *European Journal of International Law*, vol. 24 (2013): p. 649–661.
- Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013). 688 p.
- Zimmermann, A., Business as Usual?: The International Court of Justice's 2012 Judicial Practice: Facing New Procedural and Jurisdictional Questions, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 521–537.
- Zimmermann, A., Human Rights Treaty Bodies and the Jurisdiction of the International Court of Justice, *The Law and Practice of International Courts and Tribunals: a Practitioners' Journal*, vol. 12 (2013): p. 5–29.

Secretariat

- Boutros-Ghali, B., The Challenges of Preventive Diplomacy: The Role of the United Nations and its Secretary-General, in Cahill, K.M. (ed.), *History and Hope: The International Humanitarian Reader* (New York: The Center for International Humanitarian [etc.], 2013): p. 178–191.
- Fröhlich, M., The Special Representatives of the United Nations Secretary-General, in Reinalda, B. (ed), *Routledge Handbook of International Organization* (London: Routledge, 2013): p. 231–243.
- Karlsrud, J., Special Representatives of the Secretary-General as Norm Arbitrators? Understanding Bottom-Up Authority in UN Peacekeeping, *Global Governance*, vol. 19 (2013): p. 525–544.
- Kujirakwinja Kalinda, B., L'immunité de juridiction pénale des membres du personnel militaire d'une opérations de maintien de la paix des Nation Unies, *Revue de droit international et de droit comparé*, vol. 90 (2013): p. 549–594.
- Namountougou, M.A., Responsabilité pénale des agents ou fonctionnaires internationaux et immunité de juridiction, *Canadian Yearbook of International Law*, vol. 49 (2011): p. 243–263.
- Reinisch, A., *Privileges and Immunities of International Organizations in Domestic Courts* (Oxford: Oxford University Press, 2013). 400 p.
- Tarassenko, S., and Tani, I., The Functions and Role of the United Nations Secretariat in Ocean Affairs and the Law of the Sea, in Freestone, D. (ed), *The 1982 Law of the Sea Convention at 30: Successes, Challenges and New Agendas* (Leiden: Nijhoff, 2013): p. 9–25.

Security Council

- Aloisi, R., A Tale of Two Institutions: The United Nations Security Council and the International Criminal Court, in Rothe, D.L., Meernik, J., and Pórdís, I. (eds), *The Realities of International Criminal Justice* (Leiden: Nijhoff, 2013): p. 147–168.
- Arcari, M., Limits to Security Council Powers Under the UN Charter and Issues of Charter Interpretation, *Polish Yearbook of International Law*, vol. 32 (2013): p. 239–257.
- Carswell, A.J., Unblocking the UN Security Council: The Uniting for Peace Resolution, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 453–480.
- Chan, P.C.W., A Keen Observer of the International Rule of Law?: International Law in China's Voting Behaviour and Argumentation in the United Nations Security Council, *Leiden Journal of International Law*, vol. 26 (2013): p. 875–907.
- Contartese, C., An EU Seat at the Security Council: Reflections on Formal and Informal Models of EU Participation at the United Nations, *La Comunità Internazionale: rivista trimestrale della Società Italiana per l'Organizzazione Internazionale*, vol. 68 (2013): p. 135–160.

- Corten, O., and Klein, P., L'action des Nations Unies en Côte d'Ivoire: jusqu'où le Conseil de sécurité peut-il intervenir dans l'ordre juridique interne des Etats? *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 73–99.
- Couveinhes Matsumoto, F., La critique des principales orientations du Conseil de Sécurité par la République Populaire de Chine: éléments pour une évaluation des effets de la fin de l'hégémonie occidentale sur le droit de la paix et la sécurité internationales, *Revue générale de droit international public: droit des gens histoire diplomatique, droit pénal, droit fiscal, droit administratif*, vol. 117 (2013): p. 233–280.
- Dörfler, T., and Hosli, M.O., Reforming the United Nations Security Council: Proposals, Strategies and Preferences, in Reinalda, B. (ed), *Routledge Handbook of International Organization* (London: Routledge, 2013): p. 377–390.
- Eick, C.N., The UN Security Council and International Law in 2012, *German Yearbook of International Law*, vol. 55 (2012): p. 537–560.
- Farrell, B.R., The Security Council and Kashmir, *Transnational Law and Contemporary Problems*, vol. 22 (2013): p. 343–368.
- Field, S.M., UN Security Council Resolutions Concerning Children Affected by Armed Conflict: In Whose “Best Interest”? *International Journal of Children's Rights*, vol. 21 (2013): p. 127–161.
- Forsythe, D.P., “Political Trials”? The UN Security Council and the Development of International Criminal Law, in Schabas, W.A., McDermott, Y., and Hayes, N. (eds), *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (Farnham: Ashgate Publishing Ltd, 2013): p. 475–498.
- Garrido Muñoz, A., *Garantías judiciales y sanciones antiterroristas del Consejo de Seguridad de Naciones Unidas: de la técnica jurídica a los valores* (Valencia: Tirant lo Blanch, 2013). 478 p.
- Gehring, T., and Dorfler, T., Division of Labor and Rule-Based Decision-Making within the UN Security Council: The Al-Qaeda/Taliban Sanctions Regime *Global Governance*, vol. 19 (2013): p. 567–588.
- Gill, T., The Security Council, in Zyberi, G. (ed), *An Institutional Approach to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2013): p. 83–108.
- Gordon, J., Crippling Iran: The U.N. Security Council and the Tactic of Deliberate Ambiguity, *Georgetown Journal of International Law*, vol. 44 (2013): p. 973–1006.
- Gowlland-Debbas, V., Diplomatic Means as a Trigger of Judicial Means: The Security Council and the ICC, in Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013): p. 25–45.
- Hajjami, N., Que signifie l'expression « prendre toutes les mesures nécessaires » dans la pratique du Conseil de sécurité des Nations unies ? *Revue belge de droit international*, vol. XLVII (2013): p. 232–255.
- Hassler, S., *Reforming the UN Security Council Membership: The Illusion of Representativeness* (New York: Routledge, 2013). 322 p.

- Henderson, C., and Lubell, N., The Contemporary Legal Nature of UN Security Council Ceasefire Resolutions, *Leiden Journal of International Law*, vol. 26 (2013): p. 369–397.
- Hostovsky-Brandes, T., and Zemach, A., Controlling the Execution of a Security Council Mandate to use Force: Does the Council Need a Lawyer? *Fordham International Law Journal*, vol. 36 (2013): p. 657–705.
- Kraska, J., and Pedrozo, R.A., Security Council Maritime Enforcement, *International Maritime Security Law* (Leiden: Nijhoff, 2013): p. 903–921.
- Michaelsen, C., The Competence of the Security Council Under the UN Charter to Adopt Sanctions Targeting Private Individuals, in Byrnes, A., and Hayashi, M. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 11–39.
- Mohamed, S., Shame in the Security Council, *Washington University Law Review*, vol. 90 (2013): p. 1191.
- Mohamed, S., Omissions, Acts, and the Security Council's (in)Actions in Syria, *Boston University International Law Journal*, vol. 31 (2013): p. 413–434.
- Nikolova, M., and Ventura, M.J., The Special Tribunal for Lebanon Declines to Review UN Security Council Action: Retreating from Tadic's Legacy in the Ayyash Jurisdiction and Legality Decisions, *Journal of International Criminal Justice*, vol. 11 (2013): p. 615–641.
- Reinisch, A., Value Conflicts within the United Nations Security Council, *Austrian Review of International and European Law*, vol. 14 (2013): p. 41–60.
- Richter, D., Judicial Review of Security Council Decisions—a Modern Vision of the Administration of Justice? *Polish Yearbook of International Law*, vol. 32 (2013): p. 271–297.
- Rodiles, A., Non-Permanent Members of the United Nations Security Council and the Promotion of the International Rule of Law, *Goettingen Journal of International Law*, vol. 5 (2013): p. 333–373.
- Smith, R.K.M., “To See Themselves as Others See Them”: The Five Permanent Members of the Security Council and the Human Rights Council's Universal Periodic Review, *Human Rights Quarterly*, vol. 35 (2013): p. 1–32.
- Spain, A., The U.N. Security Council's Duty to Decide, *Harvard National Security Journal*, vol. 4 (2013): p. 320–384.
- Šturma, P., Does the Rule of Law also Apply to the Security Council?: Limiting its Powers by Way of Responsibility and Accountability, *Polish Yearbook of International Law*, vol. 32 (2013): p. 299–305.
- Trahan, J., The Relationship between the International Criminal Court and the U.N. Security Council: Parameters and Best Practices, *Criminal Law Forum*, vol. 24 (2013): p. 417–473.
- Tripolone, G., Es posible una teoría jurídica sobre la aplicación de normas internacionales por el Consejo de Seguridad de Naciones Unidas? *Revista electrónica de estudios internacionales* (2013) p. 1–17.

- Tzanakopoulos, A., L'invocation de la théorie des contre-mesures en tant que justification de la désobéissance au Conseil de sécurité, *Revue belge de droit international*, vol. XLVII (2013): p. 78–102.
- Vatsov, M., Security Council Referrals to the ICC and EU Fundamental Rights: A Test for ECJ's Stance in *Kadi I*, *Hague Yearbook of International Law*, vol. 25 (2013): p. 79–104.
- Weckel, P., Le conseil de sécurité et la coopération judiciaire internationale, *Revue générale de droit international public: droit des gens histoire diplomatique, droit pénal, droit fiscal, droit administratif*, vol. 117 (2013): p. 623–632.
- Wilson, G., The United Nations Security Council and Refugee Flows as “Threats to the Peace”, *An Introduction to International Refugee Law* (Leiden: Nijhoff, 2013): p. 267–289.
- Wilson, G., The United Nations Security Council, Libya and Resolution 1973: Protection of Civilians or Tool for Regime Change? in Panara, C., and Wilson, G. (eds), *The Arab Spring: New Patterns for Democracy and International Law* (Leiden: Nijhoff, 2013): p. 101–121.
- Wittig, P., Making UN Sanctions Work: Germany's Chairmanship of the Al-Qaida/Taliban Sanctions Committee of the UN Security Council, *German Yearbook of International Law*, vol. 55 (2012): p. 561–572.
- Zimmermann, A., The Security Council and the Obligation to Prevent Genocide and War Crimes, *Polish Yearbook of International Law*, vol. 32 (2013): p. 307–314.

C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

1. Food and Agriculture Organization

- Chien, Y., How did International Agencies Perceive the Avian Influenza Problem? The Adoption and Manufacture of the “One World, One Health” Framework, *SHIL Sociology of Health and Illness*, vol. 35 (2013): p. 213–226.

2. General Agreement on Tariffs and Trade

- Park, S.K., Talking the Talk and Walking the Walk: Reviving Global Trade and Development After Doha, *Virginia Journal of International Law*, vol. 53 (2013): p. 365–415.

3. International Atomic Energy Agency

- Hanschel, D., Prevention, Preparedness and Assistance Concerning Nuclear Accidents—Effective International Legal Framework or Patchwork? *German Yearbook of International Law*, vol. 55 (2012): p. 217–251.
- Long, J. G. III, Independent Unaccountability: The IAEA's “Step Backward” in Regulating International Nuclear Reactor Safety in the Wake of the Fukushima Daiichi Disaster, *Suffolk Transnational Law Review*, vol. 36 (2013): p. 155–188.

4. International Centre for Settlement of Investment Disputes

- Calamita, N.J., Earnest, D., and Burgstaller, M., *The Future of ICSID and the Place of Investment Treaties in International Law* (London: British Institute of International and Comparative Law, 2013). 364 p.
- Cazala, J., La dénonciation de la Convention de Washington établissant le CIRDI, *Annuaire français de droit international*, vol. 58 (2013): p. 551–566.
- Collins, D., ICSID Annulment Committee Appointments: Too Much Discretion for the Chairman? *Journal of International Arbitration*, vol. 30 (2013): p. 333–343.
- Cristani, F., The “Sempra” Annulment Decision of 29 June 2010 and Subsequent Developments in Investment Arbitration Dealing with the Necessity Defence, *International Community Law Review*, vol. 15 (2013): p. 237–253.
- D’Agnone, G., Recourse to the “Futility Exception” within the ICSID System: Reflections on Recent Developments of the Local Remedies Rule, *The Law and Practice of International Courts and Tribunals: a Practitioners’ Journal*, vol. 12 (2013): p. 343–364.
- Puig, S., Emergence and Dynamism in International Organizations: ICSID, Investor-State Arbitration and International Investment Law, *Georgetown Journal of International Law*, vol. 44 (2013): p. 531–607.
- Schliemann, C., Requirements for Amicus Curiae Participation in International Investment Arbitration: A Deconstruction of the Procedural Wall Erected in Joint ICSID Cases ARB/10/25 and ARB/10/15, *The Law and Practice of International Courts and Tribunals: a Practitioners’ Journal*, vol. 12 (2013): p. 365–390.

5. International Civil Aviation Organization

- Abeyratne, R., The 6th Air Transport Conference of ICAO: A Critical Analysis, *Air and Space Law*, vol. 38 (2013): p. 297–331.

6. International Fund for Agricultural Development

- Drobysz, S., L’avis consultatif de la CIJ sur le jugement n° 2867 du TAOIT sur requête contre le Fonds international de développement agricole, *Annuaire français de droit international*, vol. 58 (2013): p. 181–204.

7. International Labour Organization

- Carmona Caldera, C., Tomando los derechos colectivos en serio: el derecho a consulta previa del Convenio 169 de la OIT y las instituciones representativas de los pueblos indígenas, *Ius et praxis*, vol. 19 (2013): p. 301–333.
- Dahan, Y., Lerner H., and Milman-Sivan, F., Shared Responsibility and the International Labour Organization, *Michigan Journal of International Law*, vol. 34 (2013): p. 675–743.

- Mathiason, T., Are You Part of the Global Workforce? An Examination of the “Duty of Care” to Business Travelers and International Assignees Under the ILO Occupational Health and Safety Conventions and as Emerging International Customary Law, *The American University International Law Review*, vol. 28 (2013): p. 873–904.
- Maupain, F., The ILO Regular Supervisory System: A Model in Crisis? *International Organizations Law Review*, vol. 10 (2013): p. 117–165.
- Piniella, F., Who Will Give Effect to the ILO’s Maritime Labour Convention, 2006? *International Labour Review*, vol. 152 (2013) p. 59–83.
- Ruzié, D., Jurisprudence du Tribunal administratif de l’Organisation internationale du travail, *Annuaire français de droit international*, vol. 58 (2013): p. 253–280.
- Sweptson, L., The International Labour Organization and International Human Rights System, in Sheeran, S. (ed), *Routledge Handbook of International Human Rights Law* (London: Routledge, 2013): p. 339–352.

8. International Maritime Organization

- Bray, H.L., The Neer Rumour, *Hague Yearbook of International Law*, vol. 25 (2013): p. 201–219.
- Martínez Gutiérrez, N.A., New Global Limits of Liability for Maritime Claims, *International Community Law Review*, vol. 15 (2013): p. 341–357.

9. International Monetary Fund

- Gartner, D., Uncovering Bretton Woods: Conditional Transparency, the World Bank, and the International Monetary Fund, *George Washington International Law Review*, vol. 45 (2013): p. 121–148.
- Joyce, J.P., *The IMF and Global Financial Crises: Phoenix Rising?* (Cambridge: Cambridge University Press, 2013). 241 p.
- Plassaras, N.A., Regulating Digital Currencies: Bringing Bitcoin within the Reach of the IMF, *Chicago Journal of International Law*, vol. 14 (2013): p. 377–407.
- Thirkell-White, B., Ambitious Goals, Limited Tools? The IMF and Poverty Reduction, in Schefer, K.N. (ed), *Poverty and the International Economic Legal System: Duties to the World’s Poor* (Cambridge: Cambridge University Press, 2013): p. 256–277.
- Thorner, M., The Evolution of Technical Assistance Provided by Intergovernmental Organisations: A Comparative Study of the Hague Conference, IMF, WTO, Unidroit and Uncitral, *A Commitment to Private International Law: Essays in honour of Hans van Loon: mélanges en l’honneur de Hans van Loon* (2013): p. 583–596.
- Thorstensen, V., Ramos, D., and Muller, C., The “Missing Link” between the WTO and the IMF, *Journal of International Economic Law*, vol. 16 (2013): p. 353–381.

10. Organisation for the Prohibition of Chemical Weapons

Organisation for the Prohibition of Chemical Weapons, Office of the Legal Adviser, Session of the Conference of the States Parties, *Cooperation between the Organisation for the Prohibition of Chemical Weapons and the United Nations* (The Hague: OPCW, 2013).

11. United Nations Educational, Scientific and Cultural Organization

Coleman, P., UNESCO and the Belitung Shipwreck: The Need for a Permissive Definition of “Commercial Exploitation”, *George Washington International Law Review*, vol. 45 (2013): p. 847–874.

Keane, D., and Azarov, V., UNESCO, Palestine and Archaeology in Conflict, *Denver Journal of International Law and Policy*, vol. 41 (2013): p. 309.

Sjöstedt, B., The Role of Multilateral Environmental Agreements in Armed Conflict: “Green-Keeping” in Virunga Park: Applying the UNESCO World Heritage Convention in the Armed Conflict of the Democratic Republic of the Congo, *Nordic Journal of International Law*, vol. 82 (2013): p. 129–153.

Vigorito, A., Natural Disasters, Climate Change and World Heritage: The Evolution of the International Risk Prevention and Management Strategies, in Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 593–607.

12. World Bank Group

Bradlow, D.D., and Naudé Fourie, A., The Operational Policies of the World Bank and the International Finance Corporation: Creating Law-Making and Law-Governed Institutions? *International Organizations Law Review*, vol. 10 (2013): p. 3–80.

Crippa, L.A., REDD+: Its Potential to Melt the Glacial Resistance to Recognize Human Rights and Indigenous Peoples’ Rights at the World Bank, in Abate, R.S., and Kronk Warner, E.A. (eds), *Climate Change and Indigenous Peoples: The Search for Legal Remedies* (Cheltenham: Edward Elgar, 2013): p. 123–147.

Fariello, F.A., and Daly, C.C., Coordinating the Fight Against Corruption among MDBS: The Past, Present, and Future of Sanctions, *George Washington International Law Review*, vol. 45 (2013): p. 253–269.

Gartner, D., Uncovering Bretton Woods: Conditional Transparency, the World Bank, and the International Monetary Fund, *George Washington International Law Review*, vol. 45 (2013): p. 121–148.

Janse, R., Entering the Forbidden Zone: The World Bank, Criminal Justice Reform and the Political Prohibition Clause, *International Organizations Law Review*, vol. 10 (2013): p. 81–116.

López-Jacoiste, E., El control cuasi jurisdiccional del Panel de Inspección del Banco Mundial, *Anuario español de derecho internacional*, vol. 29 (2013): p. 111–164.

Priess, H., Questionable Assumptions: The Case for Updating the Suspension and Debarment Regimes at the Multilateral Development Banks, *George Washington International Law Review*, vol. 45 (2013): p. 271–289.

Ragazzi, M., The World Bank and the ILC's Project on the Responsibility of International Organizations, in Ragazzi, M. (ed), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie* (Leiden: Nijhoff, 2013): p. 235–248.

13. World Health Organization

Allen, M., Confronting the Vector of Tobacco-Related Disease, *American Journal of Law and Medicine*, vol. 39 (2013): p. 308–331.

Burci, G.L., and Feinäugle, C.A., The ILC's Articles seen from a WHO Perspective, in Ragazzi M. (ed), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie* (Leiden: Nijhoff, 2013): p. 177–187.

Chien, Y., How did International Agencies Perceive the Avian Influenza Problem? The Adoption and Manufacture of the “One World, One Health” Framework, *SHIL Sociology of Health and Illness*, vol. 35 (2013): p. 213–226.

Giorgetti, C., International Health Emergencies in Failed and Failing States, *Georgetown Journal of International Law*, vol. 44 (2013): p. 1347–1386.

Klock, K.A., The Soft Law Alternative to the WHO's Treaty Powers, *Georgetown Journal of International Law*, vol. 44 (2013): p. 821–846.

14. World Intellectual Property Organization

Goodwin, K.A., Protecting Architectural Forms as Traditional Cultural Expression? Why WIPO should go back to the Drafting Table, *Columbia Journal of Transnational Law*, vol. 51 (2013): p. 506–541.

15. World Trade Organization

Abe, Y., Implementation System of the WTO Dispute Settlement Body: A Comparative Approach, *Journal of East Asia and International Law*, vol. 6 (2013): p. 7–28.

Adelman, A., Procedural Good Faith Obligations in WTO Dispute Resolution: Arguing for Stronger Protections in DSU Article 3.7, *Georgetown Journal of Legal Ethics*, vol. 26 (2013): p. 541–555.

Apecu Laker, J., *African Participation at the World Trade Organization: Legal and Institutional Aspects: 1995–2010* (Leiden: Nijhoff, 2013). 332 p.

Balan, G., The Latest United States Sanctions Against Iran: What Role to the WTO Security Exceptions, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 365–393.

Bartels, L., Procedural Aspects of Shared Responsibility in the WTO Dispute Settlement System, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 343–359.

- Cardwell, M., and Smith, F., Renegotiation of the WTO Agreement on Agriculture: Accommodating the New Big Issues, *International and Comparative Law Quarterly*, vol. 62 (2013): p. 865–898.
- Castel-Fodor, K., Providing a Release Valve: The U.S.-China Experience with the WTO Dispute Settlement System, *Case Western Reserve Law Review*, vol. 64 (2013): p. 201.
- Chaisse, J., and Matsushita, M., Maintaining the WTO's Supremacy in the International Trade Order: A Proposal to Refine and Revise the Role of the Trade Policy, *Journal of International Economic Law*, vol. 16 (2013): p. 9–36.
- Cuendet, S., El Boudouhi, S., and Hervé, A., Les rapports des groupes spéciaux et de l'Organe d'appel de l'OMC (2012), *Annuaire français de droit international*, vol. 58 (2013): p. 567–604.
- Flett, J., WTO Space for National Regulation: Requiem for a Diagonal Vector Test, *Journal of International Economic Law*, vol. 16 (2013): p. 37–90.
- Griffin, S., The World Trade Organization: A Barrier to Green Energy, *Transnational Law and Contemporary Problems*, vol. 22 (2013): p. 205.
- Howse, R., Mainstreaming the Right to Development into the World Trade Organization, in Office of the United Nations High Commissioner for Human Rights (eds), *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development* (Geneva: United Nations, 2013): p. 249–257.
- Huerta-Goldman, J.A., Romanetti, A., and Stirnimann, F.X. (eds), *WTO Litigation, Investment Arbitration, and Commercial Arbitration* (Alphen aan den Rijn: Kluwer Law International, 2013). 472 p.
- Leitner, K., and Simon, L., WTO Dispute Settlement 1995–2012: A Statistical Analysis, *Journal of International Economic Law*, vol. 16 (2013): p. 257–267.
- Martin, M., *WTO Dispute Settlement Understanding and Development* (Leiden: Nijhoff, 2013). 343 p.
- Mitchell, A.D., and Henckels, C., Variations on a Theme: Comparing the Concept of “Necessity” in International Investment Law and WTO Law, *Chicago Journal of International Law*, vol. 14 (2013): p. 93–164.
- Singh, P., Mercantile Metaconstitutionalism: Interpretation of the WTO Treaty and the Developing Countries, *German Yearbook of International Law*, vol. 55 (2012): p. 465–507.
- Thorner, M., The Evolution of Technical Assistance Provided by Intergovernmental Organisations: A Comparative Study of the Hague Conference, IMF, WTO, Unidroit and Uncitral, *A Commitment to Private International Law: Essays in honour of Hans van Loon: mélanges en l'honneur de Hans van Loon* (2013): p. 583–596.
- Thorstensen, V., Ramos, D., and Muller, C., The “Missing Link” between the WTO and the IMF, *Journal of International Economic Law*, vol. 16 (2013): p. 353–381.
- Voon, T., Discrimination in International Mobile Roaming Regulation: Implications of WTO Law, *Journal of International Economic Law*, vol. 16 (2013): p. 91–117.

Waters, J.J., Achieving World Trade Organization Compliance for Export Processing Zones while Maintaining Economic Competitiveness for Developing Countries, *Duke Law Journal*, vol. 63 (2013): p. 481.

Zaman, K., Determining a “Reasonable” Implementation Timeline for Developing Countries in WTO Disputes: An Appraisal of Special Treatment Commitments in DSU Article 21.3(c) Arbitrations, *The Law and Practice of International Courts and Tribunals: a Practitioners’ Journal*, vol. 12 (2013): p. 31–47.

D. OTHER LEGAL ISSUES

1. Aggression

Gillett, M., The Anatomy of an International Crime: Aggression at the International Criminal Court, *International Criminal Law Review*, vol. 13 (2013): p. 829–864.

Grzebyk, P., *Criminal Responsibility for the Crime of Aggression* (New York: Routledge, 2013). 394 p.

Jurdi, N.N., The Domestic Prosecution of the Crime of Aggression After the International Criminal Court Review Conference: Possibilities and Alternatives, *Melbourne Journal of International Law*, vol. 14 (2013): p. 129–148.

Lavers, T., The New Crime of Aggression: A Triumph for Powerful States, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 499–522.

McDougall, C., *The Crime of Aggression under the Rome Statute of the International Criminal Court* (Cambridge: Cambridge University Press, 2013). 382 p.

Sellers, K., *“Crimes Against Peace” and International Law* (Cambridge: Cambridge University Press, 2013). 316 p.

Ssenyonjo, M., Unilateral Military Action in the Syrian Arab Republic: A Right to Humanitarian Intervention or a Crime of Aggression? *International Human Rights Law Review*, vol. 2 (2013): p. 323–343.

Tan, C., Punishing Aggression as a Crime Against Humanity: A Noble but Inadequate Measure to Safeguard International “Peace and Security”, *American University International Law Review*, vol. 29 (2013): p. 145–164.

2. Aviation law

Tompkins, G.N., Jr., The Malaise Affecting the Global Uniform Effectiveness of the Montreal Convention, 1999 (MC99), in De Leon, P.M., European Air Law Association, and Clyde and Co (eds). *From Lowlands to High Skies: A Multilevel Jurisdictional Approach Towards Air Law: Essays in Honour of John Balfour* (Leiden: Nijhoff, 2013): p. 275–283.

3. Collective security

- Douhan, A.F., CIS, CSTO and the United Nations: Could an Active Regional System of Collective Security be Established, *Baltic Yearbook of International Law*, vol. 12 (2013): p. 131–155.
- Nasu, H., The Place of Human Security in Collective Security, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 95–129.

4. Commercial arbitration

- Annual MAA Schlechtriem CISG Conference, et al. *Globalization Versus Regionalization: The 4th Annual MAA Schlechtriem CISG Conference, 18 March 2012, Hong Kong* (The Hague: Eleven, 2013). 115 p.
- Betancourt, J.C., Understanding the “Authority” of International Tribunals: A Reply to Professor Jan Paulsson, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 227–244.
- Blackaby, N., and Chirinos, R., Consideraciones sobre la aplicación del principio iura novit curia en el arbitraje comercial internacional, *Anuario Colombiano de Derecho Internacional*, vol. 6 (2013): p. 77–93.
- Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013). 356 p.
- Brekoulakis, S., Systemic Bias and the Institution of International Arbitration: A New Approach to Arbitral Decision-Making, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 553–585.
- Caron, D.D., and Caplan, L.M., *The UNCITRAL Arbitration Rules: A Commentary: (with an Integrated and Comparative Discussion of the 2010 and 1976 UNCITRAL Arbitration Rules)* (Oxford: Oxford University Press, 2013). 1048 p.
- Cole, T., *The Structure of Investment Arbitration* (New York: Routledge, 2013). 174 p.
- Croft, C.E., Kee, C., and Waincymer, J., *A Guide to the UNCITRAL Arbitration Rules* (Cambridge: Cambridge University Press, 2013). 540 p.
- Donovan, D.F., Provisional Measures in the ICJ and ICSID: Further Dialogue and Development, in Rovine, A.W. (ed), *Contemporary Issues in International Arbitration and Mediation: The Fordham Papers* (Leiden: Nijhoff, 2013): p. 100–108.
- Fiser-Sobot, S., Exemption of the Seller Under Art. 80 of the UN Convention on Contracts for the International Sale of Goods, *Zbornik Radova*, vol. 47 (2013): p. 449–460.
- Gotanda, J.Y., Consistently Inconsistent: The Need for Predictability in Awarding Costs and Fees in Investment Treaty Arbitrations, *ICSIDR review: Foreign Investment Law Journal*, vol. 28 (2013): p. 420–437.
- Huerta-Goldman, J.A., Romanetti, A., and Stirnimann, F.X. (eds), *WTO Litigation, Investment Arbitration, and Commercial Arbitration* (Alphen aan den Rijn: Kluwer Law International, 2013). 472 p.

- Li, Y., and Ng, C.M., The Permanent Court of Arbitration in 2012, *Hague Yearbook of International Law*, vol. 25 (2013): p. 221–236.
- Puig, S., Emergence and Dynamism in International Organizations: ICSID, Investor-State Arbitration and International Investment Law, *Georgetown Journal of International Law*, vol. 44 (2013): p. 531–607.
- Reichler, P.S., Problems of Evidence before International Tribunals, in Moore, J.N. (ed), *International Arbitration: Contemporary Issues and Innovations* (Leiden: Nijhoff, 2013): p. 47–52.
- Rosenberg, C.B., The Intersection of International Trade and International Arbitration: The use of Trade Benefits to Secure Compliance with Arbitral Awards, *Georgetown Journal of International Law*, vol. 44 (2013): p. 503–530.
- Scherer, M.C., Effects of Foreign Judgments Relating to International Arbitral Awards: Is the “Judgment Route” the Wrong Road? *Journal of International Dispute Settlement*, vol. 4 (2013): p. 587–628.
- Ten Cate, I.M., The Costs of Consistency: Precedent in Investment Treaty Arbitration, *Columbia Journal of Transnational Law*, vol. 51 (2013): p. 418–478.
- Tsietsi, T., International Commercial Arbitration: Case Study of the Experiences of African States in the International Centre for Settlement of Investment Disputes, *International Lawyer*, vol. 47 (2013): p. 249–272.
- Vasani, B.S., Tonova, S., and Ugale, A., Arbitration Rules for Dispute Resolution Involving States and State Entities: What are the Significant Differences? *International Lawyer*, vol. 47 (2013): p. 163–176.
- Wei, S., *Rethinking the New York Convention: A Law and Economics Approach* (Belgium: Intersentia, 2013). 357 p.

5. Consular relations

- McCroskey, S.G., Expanding the Vienna Convention on Consular Relations: Protecting Children by Protecting their Parents, *Vanderbilt Journal of Transnational Law*, vol. 46 (2013): p. 1423–1450.
- Stewart, D.P., Weston Tribute—the Consular Notification Conundrum, *Transnational Law and Contemporary Problems*, vol. 21 (2013): p. 685–702.

6. Diplomatic protection

- Parlett, K., Diplomatic Protection and the International Court of Justice, in Tams, C.J., and Sloan, J. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013): p. 87–106.
- Vermeer-Künzli, A., Diallo: Between Diplomatic Protection and Human Rights, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 487–500.

Vermeer-Künzli, A., Diplomatic Protection as a Source of Human Rights Law, in Shelton, D. (ed), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013): p. 250–274.

7. Diplomatic relations

Behrens, P., Diplomatic Interference and Competing Interest in International Law, *British Year Book of International Law*, vol. 82 (2012): p. 178–247.

Punzhin, S.M., Proof of Facts in the “DRC v. Uganda” Case before the ICJ, in *L’Afrique et le droit international: variations sur l’organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 297–312.

8. Disarmament

Borrie, J., Caughley, T., and UNIDIR, United Nations Institute for Disarmament Research (eds), *Viewing Nuclear Weapons through a Humanitarian Lens* (New York: United Nations, 2013). 170 p.

Breitegger, A., *Cluster Munitions and International Law: Disarmament with a Human Face?* (New York: Routledge, 2013). 288 p.

Furger, D., The Humanisation of Arms Control Law—On the Reorientation of Arms Control to Meet the Requirements of Human Security, *Ancilla Iuris* (2013): p. 269–310

Gerstein, D.M., *National Security and Arms Control in the Age of Biotechnology: The Biological and Toxin Weapons Convention* (Lanham, Maryland: Rowman and Littlefield Publishers, 2013). 240 p.

Hayashi, M.N., Clearance of Remnants of War and its Assistance as Collective Responsibility: The Case of the Ottawa Convention (Mine Ban Convention), in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 93–118.

Lefenya, K., The Convention on Cluster Munitions (2008): Implications for International Humanitarian Law (IHL) in Africa, *African Yearbook on International Humanitarian Law*, vol. 2011 (2013): p. 107–128.

Pocar, F., Pedrazzi, M., and Frulli, M. (eds), *War Crimes and the Conduct of Hostilities: Challenges to Adjudication and Investigation* (Cheltenham: Edward Elgar, 2013). 416 p.

Stefan Paraschiv, D., Reflections regarding Sanctions Stipulated in the International Treaties Concerning Disarmament, *Agora International Journal of Juridical Sciences* (2013): p. 143–148.

9. Environmental questions

- Bodansky, D., A Tale of Two Architectures: The Once and Future U.N. Climate Change Regime, in Koch, H., et al (eds), *Climate Change and Environmental Hazards Related to Shipping: An International Legal Framework: Proceedings of the Hamburg International Environmental Law Conference 2011* (Leiden: Nijhoff, 2013): p. 35–51.
- Boisson de Chazournes, L., *Fresh Water in International Law* (Oxford: Oxford University Press, 2013). 265 p.
- Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013). 951 p.
- Bowman, M.K., Beyond the “Keystone” CoPs: The Ecology of Institutional Governance in Conservation Treaty Regimes, *International Community Law Review*, vol. 15 (2013): p. 5–43.
- Boyle, A., Law of the Sea Perspectives on Climate Change, in Freestone, D. (ed), *The 1982 Law of the Sea Convention at 30: Successes, Challenges and New Agendas* (Leiden: Nijhoff, 2013): p. 157–164.
- Bratspies, R.M., State Responsibility for Human-Induced Environmental Disasters, *German Yearbook of International Law*, vol. 55 (2012): p. 175–216.
- Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013). 448 p.
- Caddell, R., The Integration of Multilateral Environmental Agreements: Lessons from the Biodiversity-Related Conventions, *Yearbook of International Environmental Law*, vol. 22 (2013): p. 37–75.
- Campbell, D., After Doha: What has Climate Change Policy Accomplished? *Journal of Environmental Law*, vol. 25 (2013): p. 125–136.
- Cordonier Segger, M., Perron-Welch, F., and Frison, C., *Legal Aspects of Implementing the Cartagena Protocol on Biosafety* (Cambridge: Cambridge University Press, 2013). 636 p.
- Crippa, L.A., REDD+: Its Potential to Melt the Glacial Resistance to Recognize Human Rights and Indigenous Peoples’ Rights at the World Bank, in Abate, R.S., and Kronk Warner, E.A. (eds), *Climate Change and Indigenous Peoples: The Search for Legal Remedies* (Cheltenham: Edward Elgar, 2013): p. 123–147.
- Cullet, P., Governing the Environment without CoPs: The Case of Water, *International Community Law Review*, vol. 15 (2013): p. 123–135.
- Cuq, M., *L'eau en droit international: convergences et divergences dans les approches juridiques* (Brussels: Larcier, 2013). 148 p.
- Dam-de-Jong, D., From Engines for Conflict into Engines for Sustainable Development: The Potential of International Law to Address Predatory Exploitation of Natural Resources in Situations of Internal Armed Conflict, *Nordic Journal of International Law*, vol. 82 (2013): p. 155–177.
- Das, O., Environmental Protection in Armed Conflict: Filling the Gap with Sustainable Development, *Nordic Journal of International Law*, vol. 82 (2013): p. 103–128.

- Davies, P.G.G., Non-Compliance: A Pivotal or Secondary Function of CoP Governance? *International Community Law Review*, vol. 15 (2013): p. 77–101.
- Droege, C., and Tougas, M., The Protection of the Natural Environment in Armed Conflict—Existing Rules and Need for further Legal Protection, *Nordic Journal of International Law*, vol. 82 (2013): p. 21–52.
- Fitzmaurice, M., The International Court of Justice and International Environmental Law, in Tams, C.J., and Sloan, J.G. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013).
- Fleck, D., The Protection of the Environment in Armed Conflict: Legal Obligations in the Absence of Specific Rules, *Nordic Journal of International Law*, vol. 82 (2013): p. 7–20.
- Friedrich, J., *International Environmental “Soft Law”: The Functions and Limits of Nonbinding Instruments in International Environmental Governance and Law* (New York: Springer, 2013). 503 p.
- Goodwin, E.J., Delegate Preparation and Participation in Conferences of the Parties to Environmental Treaties, *International Community Law Review*, vol. 15 (2013): p. 45–76.
- Horn, L., Rio 20 United Nations Conference on Sustainable Development: Is this the Future we Want, *Macquarie Journal of International and Comparative Environmental Law*, vol. 9 (2013): p. 18–43.
- Iza, A.O., Sánchez, J.C., and Martínez Gómez, L., Aspectos jurídicos e institucionales de la adaptación al cambio climático en la Convención Marco de las Naciones Unidas para el Cambio Climático, in Pentinat, S.B., and Calzadilla, P.V. (eds), *Retos y realidades de la adaptación al cambio climático: perspectivas técnico-jurídicas* (Cizur Menor: Aranzadi, 2013): p. 125–166.
- Koppe, E.V., The Principle of Ambiguity and the Prohibition Against Excessive Collateral Damage to the Environment during Armed Conflict, *Nordic Journal of International Law*, vol. 82 (2013): p. 53–82.
- Lesniewska, F., UNFCCC REDD+ COP Decisions: The Cumulative Effect on Forest Related Law Processes, *International Community Law Review*, vol. 15 (2013): p. 103–121.
- Lieberman, S., and Yang, J., Rio+20 and the Oceans: Past, Present, and Future, *Ocean Yearbook Online*, vol. 27 (2013): p. 67–87.
- Lyster, R., MacKenzie, C., and McDermott, C. (eds), *Law, Tropical Forests and Carbon: The Case of REDD+* (Cambridge: Cambridge University Press, 2013). 308 p.
- Marque, E., Les aspects environnementaux du Traité de la Charte de l'énergie, *Revue Hellénique de droit international*, vol. 66 (2013): p. 163–194.
- Moomaw, W.R., Can the International Treaty System Address Climate Change? *The Fletcher Forum of World Affairs Journal*, vol. 37 (2013): p. 105–118.
- Nanda, V.P., The Mounting Environmental Challenges, the United Nations Environmental Programme, and the Reform of the International Environmental Governance Regime, *University of Hawai'i Law Review*, vol. 35 (2013): p. 983.

- Oguamanam, C., Rio+20: Indigenous Knowledge and Intellectual Property in Coastal and Ocean Law, *Ocean Yearbook*, vol. 27 (2013): p. 121–146.
- Sjöstedt, B., The Role of Multilateral Environmental Agreements in Armed Conflict: “Green-Keeping” in Virunga Park: Applying the UNESCO World Heritage Convention in the Armed Conflict of the Democratic Republic of the Congo, *Nordic Journal of International Law*, vol. 82 (2013): p. 129–153.
- Smith, T., Creating a Framework for the Prosecution of Environmental Crimes in International Criminal Law, in Schabas, W.A., McDermott, Y., and Hayes, N. (eds), *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (Farnham: Ashgate Publishing Ltd, 2013): p. 45–62.
- Thomas, C., Advancing the Legal Protection of the Environment in Relation to Armed Conflict: Protocol I’s Threshold of Impermissible Environmental Damage and Alternatives, *Nordic Journal of International Law*, vol. 82 (2013): p. 83–101.
- Van Dyke, J.M., et al (eds), *Governing Ocean Resources: New Challenges and Emerging Regimes: A Tribute to Judge Choon-Ho Park* (Leiden: Nijhoff, 2013). 528 p.
- Wagner, L.M., A Forty-Year Search for a Single-Negotiating Text: Rio+20 as a Post-Agreement Negotiation, *International Negotiation*, vol. 18 (2013): p. 333–356.
- Ward, H., Beyond the Short Term: Legal and Institutional Space for Future Generations in Global Governance, *Yearbook of International Environmental Law*, vol. 22 (2013): p. 3–36.
- Williams, M., and Murthy, S., Reconciling the Carbon Market and the Human Right to Water: The Role of Suppressed Demand Under Clean Development Mechanism and the Gold Standard, *Environmental Law*, vol. 43 (2013): p. 517–562.
- Zengerling, C., *Greening International Jurisprudence: Environmental NGOs before International Courts, Tribunals, and Compliance Committees* (Leiden: Nijhoff, 2013). 374 p.

10. Friendly relations and cooperation among States

- Basaran, H.R., Implications of the Interim Accord Ruling of the International Court of Justice, *International Lawyer*, vol. 47 (2013): p. 123.

11. Human rights

- Al-Khasawneh, A.S., The International Court of Justice and Human Rights, in Sheeran, S. (ed), *Routledge Handbook of International Law* (New York: Routledge, 2013): p. 353–370.
- Anaya, S.J., The Human Rights of Indigenous Peoples: United Nations Developments, *University of Hawai’i Law Review*, vol. 35 (2013): p. 983–1012.
- Badilla Poblete, E., La declaración de Naciones Unidas sobre eliminación de todas formas de intolerancia y discriminación fundadas en la religión o las convicciones, *Revista chilena de derecho*, vol. 40 (2013): p. 87–115.

- Barrie, G.N., The United Nations Declaration on the Rights of Indigenous People: Implications for Land Rights and Self-Determination, *Journal of South African Law* (2013): p. 292–305.
- Beail-Farkas, L., The Human Right to Water and Sanitation: Context, Contours, and Enforcement Prospects, *Wisconsin International Law Journal*, vol. 30 (2013): p. 761–801.
- Bonet Pérez, J., and Saura Estapà, J., *El derecho internacional de los derechos humanos en períodos de crisis: estudios desde la perspectiva de su aplicabilidad* (Madrid: Marcial Pons, 2013). 323 p.
- Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013). 951 p.
- Bradshaw, K., A Discursive Approach to Female Circumcision: Why the United Nations should Drop the One-Sided Conversation in Favor of the Vagina Dialogues, *North Carolina Journal of International Law and Commercial Regulation*, vol. 38 (2013): p. 601–649.
- Buteau, M., de Alba, B.R., and Plesko, A., United Nations Practice in Minority Issues, *European Yearbook of Minority Issues Online*, vol. 10 (2013): p. 523–534.
- Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013). 448 p.
- Charlesworth, H., and Hennette-Vauchez, S., *Sexe, genre et droit international* (Paris: A. Pedone, 2013). 351 p.
- Cusack, S., and Pusey, L., CEDAW and the Rights to Non-Discrimination and Equality, *Melbourne Journal of International Law*, vol. 14 (2013): p. 54–92.
- Da Costa, K., *The Extraterritorial Application of Selected Human Rights Treaties* (Leiden: Nijhoff, 2013). 324 p.
- De Beco, G. (ed), *Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the Convention* (Leiden: Nijhoff, 2013). 253 p.
- De Beco, G., The Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure: Good News? *Human Rights Law Review*, vol. 13 (2013): p. 367–387.
- De Salas Murillo, S., and Carlos Martínez de Aguirre y Aldaz, *Los Mecanismos de guarda legal de las personas con discapacidad tras la Convención de Naciones Unidas* (Madrid: Dykinson, 2013). 284 p.
- Deppermann, L.J.F., Increasing the ICJ's Influence as a Court of Human Rights: The Muslim Rohingya as a Case Study, *Chicago Journal of International Law*, vol. 14 (2013): p. 291–316.
- Desierto, D.A., and Gillespie, C.E., Evolutive Interpretation and Subsequent Practice: Interpretive Communities and Processes in the Optional Protocol to the ICESCR, *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (ZaöRV)*, vol. 73 (2013): p. 549–589.

- Devi, N., Supported Decision-Making and Personal Autonomy for Persons with Intellectual Disabilities: Article 12 of the UN Convention on the Rights of Persons with Disabilities, *Journal of Law, Medicine and Ethics*, vol. 41 (2013): p. 792–806.
- Dhommeaux, J., Les droits économiques, sociaux et culturels dans la déclaration universelle des droits de l'homme et leur devenir. In *L'homme dans la société internationale: Mélanges en hommage au Professeur Paul Tavernier* (Brussels: Bruylant, 2013): p. 645–664.
- Egan, S., Strengthening the United Nations Human Rights Treaty Body System, *Human Rights Law Review*, vol. 13 (2013): p. 209–243.
- Farrell, M., *The Prohibition of Torture in Exceptional Circumstances* (Cambridge: Cambridge University Press, 2013). 277 p.
- Freedman, R., The United Nations Human Rights Council: More of the Same? *Wisconsin International Law Journal*, vol. 31 (2013): p. 208–251.
- Gaer, F.D., and Broecker, C.L. (eds), *The United Nations High Commissioner for Human Rights: Conscience for the World* (Leiden: Nijhoff, 2013). 398 p.
- Ghandhi, S., The United Nations Human Rights Committee and Counter-Terrorism Measures of States Parties to the International Covenant on Civil and Political Rights After 11 September 2001, in Barnidge, R.P. Jr. (ed), *The Liberal Way of War: Legal Perspectives* (Farnham: Ashgate, 2013): p. 87–111.
- Greppi, E., To what Extent do the International Rules on Human Rights Matter? in Pocar, F., Pedrazzi, M., and Frulli, M. (eds), *War Crimes and the Conduct of Hostilities: Challenges to Adjudication and Investigation* (Cheltenham: Edward Elgar, 2013): p. 38–55.
- Haddadin, Y., Human Rights-Based Approach to Trafficking: The Work of the United Nations Office of High Commissioner for Human Rights, *Judges' Journal*, vol. 52 (2013): p. 22–27.
- Hellum, A., and Aasen, H.S., *Women's Human Rights: CEDAW in International, Regional, and National Law* (Cambridge: Cambridge University Press, 2013). 695 p.
- Hensgen, L., Corruption and Human Rights—Making the Connection at the United Nations, *Max Planck Yearbook of United Nations Law*, vol. 17 (2013): p. 197–219.
- Heupel, M., With Power Comes Responsibility: Human Rights Protection in United Nations Sanctions Policy, *European Journal of International Relations*, vol. 19 (2013): p. 773–796.
- Huneus, A., International Criminal Law by Other Means: The Quasi-Criminal Jurisdiction of the Human Rights Courts, *American Journal of International Law*, vol. 107 (2013): p. 1.
- Kälin, W., The Human Rights Dimension of Natural Or Human-made Disasters, *German Yearbook of International Law*, vol. 55 (2012): p. 119–147.
- Kerbrat, Y., and Hennebel, L., Aspects de droit international général dans la pratique des comités institués par les Nations Unies dans le domaine des droits de l'homme (2010–2012), *Annuaire français de droit international*, vol. 58 (2013): p. 699–713.
- Kessler, J.K., Invention of a Human Right: Conscientious Objection at the United Nations, 1947–2011, *Columbia Human Rights Law Review*, vol. 44 (2013): p. 753.

- Khadka, S., Social Rights and the United Nations—Child Rights Convention (UN-CRC): Is the CRC a Help or Hindrance for Developing Universal and Egalitarian Social Policies for Children's Wellbeing in the Developing World, *International Journal of Children's Rights*, vol. 21 (2013): p. 616–628.
- Kilkelly, U., Lundy, L., and Byrne, B., Incorporation of the United Nations Convention on the Rights of the Child in Law: A Comparative Review, *International Journal of Children's Rights*, vol. 21 (2013): p. 442–463.
- Kolb, R., and Gaggioli, G. (eds), *Research Handbook on Human Rights and Humanitarian Law* (Cheltenham: Edward Elgar, 2013). 704 p.
- Langford, M., *Global Justice, State Duties: The Extraterritorial Scope of Economic, Social, and Cultural Rights in International Law* (Cambridge: Cambridge University Press, 2013). 477 p.
- Lintel, I., and Ryngaert, C., The Interface between Non-Governmental Organisations and the Human Rights Committee, *International Community Law Review*, vol. 15 (2013): p. 359–379.
- Martínez, A.N., and Defelippe, Ó.E., Derecho humano al agua y control de convencionalidad, *Derecho PUCP* (2013): p. 105–120.
- McGregor, L., State Immunity and Human Rights: Is there a Future After Germany v. Italy? *Journal of International Criminal Justice*, vol. 11 (2013): p. 125–145.
- McMahon, E.R., International Organizations and Peer Review: Assessing the Universal Periodic Review Mechanism of the United Nations Human Rights Council, *African Yearbook of International Law*, vol. 17 (2009): p. 355–377.
- Müller, A., *The Relationship between Economic, Social and Cultural Rights and International Humanitarian Law: An Analysis of Health Related Issues in Non-International Armed Conflicts* (Leiden: Nijhoff, 2013). 335 p.
- Nelinson, B.D., From Boumediene to Garcia: The United States' (Non) Compliance with the United Nations Convention Against Torture and its Movement Away from Meaningful Review, *American University International Law Review*, vol. 29 (2013): p. 209–253.
- Neo, J.L., Calibrating Interpretive Incorporation: Constitutional Interpretation and Pregnancy Discrimination Under CEDAW, *Human Rights Quarterly*, vol. 35 (2013): p. 910–934.
- Ngwena, C., Access to Safe Abortion as a Human Right in the African Region: Lessons from Emerging Jurisprudence of UN Treaty Monitoring Bodies, *South African Journal on Human Rights*, vol. 29 (2013): p. 399–428.
- Nowak, M., Comments on the UN High Commissioner's Proposals Aimed at Strengthening the UN Human Rights Treaty Body System, *Netherlands Quarterly of Human Rights*, vol. 31 (2013): p. 3–8.
- Ochoa, J.C., in *The Rights of Victims in Criminal Justice Proceedings for Serious Human Rights Violations* (Leiden: Nijhoff, 2013): p. 99–145.

- Odello, M., and Seatzu, F., *The UN Committee on Economic, Social and Cultural Rights: The Law, Process and Practice* (New York: Routledge, 2013). 310 p.
- Park, S., The United Nations Human Rights Council's Resolution on Protection of Freedom of Expression on the Internet as a First Step in Protecting Human Rights Online, *North Carolina Journal of International Law and Commercial Regulation*, vol. 38 (2012): p. 1129–1157.
- Parkes, A., *Children and International Human Rights Law: The Right of the Child to be Heard* (New York: Routledge, 2013). 400 p.
- Petersmann, M., *Les sources du droit à l'eau en droit international* (Paris: Johanet, 2013). 129 p.
- Pillay, N., Address by the High Commissioner at the Jacob Blaustein Institute for the Advancement of Human Rights, in Gaer, F.D., and Broecker, C.L. (eds), *The United Nations High Commissioner for Human Rights* (Leiden: Nijhoff, 2013): p. 63–72.
- Pomerance, B., Not Just Child's Play: Why Recognizing Fundamental Principles of the UN Convention on the Rights of the Child as Jus Cogens Would Give Needed Power to an Important International Document, *Gonzaga Journal of International Law*, vol. 16 (2013): p. 22–50.
- Schmid, E., Socio-Economic and Cultural Rights and Wrongs After Armed Conflicts: Using the State Reporting Procedure before the United Nations Committee on Economic, Social and Cultural Rights More Effectively, *Netherlands Quarterly of Human Rights*, vol. 31 (2013): p. 241–270.
- Sheeran, S., and Rodley, N.S. (eds), *Routledge Handbook of International Human Rights Law* (New York: Routledge, 2013). 808 p.
- Shelton, D. (ed), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013). 1088 p.
- Simma, B., Human Rights before the International Court of Justice: Community Interest Coming to Life? in Tams, C.J., and Sloan, J. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013).
- Smith, R., The Third Optional Protocol to the UN Convention on the Rights of the Child? – Challenges Arising Transforming the Rhetoric into Reality, *International Journal of Children's Rights*, vol. 21 (2013): p. 305–322.
- Steinerte, E., The Changing Nature of the Relationship between the United Nations Subcommittee on Prevention of Torture and National Preventive Mechanisms: In Search for Equilibrium, *Netherlands Quarterly of Human Rights*, vol. 31 (2013): p. 132–158.
- Thouvenin, J., and Trebilcock, A., *Droit international social: droits économiques, sociaux et culturels* (Brussels: Bruylant, 2013). 2051 p.
- Titberidze, M., and Siatitsa, I.M., Human Rights in Armed Conflict: Ten Years of Affirmative State Practice within United Nations Resolutions, *Journal of International Humanitarian Legal Studies*, vol. 3 (2013): p. 233–262.

- Trindade, A.A.C., La réaffirmation contemporaine de l'universalité des droits de l'homme: quelques réflexions, in *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 445–459.
- United Nations Human Rights, Office of the Commissioner (eds), *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development* (Geneva: United Nations, 2013) 579 p.
- Vandenbogaerde, A., The Right to Development in International Human Rights Law: A Call for its Dissolution, *Netherlands Quarterly of Human Rights*, vol. 31 (2013): p. 187–209.
- Weissbrodt, D., and Rhodes, J., United Nations Treaty Body Monitoring of Migrant Workers in the Middle East, *Middle East Law and Governance*, vol. 5 (2013): p. 71–111.
- Wildeman, S., Protecting Rights and Building Capacities: Challenges to Global Mental Health Policy in Light of the Convention on the Rights of Persons with Disabilities, *Journal of Law, Medicine and Ethics*, vol. 41 (2013): p. 48–73.
- Williams, M., and Murthy, S., Reconciling the Carbon Market and the Human Right to Water: The Role of Suppressed Demand Under Clean Development Mechanism and the Gold Standard, *Environmental Law*, vol. 43 (2013): p. 517–562.
- Wilson, A., and Daar, A.S., A Survey of International Legal Instruments to Examine their Effectiveness in Improving Global Health and in Realizing Health Rights, *Journal of Law, Medicine and Ethics*, vol. 41 (2013): p. 89–102.
- Yupsanis, A., The Meaning of “Culture” in Article 15 (1)(a) of the ICESCR—Positive Aspects of CESCR’s General Comment no. 21 for the Safeguarding of Minority Cultures, *German Yearbook of International Law*, vol. 55 (2012): p. 345–383.
- Zambrano, V., State Responsibility for Human Rights Violations: The Ultimate Control Test and the Interpretation of UN Security Council Resolutions, *European Human Rights Law Review*, vol. 2013 (2013): p. 180–186.
- Zimmermann, A., Human Rights Treaty Bodies and the Jurisdiction of the International Court of Justice, *The Law and Practice of International Courts and Tribunals: a Practitioners’ Journal*, vol. 12 (2013): p. 5–29.
- Zyberi, G., The International Court of Justice and the Rights of Peoples and Minorities, in Tams, C.J., and Sloan, J.G. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013): p. 327–352.

12. International administrative law

- Bodeau-Livinec, P., Activité et jurisprudence des tribunaux administratifs des Nations Unies, *Annuaire français de droit international*, vol. 58 (2013): p. 281–306.
- Drobysz, S., L’avis consultatif de la CIJ sur le jugement n° 2867 du TAOIT sur requête contre le Fonds international de développement agricole, *Annuaire français de droit international*, vol. 58 (2013): p. 181–204.
- Ruzié, D., Jurisprudence du Tribunal administratif de l’Organisation internationale du travail, *Annuaire français de droit international*, vol. 58 (2013): p. 253–280.

13. International commercial law

- Diallo, I.K., et al, La Convention des Nations Unies sur le contrat de transport international des marchandises effectué entièrement ou partiellement par mer dite "Règles de Rotterdam": séminaire de vulgarisation du 20 au 22 mars 2013, Pointe Noire, République du Congo (Paris: l'Harmattan Congo, 2013).
- Espinosa Calabuig, R., Alba Fernández, M., and Aguirre Ramírez, F., *Convenio de las Naciones Unidas sobre el contrato de transporte internacional de mercancías total o parcialmente marítimo* (Valencia: Tirant lo Blanch, 2013). 485 p.
- Grbic, K., Putting the CISG Where it Belongs: In the Uniform Commercial Code, *Touro Law Review*, vol. 29 (2013): p. 173–203.
- Lee, J., UNCITRAL's Unclear Transparency Instrument: Fashioning the Form and Application of a Legal Standard Ensuring Greater Disclosure in Investor-State Arbitrations, *Northwestern Journal of International Law and Business*, vol. 33 (2013): p. 439–474.
- Escamilla Jaime, J. M., El contrato internacional de compraventa de mercaderías. Un instrumento fundamental en los negocios internacionales, *Revista Enciclopédica Tributaria Opciones Legales-Fiscales* (2013): p. 38–56.
- Remien, O., Public Law and Public Policy in International Commercial Contracts and the UNIDROIT Principles of Internal Commercial Contracts 2010: A Brief Outline, *Uniform law review*, vol. 18 (2013): p. 262–280.
- Sandoval López, R., Análisis comparativo de las Reglas de Hamburgo y las Reglas de Róterdam, *Ius et praxis*, vol. 19 (2013): p. 371–383.
- Sill, K.B., and Jeffrey, R.S., Up, Around, Over, and Under: A Textual Case for Busting through the Supposed Privity Barrier of CISG Article 4, *North Carolina Journal of International Law and Commercial Regulation*, vol. 38 (2013): p. 697–728.
- Strong, S.I., Beyond the Self-Execution Analysis: Rationalizing Constitutional, Treaty, and Statutory Interpretation in International Commercial Arbitration, *Virginia Journal of International Law*, vol. 53 (2013): p. 499–573.
- Thorner, M., The Evolution of Technical Assistance Provided by Intergovernmental Organisations: A Comparative Study of the Hague Conference, IMF, WTO, Unidroit and Uncitral. *A Commitment to Private International Law: Essays in honour of Hans van Loon: mélanges en l'honneur de Hans van Loon* (2013): p. 583–596.
- Torralla Mendiola, E.C., La Convención de Viena de 1980 y su aplicación al margen de las normas de conflicto, in Perera, A.C., et al (eds), *Tratado de la compraventa: homenaje a Rodrigo Bercovitz* (Cizur Menor: Aranzadi, 2013).

14. International criminal law

- Abass, A., Prosecuting International Crimes in Africa: Rationale, Prospects and Challenges, *European Journal of International Law*, vol. 24 (2013): p. 933–946.
- Abraham, C., and Bassiouni, M.C., *Siracusa Guidelines for International, Regional and National Fact-Finding Bodies* (Cambridge: Intersentia, 2013). 116 p.

- Abraham, G., Universal Jurisdiction and the African Union (AU): “... the Wrong Side of History”? *African Yearbook on International Humanitarian Law*, vol. 2011 (2013): p. 129–150.
- Akhavan, P., The Rise, and Fall, and Rise, of International Criminal Justice, *Journal of International Criminal Justice*, vol. 11 (2013): p. 527–536.
- Andenas, M., and Weatherall, T., International Court of Justice: *Questions Relating to the Obligation to Extradite or Prosecute (Belgium v. Senegal) Judgment of 20 July 2012*, *International and Comparative Law Quarterly*, vol. 62 (2013): p. 753–769.
- Annan, K.A., and Michel, N., Two Cases in Perspective: Boundary Delimitation in the Bakassi Peninsula and Criminal Accountability in Kenya, in Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013): p. 281–290.
- Behrens, P., and Henham, R. (eds), *Elements of Genocide* (New York: Routledge, 2013). 273 p.
- Binder, G., Authority to Proscribe and Punish International Crimes, *University of Toronto Law Journal*, vol. 63 (2013): p. 278–309.
- Castellari, E., Le gel des avoirs d’une banque centrale étrangère comme réaction décentralisée à un fait internationalement illicite: rétorsion ou contre-mesure? *Hague Yearbook of International Law*, vol. 25 (2013): p. 173–197.
- De Brouwer, A., et al (eds), *Sexual Violence as an International Crime: Interdisciplinary Approaches* (Cambridge: Intersentia, 2013). 400 p.
- De Coning, E., and Stølsvik, G., Current Legal Developments: United Nations Office on Drugs and Crime: Combating Organised Crime at Sea: What Role for the United Nations Office on Drugs and Crime? *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 189–204.
- De Hert, P., *Code of International Criminal Law and Procedure* (Brussels: Larcier, 2013). 803 p.
- Ebbe, O.N.I., United Nations Provisions for Punishment of Offenders Vis-à-Vis Punishment of Offenders in History, in Ebbe, O.N.I. (ed), *Comparative and International Criminal Justice Systems: Policing, Judiciary, and Corrections* (Boca Raton: CRC Press, 2013): p. 243–250.
- Ehlert, C., *Prosecuting the Destruction of Cultural Property in International Criminal Law: With a Case Study on the Khmer Rouge’s Destruction of Cambodia’s Heritage* (Leiden: Nijhoff, 2013). 252 p.
- Essomba, S., Quelle complémentarité entre la justice transitionnelle et la justice pénale internationale? *Revue internationale de droit pénal*, vol. 2013 (2013): p. 183–206.
- Findlay, M., Enunciating Genocide: Crime, Rights and the Impact of Judicial Intervention, *International Criminal Law Review*, vol. 13 (2013): p. 297–317.
- Findlay, M., and Hanif, N., International Conventions and the Failure of a Transnational Approach to Controlling Crime Business, *International Criminal Law Review*, vol. 13 (2013): p. 697–724.

- Jalloh, C.C., What Makes a Crime Against Humanity a Crime Against Humanity, *American University International Law Review*, vol. 28 (2013): p. 381–441.
- Kelly, M.J., The Parameters of Vicarious Corporate: Criminal Liability for Genocide Under International Law, in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 321–346.
- Kemp, G., and Ackermann, S., The Elements of the Crime of Genocide and the Imperative to Protect Certain Groups: Normative Shapers in Criminal Law and the Humanitarian Perspective, *African Yearbook on International Humanitarian Law* (2012): p. 64–78.
- Kraska, J., and Pedrozo, R.A., *International Maritime Security Law* (Leiden: Nijhoff, 2013). 939 p.
- Ludwiczak, M., *La délégation internationale de la compétence pénale* (Geneva: Schulthess éd. romandes, 2013). 505 p.
- Macharia-Mokobi, E., Towards Complementarity in Botswana, *African Yearbook on International Humanitarian Law*, vol. 2011 (2013): p. 151–165.
- Maertens de Noordhout, F., Violences sexuelles en République démocratique du Congo: « Mais que fait la police ? »: Un état de non-droit à la recherche d'un système normatif. Le cas d'EUPOL RD Congo, *Revue interdisciplinaire d'études juridiques*, vol. 71 (2013): p. 213–241.
- Mangezi, M., Localised Armed Conflicts: A Factual Reality, a Legal Misnomer, *African Yearbook on International Humanitarian Law* (2012): p. 79–97.
- Manirabona, A.M., and Wemmers, J.M., Specific Reparation for Specific Victimization: A Case for Suitable Reparation Strategies for War Crimes Victims in the DRC, *International Criminal Law Review*, vol. 13 (2013): p. 977–1012.
- Mégret, F., Les angles morts de la responsabilité pénale individuelle en droit international, *Revue interdisciplinaire d'études juridiques*, vol. 71 (2013): p. 83–136.
- Nollkaemper, A., Whither *Aut Dedere*?: The Obligation to Extradite or Prosecute After the ICJ's Judgment in *Belgium v. Senegal*, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 501–519.
- Piccolo, I., *Rape and International Criminal Law* (The Netherlands: International Courts Association, 2013). 540 p.
- Plesch, D., and Sattler, S., Changing the Paradigm of International Criminal Law: Considering the Work of the United Nations War Crimes Commission of 1943–1948, *International Community Law Review*, vol. 15 (2013): p. 203–223.
- Pocar, F., Pedrazzi, M., and Frulli, M. (eds), *War Crimes and the Conduct of Hostilities: Challenges to Adjudication and Investigation* (Cheltenham: Edward Elgar, 2013). 416 p.
- Radosavljevic, D., Scope and Limits of Psychiatric Evidence in International Criminal Law, *International Criminal Law Review*, vol. 13 (2013): p. 1013–1035.

- Remiro Brotóns, A., Malos tiempos para la justicia universal, in Ziccardi Capaldo, G., and Bassiouni, M. C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 391–410.
- Roux, M., The *Erga Omnes* Obligation to Prevent and Prosecute Gross Human Rights Violations with Special Emphasis upon Genocide and Persecution as a Crime Against Humanity, *African Yearbook on International Humanitarian Law* (2012): p. 98–133.
- Sadat, L.N., Crimes Against Humanity in the Modern Age, *American Journal of International Law*, vol. 107 (2013): p. 334–377.
- Schabas, W.A., McDermott, Y., and Hayes, N. (eds), *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (Farnham: Ashgate Publishing Ltd, 2013). 554 p.
- Sluiter, G., *International Criminal Procedure: Principles and Rules* (Oxford: Oxford University Press, 2013). 1681 p.
- Smeulders, A.L., B. Holá and van den Berg, T., Sixty-Five Years of International Criminal Justice: The Facts and Figures, *International Criminal Law Review*, vol. 13 (2013): p. 7–41.
- Travis, H., *Genocide, Ethnonationalism, and the United Nations: Exploring the Causes of Mass Killing since 1945* (New York: Routledge, 2013). 362 p.
- Vatsov, M., Security Council Referrals to the ICC and EU Fundamental Rights: A Test for ECJ's Stance in *Kadi I*, *Hague Yearbook of International Law*, vol. 25 (2013): p. 79–104.

15. International economic law

- Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013). 448 p.
- De Jonge, A., Returning to Fundamentals: Principles of International Law Applicable to the Resolution of Sovereign Debt Crises, *Suffolk Transnational Law Review*, vol. 36 (2013): p. 1–50.
- Espósito, C., Li, Y., and Bohoslavsky, J.P. (eds), *Sovereign Financing and International Law: The UNCTAD Principles on Responsible Sovereign Lending and Borrowing* (Oxford: Oxford University Press, 2013). 432 p.
- Karavias, M., *Corporate Obligations Under International Law* (Oxford: Oxford University Press, 2013). 228 p.
- Park, T.J., International Economic Law, and Institutions in Developing Countries, *Estey Centre Journal of International Law and Trade Policy*, vol. 14 (2013) p. 87–117.
- Rasche, A., The United Nations and Transnational Corporations: How the UN Global Compact has Changed the Debate, in Lawrence, J.T., and Beamish, P.W. (eds), *Globally Responsible Leadership: Managing According to the UN Global Compact* (Thousand Oaks, Calif.: SAGE Publications, 2013): p. 33–49.

16. International terrorism

- Ali, N.T., Between a Rock and a Hard Place: Treaty-Based Settlement of Terrorism-Related Disputes in the Era of Active United Nations Security Council Involvement, *Erasmus Law Review*, vol. 6 (2013): p. 79–92.
- Engle, E., *Ideas in Conflict: International Law and the Global War on Terror* (The Hague: Eleven, 2013). 255 p.
- Samuel, K., *The OIC, the UN, and Counter-Terrorism Law-Making: Conflicting Or Cooperative Legal Orders?* (Oxford: Hart, 2013). 618 p.

17. International trade law

- Chaisse, J., Exploring the Confines of International Investment and Domestic Health Protections—Is a General Exceptions Clause a Forced Perspective? *American Journal of Law and Medicine*, vol. 39 (2013): p. 332.
- Chaisse, J., and Matsushita, M., Maintaining the WTO's Supremacy in the International Trade Order: A Proposal to Refine and Revise the Role of the Trade Policy, *Journal of International Economic Law*, vol. 16 (2013): p. 9–36.
- Espósito, C., Li, Y., and Bohoslavsky, J.P. (eds), *Sovereign Financing and International Law: The UNCTAD Principles on Responsible Sovereign Lending and Borrowing* (Oxford: Oxford University Press, 2013). 432 p.
- Frankel, S., and Gervais, D., Plain Packaging and the Interpretation of the TRIPS Agreement, *Vanderbilt Journal of Transnational Law*, vol. 46 (2013): p. 1182.
- Grbic, K., Putting the CISG Where it Belongs: In the Uniform Commercial Code, *Touro Law Review*, vol. 29 (2013): p. 173–203.
- Harrison, J., The International Law Commission and the Development of International Investment Law, *George Washington International Law Review*, vol. 45 (2013) p.413–442.
- Joseph, S., Trade, Investment, and Human Rights, in Shelton, D. (ed), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013): p. 841–870.
- Mitchell, A.D., and Henckels, C., Variations on a Theme: Comparing the Concept of “Necessity” in International Investment Law and WTO Law, *Chicago Journal of International Law*, vol. 14 (2013): p. 93–164.
- Park, S.K., Talking the Talk and Walking the Walk: Reviving Global Trade and Development After Doha, *Virginia Journal of International Law*, vol. 53 (2013): p. 365–415.
- Rosenberg, C.B., The Intersection of International Trade and International Arbitration: The Use of Trade Benefits to Secure Compliance with Arbitral Awards, *Georgetown Journal of International Law*, vol. 44 (2013): p. 503–530.
- Waters, J.J., Achieving World Trade Organization Compliance for Export Processing Zones while Maintaining Economic Competitiveness for Developing Countries, *Duke Law Journal*, vol. 63 (2013): p. 481.

Zaman, K., The TRIPS Patent Protection Provisions and their Effects on Transferring Climate Change Technologies to LDCs and Poor Developing Countries: A Capital Appraisal, *The Asian Journal of International Law*, vol. 3 (2013): p. 137–161.

18. International tribunals

Abtahi, H., Ogwuma, O., and Young, R., The Composition of Judicial Benches, Disqualification and Excusal of Judges at the International Criminal Court, *Journal of International Criminal Justice*, vol. 11 (2013): p. 379–398.

Agbor Agbor, A., *Instigation to Crimes Against Humanity: The Flawed Jurisprudence of the Trial and Appeal Chambers of the International Criminal Tribunal for Rwanda (ICTR)* (Leiden: Nijhoff, 2013). 197 p.

Agbor Agbor, A., The Problematic Jurisprudence on Instigation Under the Statute of the ICTR: The Consistencies, Inconsistencies and Misgivings of the Trial and Appeal Chambers of the ICTR, *International Criminal Law Review*, vol. 13 (2013): p. 429–472.

Aloisi, R., A Tale of Two Institutions: The United Nations Security Council and the International Criminal Court, in Rothe, D.L., Meernik, J., and Pórdís, I. (eds), *The Realities of International Criminal Justice* (Leiden: Nijhoff, 2013): p. 147–168.

Ambach, P., and Rackwitz, K.U., A Model of International Judicial Administration? The Evolution of Managerial Practices at the International Criminal Court, *Law and Contemporary Problems*, vol. 76 (2013): p. 119–162.

Benedetti, F., Bonneau, K., and Washburn, J.L., *Negotiating the International Criminal Court: New York to Rome, 1994–1998* (Leiden: Nijhoff, 2013). 254 p.

Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013). 356 p.

Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013). 951 p.

Buisman, C., Delegating Investigations: Lessons to be Learned from the Lubanga Judgment, *Northwestern University Journal of International Human Rights*, vol. 11 (2013): p. 30–82.

Carter, L.E., and Pocar, F., *International Criminal Procedure: The Interface of Civil Law and Common Law Legal Systems* (Cheltenham: Edward Elgar, 2013). 246 p.

Cronin-Furman, K., Managing Expectations: International Criminal Trials and the Prospects for Deterrence of Mass Atrocity, *International Journal of Transitional Justice*, vol. 7 (2013): p. 434–454.

Cummings-John, T., Cooperation between the United Nations and the International Criminal Court, *International Organizations Law Review*, vol. 10 (2013): p. 223–246.

De Brouwer A., et al (eds), *Sexual Violence as an International Crime: Interdisciplinary Approaches* (Cambridge: Intersentia, 2013): p. 173–186.

- Dłubak, A., Problems Surrounding Arrest Warrants Issued by the International Criminal Court: A Decade of Judicial Practice, *Polish Yearbook of International Law*, vol. 32 (2013): p. 209–237.
- Drumbl, M.A., “She Makes Me Ashamed to be a Woman”: The Genocide Conviction of Pauline Nyiramasuhuko, 2011, *Michigan Journal of International Law*, vol. 34 (2013): p. 559–603.
- Dutton, Y., *Rules, Politics, and the International Criminal Court: Committing to the Court* (New York: Routledge, 2013). 199 p.
- Ebbe, O.N.I., World Courts of Justice of the United Nations, in Ebbe, O.N.I. (ed), *Comparative and International Criminal Justice Systems: Policing, Judiciary, and Corrections* (Boca Raton: CRC Press, 2013): p. 185–200.
- Eseed, J.N., The International Criminal Court’s Unjustified Jurisdiction Claims: Libya as a Case Study, *Chicago-Kent Law Review*, vol. 88 (2013): p. 567–592.
- Ford, S., Fairness and Politics at the ICTY: Evidence from the Indictments, *North Carolina Journal of International Law and Commercial Regulation*, vol. 39 (2013): p. 45–113.
- Frencken, N., and Sluiter, G., The United Nations Criminal Tribunals for Yugoslavia and Rwanda, in Zyber, G. (ed), *An Institutional Approach to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2013): p. 386–410.
- Friedlander, T., Mediation as the Key to the Successful Transfer of the Case of Jean-Bosco Unwinkindi from the Jurisdiction of the ICTR to the Republic of Rwanda, *Pepperdine Dispute Resolution Law Journal*, vol. 13 (2013): p. 453–482.
- Friedmann, O., *The Possibility of the ICJ and the ICC Taking Action in the Wake of Israel’s Operation “Cast Lead” in the Gaza Strip: A Jurisdiction and Admissibility Analysis*, (Frankfurt am Main: PL Academic Research, 2013). 275 p.
- Ginn, C., Ensuring the Effective Prosecution of Sexually Violent Crimes in the Bosnian War Crimes Chamber: Applying Lessons from the ICTY, *Emory International Law Review*, vol. 27 (2013): p. 565–601.
- Giorgou, I., State Involvement in the Perpetration of Enforced Disappearance and the Rome Statute, *Journal of International Criminal Justice*, vol. 11 (2013): p. 1001–1021.
- Hoover, J., Moral Practices: Assigning Responsibility in the International Criminal Court, *Law and Contemporary Problems*, vol. 76 (2013): p. 263–286.
- Huneus, A., International Criminal Law by Other Means: The Quasi-Criminal Jurisdiction of the Human Rights Courts, *American Journal of International Law*, vol. 107 (2013): p. 1.
- Gee-kin Ip, K., Fulfilling the Mandate of National Reconciliation in the Extraordinary Chambers in the Courts of Cambodia (ECCC)—an Evaluation through the Prism of Victims’ Rights, *International Criminal Law Review*, vol. 13 (2013): p. 865–894.
- Jalloh, C.C., Prosecuting those Bearing “Greatest Responsibility”: The Lessons of the Special Court for Sierra Leone, *Marquette Law Review*, vol. 96 (2013): p. 863–911.
- Janjac, K., *The Mental Element in the Rome Statute of the International Criminal Court*, (Oisterwijk, The Netherlands: Wolf Legal Publishers, 2013). 80 p.

- Kendall, S., and Nouwen, S., Representational Practices at the International Criminal Court: The Gap between Juridified and Abstract Victimhood, *Law and Contemporary Problems*, vol. 76 (2013): p. 235–262.
- Khan, K.A., and Shah, A.A., Defensive Practices: Representing Clients before the International Criminal Court, *Law and Contemporary Problems*, vol. 76 (2013): p. 191–234.
- Klamberg, M., *Evidence in International Criminal Trials: Confronting Legal Gaps and the Reconstruction of Disputed Events* (Leiden: Nijhoff, 2013). 580 p.
- Kobila, J.M., L'Afrique et les juridictions internationales pénales, *African Yearbook of International Law / Annuaire Africain de droit international*, vol. 17 (2009): p. 13–95.
- Kunst, C., *The Protection of Victims and Witnesses at International and Internationalized Criminal Courts: The Example of the ECCC* (Oisterwijk, Netherlands: Wolf Legal Publishers, 2013). 278 p.
- Medina, C., The Role of International Tribunals: Law-Making Or Creative Interpretation? in Shelton, D. (ed), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013): p. 649–669.
- Meernik, J.D., Justice Power and Peace: Conflicting Interests and the Apprehension of ICC Suspects, *International Criminal Law Review*, vol. 13 (2013): p. 169–190.
- Melillo, M., Cooperation between the UN Peacekeeping Operation and the ICC in the Democratic Republic of the Congo, *Journal of International Criminal Justice*, vol. 11 (2013): p. 763–782.
- Mitchell, S.M., and Carey, H.F. (eds), *Trials and Tribulations of International Prosecution* (Lanham, MD: Lexington Books, 2013). 362 p.
- Naldi, G., and Magliveras, K., The Ever Difficult Symbiosis of Africa with the International Criminal Court, *Revue Hellénique de droit international*, vol. 66 (2013): p. 59–125.
- Ndahinda, F.M., The Bemba-Banyamulenge Case before the ICC: From Individual to Collective Criminal Responsibility, *International Journal of Transitional Justice*, vol. 7 (2013): p. 476–496.
- Nikolova, M., and Ventura, M.J., The Special Tribunal for Lebanon Declines to Review UN Security Council Action: Retreating from Tadic's Legacy in the Ayyash Jurisdiction and Legality Decisions, *Journal of International Criminal Justice*, vol. 11 (2013): p. 615–641.
- Nouwen, S.M.H., Legal Equality on Trial: Sovereigns and Individuals before the International Criminal Court, *Netherlands Yearbook of International Law*, vol. 43 (2013): p. 151–181.
- Nouwen, S.M.H., *Complementarity in the Line of Fire: The Catalysing Effect of the International Criminal Court in Uganda and Sudan* (Cambridge: Cambridge University Press, 2013). 505 p.
- O'Donohue, J., Financing the International Criminal Court, *International Criminal Law Review*, vol. 13 (2013): p. 269–296.

- Piernas López, J.J., Estudio sobre la práctica de la Corte Penal Internacional en materia de Investigaciones preliminares a la luz de la reciente remisión de la Union de Comores, *Anuario español de derecho internacional*, vol. 29 (2013): p. 327–361.
- Pohrib, A.M., Frustrating Noble Intentions: The Clash between ICC’s Deterrent Effects and the Prosecutor’s Policy of Focused Investigations on Perpetrators Situated at the Highest Echelons of Responsibility, *International Community Law Review*, vol. 15 (2013): p. 225–236.
- Roach, S.C., Multilayered Justice in Northern Uganda: ICC Intervention and Local Procedures of Accountability, *International Criminal Law Review*, vol. 13 (2013): p. 249–268.
- Rodman, K.A., Justice is Interventionist: The Political Sources of the Judicial Reach of the Special Court for Sierra Leone, *International Criminal Law Review*, vol. 13 (2013): p. 63–91.
- Rothe, D. L., and Collins, V. E., The International Criminal Court: A Pip. Dream to End Impunity? *International Criminal Law Review*, vol. 13 (2013): p. 191–209.
- Ryngaert, C., State Cooperation with the International Criminal Tribunal for Rwanda, *International Criminal Law Review*, vol. 13 (2013): p. 125–146.
- Schabas, W.A., McDermott, Y., and Hayes, N. (eds), *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (Farnham: Ashgate Publishing Ltd, 2013). 554 p.
- Sheeran, S., and Rodley, N.S. (eds), *Routledge Handbook of International Human Rights Law* (New York: Routledge, 2013). 808 p.
- Smeulers, A.L., Holá, B., and van den Berg, T., Sixty-Five Years of International Criminal Justice: The Facts and Figures, *International Criminal Law Review*, vol. 13 (2013): p. 7–41.
- Sperfeldt, C., From the Margins of Internationalized Criminal Justice: Lessons Learned at the Extraordinary Chambers in the Courts of Cambodia, *Journal of International Criminal Justice*, vol. 11 (2013): p. 1111–1137.
- Ssenyonjo, M., The Rise of the African Union Opposition to the International Criminal Court’s Investigations and Prosecutions of African Leaders, *International Criminal Law Review*, vol. 13 (2013): p. 385–428.
- Swart, M., The “Lubanga” Reparations Decision: A Missed Opportunity? *Polish Yearbook of International Law*, vol. 32 (2013): p. 169–188.
- Sznajder, R., Provisional Release at the ICTY: Rights of the Accused and the Debate that Amended a Rule, *Northwestern University Journal of International Human Rights*, vol. 11 (2013): p. 109–145.
- Tortora, G., The Financing of the Special Tribunals for Sierra Leone, Cambodia and Lebanon, *International Criminal Law Review*, vol. 13 (2013): p. 93–124.
- Trahan, J., The Relationship between the International Criminal Court and the U.N. Security Council: Parameters and Best Practices, *Criminal Law Forum*, vol. 24 (2013): p. 417–473.

- Trouille, H., How Far has the International Criminal Tribunal for Rwanda really come since Akayesu in the Prosecution and Investigation of Sexual Offences Committed Against Women?: An Analysis of *Ndindilyimana et al*, *International Criminal Law Review*, vol. 13 (2013): p. 747–788.
- Vallentgoed, D., The Last Round?: A Post-Gotovina Reassessment of the Legality of using Artillery Against Built-Up Areas, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 25–57.
- Vatsov, M., Security Council Referrals to the ICC and EU Fundamental Rights: A Test for ECJ’s Stance in *Kadi I*, *Hague Yearbook of International Law*, vol. 25 (2013): p. 79–104.
- Wagner, N., A Critical Assessment of using Children to Participate Actively in Hostilities in Lubanga: Child Soldiers and Direct Participation, *Criminal Law Forum*, vol. 24 (2013): p. 145–203.
- Webb, P., *International Judicial Integration and Fragmentation* (Oxford: Oxford University Press, 2013). 253 p.
- Webb, P., The Use of Force and the Emerging International Judicial System, in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 121–143.
- Weisbord, N., Bargaining Practices: Negotiating the Kampala Compromise for the International Criminal Court, *Law and Contemporary Problems*, vol. 76 (2013): p. 85–118.
- Werner, W.G., “We Cannot Allow Ourselves to Imagine what it all Means”: Documentary Practices and the International Criminal Court, *Law and Contemporary Problems*, vol. 76 (2013): p. 319–339.
- Whiting, A., Dynamic Investigative Practice at the International Criminal Court, *Law and Contemporary Problems*, vol. 76 (2013): p. 163–190.
- Yabasun, D., and Holvoet, M., Seeking Asylum before the International Criminal Court: Another Challenge for a Court in Need of Credibility, *International Criminal Law Review*, vol. 13 (2013): p. 725–745.
- Yanev, L., and Kooijmans, T., Divided Minds in the Lubanga Trial Judgment: A Case Against the Joint Control Theory, *International Criminal Law Review*, vol. 13 (2013): p. 789–828.
- Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013). 688 p.

19. International waterways

- Cuq, M., *L'eau en droit international: convergences et divergences dans les approches juridiques* (Brussels: Larcier, 2013). 148 p.

- Hearns, G., and Paisley, R.K., Lawyers Write Treaties, Engineers Build Dikes, Gods of Weather Ignore both: Making Transboundary Waters Agreements Relevant, Flexible, and Resilient in a Time of Global Climate Change, *Golden Gate University Environmental Law Journal*, vol. 6 (2013): p. 259–294.
- Loures, F.R., and Rieu-Clarke, A., *The UN Watercourses Convention in Force: Strengthening International Law for Transboundary Water Management* (New York: Routledge, 2013). 392 p.
- Quilleré-Majzoub, F., and Majzoub, T., L'eau des cours internationaux comme « ressource naturelle »: imprécisions et paradoxes, *Annuaire français de droit international*, vol. 58 (2013): p. 395–414.

20. Intervention and humanitarian intervention

- Barker, J.C., The Responsibility to Protect: Lessons from Libya and Syria, in Barnidge, R.P., Jr. (ed), *The Liberal Way of War: Legal Perspectives* (Farnham: Ashgate, 2013): p. 63–85.
- Bassiouni, M.C., *Libya, from Repression to Revolution: A Record of Armed Conflict and International Law Violations, 2011–2013* (Leiden: Nijhoff, 2013). 933 p.
- Bellamy, A.J., Mainstreaming the Responsibility to Protect in the United Nations System: Dilemmas, Challenges and Opportunities, *Global Responsibility to Protect*, vol. 5 (2013): p. 154–191.
- Bellamy, A.J., Making R to P a Living Reality: Reflections on the 2012 General Assembly Dialogue on Timely and Decisive Response, *Global Responsibility to Protect*, vol. 5 (2013): p. 109–125.
- Burke, C., *An Equitable Framework for Humanitarian Intervention* (Oxford: Hart Publishing Limited, 2013). 398 p.
- Campbell, D., Justice and International Order: The Case of Bosnia and Kosovo, in Coicaud, J.M., and Warner, D. (eds), *Ethics and International Affairs: Extent and Limits* (Tokyo: United Nations University Press, 2013): p. 108–132.
- Chayes, A.H., Chapter VII 1/2: Is *Jus Post Bellum* Possible? *European Journal of International Law*, vol. 24 (2013): p. 291–305.
- Corten, O., and Koutroulis, V., The Illegality of Military Support to Rebels in the Libyan War: Aspects of *Jus Contra Bellum* and *Jus in Bello*, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 59–93.
- Crossley, N., A Model Case of R2 p Prevention?: Mediation in the Aftermath of Kenya's 2007 Presidential Elections, *Global Responsibility to Protect*, vol. 5 (2013): p. 192–214.
- Davies, S.E., Natural Disasters and the Responsibility to Protect, *German Yearbook of International Law*, vol. 55 (2012): p. 149–174.
- Davies, S.E., et al (eds), *Responsibility to Protect and Women, Peace and Security* (Leiden: Nijhoff, 2013). 198 p.

- Dharmapuri, S., Implementing UN Security Council Resolution 1325: Putting the Responsibility to Protect into Practice, in Davies, S.E., et al (eds), *Responsibility to Protect and Women, Peace and Security* (Leiden: Nijhoff, 2013): p. 121–154.
- Graubart, J., R2 p and Pragmatic Liberal Interventionism: Values in the Service of Interests, *Human Rights Quarterly*, vol. 35 (2013): p. 67–91.
- Gulati, J., and Khosa, I., Humanitarian Intervention: To Protect State Sovereignty, *Denver Journal of International Law and Policy*, vol. 41 (2013): p. 397.
- Hajjami, N., *La responsabilité de protéger* (Brussels: Bruylant, 2013). 558 p.
- Hathaway, O.A., et al, Consent-Based Humanitarian Intervention: Giving Sovereign Responsibility Back to the Sovereign, *Cornell International Law Journal*, vol. 46 (2013): p. 499–568.
- Hilpold, P. (ed), *Die Schutzverantwortung (R2P): Ein Paradigmenwechsel in der Entwicklung des internationalen Rechts?* (Leiden: Nijhoff, 2013). 358 p.
- Hingst, Z.D.A., Libya and the Responsibility to Protect: Building Block Or Roadblock? *Transnational Law and Contemporary Problems*, vol. 22 (2013): p. 227.
- Lito, M., The Obstacles of Aligning Women Peace and Security and the Responsibility to Protect in UN Practice, in Davies, S.E., et al (eds), *Responsibility to Protect and Women, Peace and Security* (Leiden: Nijhoff, 2013): p. 181–195.
- Loiselle, M., The Normative Status of the Responsibility to Protect After Libya, *Global Responsibility to Protect*, vol. 5 (2013): p. 317–341.
- Moos, L., *Individualrechtsschutz gegen menschenrechtswidrige hoheitliche Massnahmen von Übergangsverwaltungen der Vereinten Nationen am Beispiel der “United Nations Interim Administration Mission in Kosovo”* (Berlin: Duncker and Humblot GmbH, 2013). 450 p.
- Österdahl, I., The Responsibility to Protect and the Responsibility while Protecting: Why did Brazil Write a Letter to the UN? *Nordic Journal of International Law*, vol. 82 (2013): p. 459–486.
- Quinton-Brown, P., Mapping Dissent: The Responsibility to Protect and its State Critics, *Global Responsibility to Protect*, vol. 5 (2013): p. 260–282.
- Riley, M., The use of Private Force by the United Nations to Coercively Prevent Or Halt Gross Violations of the “Responsibility to Protect” Doctrine, *Global Responsibility to Protect*, vol. 5 (2013): p. 215–232.
- Schiff, B.N., The ICC and R2P: Problems of Individual Culpability and State Responsibility, in Mitchell, S.M., and Carey, H.F. (eds), *Trials and Tribulations of International Prosecution* (Lanham, MD: Lexington Books, 2013): p. 149–166.
- Soroeta Licerias, J., Las Naciones Unidas, entre la “Realpolitik” y el Derecho: algunas reflexiones en torno al papel del enviado especial en los conflictos de Kosovo y del Sahara Occidental, in Torres Bernárdez, S. (ed), *El derecho internacional en el mundo multipolar del siglo XXI: obra homenaje al profesor Luis Ignacio Sánchez Rodríguez* (Madrid: Iprolex, 2013): p. 585–595.

- Ssenyonjo, M., Unilateral Military Action in the Syrian Arab Republic: A Right to Humanitarian Intervention Or a Crime of Aggression? *International Human Rights Law Review*, vol. 2 (2013): p. 323–343.
- Strauss, E., Reconsidering Genocidal Intent in the Interest of Prevention, *Global Responsibility to Protect*, vol. 5 (2013): p. 129–153.
- Thakur, R., Using Armed Force to Prevent or Halt Human Rights Violations: The Responsibility to Protect and Humanitarian Intervention, in Shelton, D. (ed), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013): p. 815–840.
- Torres Bernárdez, S., Problemas actuales del recurso a la fuerza en Derecho internacional: la autorización del recurso a la fuerza por las Naciones Unidas, in Torres Bernárdez, S. (ed), *El derecho internacional en el mundo multipolar del siglo XXI: obra homenaje al profesor Luis Ignacio Sánchez Rodríguez* (Madrid: Iprolex, 2013): p. 631–644.
- Ulfstein, G., and Christiansen, H.F., The Legality of the NATO Bombing in Libya, *International and Comparative Law Quarterly*, vol. 62 (2013): p. 159–171.
- Walling, C.B., *All Necessary Measures: The United Nations and Humanitarian Intervention*, (Philadelphia: University of Pennsylvania Press, 2013). 328 p.
- Welsh, J.M., Norm Contestation and the Responsibility to Protect, *Global Responsibility to Protect*, vol. 5 (2013): p. 365–396.
- Wilson, G., The United Nations Security Council, Libya and Resolution 1973: Protection of Civilians Or Tool for Regime Change? in Panara, C., and Wilson, G. (eds), *The Arab Spring: New Patterns for Democracy and International Law* (Leiden: Nijhoff, 2013): p. 101–121.
- Woodward, S.L., The Long Intervention: Continuity in the Balkan Theatre, *Review of International Studies*, vol. 39 (2013): p. 1169–1187.
- Zyberi, G., and Mason, K.T. (eds), *An Institutional Approach to the Responsibility to Protect*, (Cambridge: Cambridge University Press, 2013). 554 p.

21. Law of armed conflict

- Aivo, G., *Le statut de combattant dans les conflits armés non internationaux: étude critique de droit international humanitaire* (Brussels: Bruylant, 2013). 512 p.
- Blum, G., The Crime and Punishment of States, *Yale Journal of International Law*, vol. 38 (2013): p. 57–122.
- Bosch, S., The Combatants Status of “Underaged” Child Soldiers Recruited by Irregular Armed Groups in International Armed Conflicts, *African Yearbook on International Humanitarian Law* (2012): p. 1–39.
- Bothe, M., et al, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (Leiden: Nijhoff, 2013). 843 p.
- Chetail, V., *Permanence et mutation du droit des conflits armés* (Brussels: Bruylant, 2013). 683 p.

- De Brouwer A., et al (eds), *Sexual Violence as an International Crime: Interdisciplinary Approaches* (Cambridge: Intersentia, 2013). 400 p.
- Fleck, D. (ed), *The Handbook of International Humanitarian Law* (Oxford: Oxford University Press, 2013). 830 p.
- Friedmann, O., *The Possibility of the ICJ and the ICC Taking Action in the Wake of Israel's Operation "Cast Lead" in the Gaza Strip: A Jurisdiction and Admissibility Analysis* (Frankfurt am Main: PL Academic Research, 2013). 275 p.
- Kolb, R., and Gaggioli, G. (eds), *Research Handbook on Human Rights and Humanitarian Law* (Cheltenham: Edward Elgar, 2013). 704 p.
- Marauhn, T., Sailing Close to the Wind: Human Rights Council Fact-Finding in Situations of Armed Conflict: The Case of Syria, *California Western International Law Journal*, vol. 43 (2013): p. 401–459.
- McCosker, S., The “Interoperability” of International Humanitarian Law and Human Rights Law: Evaluating the Legal Tools Available to Negotiate their Relationship, in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 145–177.
- Medlong, J., All Other Breaches: State Practice and the Geneva Convention's Nebulous Class of Less Discussed Prohibitions, *Michigan Journal of International Law*, vol. 34 (2013): p. 829–856.
- Müller, A., *The Relationship between Economic, Social and Cultural Rights and International Humanitarian Law: An Analysis of Health Related Issues in Non-International Armed Conflicts* (Leiden: Nijhoff, 2013). 335 p.
- Nilsson, A., *Children and Youth in Armed Conflict* (Leiden: Nijhoff, 2013). 1587 p.
- Okimoto, K., The Relationship between a State and an Organized Armed Group and its Impact on the Classification of Armed Conflict, *Amsterdam Law Forum*, vol. 5 (2013): p. 33–51.
- Peevers, C., *The Politics of Justifying Force: The Suez Crisis, the Iraq War, and International Law* (Oxford: Oxford University Press, 2013). 274 p.
- Perisic, P., Legal Permissibility of Unilateral Humanitarian Interventions, *Acta Universitatis Danubius Juridica*, vol. 9 (2013): p. 38–49.
- Pocar, F., Pedrazzi, M., and Frulli, M. (eds), *War Crimes and the Conduct of Hostilities: Challenges to Adjudication and Investigation* (Cheltenham: Edward Elgar, 2013). 416 p.
- Power, S., State Responsibility and the Exploitation of the Oil for Food Scheme: *Republic of Iraq v. ABB AG et al*, *Dublin University Law Journal*, vol. 36 (2013): p. 374–383.
- Rodenhäuser, T., Human Rights Obligations of Non-State Armed Groups in Other Situations of Violence: The Syria Example, *Journal of International Humanitarian Legal Studies*, vol. 3 (2013): p. 263–290.
- Sánchez de Madariaga, E., Las políticas de Naciones Unidas para la erradicación de la violencia de género en los conflictos armados y la construcción de la paz, in Azcona Pastor, J.M., et al (eds), *Guerra y paz. La sociedad internacional entre el conflicto y la cooperación* (Madrid: Dykinson, 2013): p. 467–478.

- Titberidze, M., and Siatitsa, I.M., Human Rights in Armed Conflict: Ten Years of Affirmative State Practice within United Nations Resolutions, *Journal of International Humanitarian Legal Studies*, vol. 3 (2013): p. 233–262.
- Van Steenberghe, R., Simma, B., and Centre de droit international (Louvain-la-Neuve, Belgique). *Droit international humanitaire : un régime spécial de droit international?* (Brussels: Bruylant, 2013). 352 p.
- Yk, B.S. B. Legal Regulation of Belligerent Reprisals in International Humanitarian Law: Historical Development and Present Status, *African Yearbook on International Humanitarian Law* (2012): p. 134–184.

22. Law of the sea

- Annan, K.A., and Michel, N., Two Cases in Perspective: Boundary Delimitation in the Bakassi Peninsula and Criminal Accountability in Kenya, in Boisson de Chazournes, L. (ed), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013): p. 281–290.
- Azari, H., La demande reconventionnelle devant le Tribunal international du droit de la mer: l'apport de l'ordonnance du 2 novembre 2012 dans l'affaire du *Navire Virginia G (Panama/Guinée-Bissau)*, *Annuaire français de droit international*, vol. 58 (2013): p. 471–488.
- Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013). 951 p.
- Churchill, R., Dispute Settlement in the Law of the Sea: Survey for 2012, *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 563–614.
- Delabie, L., Le fragile équilibre entre prévisibilité juridique et opportunité judiciaire en matière de délimitation maritime: l'arrêt de la Cour internationale de Justice du 19 novembre 2012 dans l'affaire du *différend territorial et maritime (Nicaragua c. Colombie)*, *Annuaire français de droit international*, vol. 58 (2013): p. 223–252.
- Dromgoole, S., *Underwater Cultural Heritage and International Law* (Cambridge: Cambridge University Press, 2013). 400 p.
- Fateh, R.H., Is Seasteading the High Seas a Legal Possibility? Filling the Gaps in International Sovereignty Law and the Law of the Seas, *Vanderbilt Journal of Transnational Law*, vol. 46 (2013): p. 899.
- Freestone, D. (ed), *The 1982 Law of the Sea Convention at 30: Successes, Challenges and New Agendas* (Leiden: Nijhoff, 2013). 212 p.
- Kamga, M.K., L'assistance judiciaire aux fins du règlement pacifique des différends internationaux devant la Cour internationale de Justice et le Tribunal international du droit de la mer, *L'Afrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 519–532.

- Kateka, J.L., Advisory Proceeding before the Seabed Disputes Chamber and before the ITLOS as a Full Court, *Max Planck Yearbook of United Nations Law*, vol. 17 (2013): p. 159–171.
- Khan, M.I., and Rains, D.J., Doughnut Hole in the Caribbean Sea: The Maritime Boundary between Nicaragua and Colombia According to the International Court of Justice, *Houston Journal of International Law*, vol. 35 (2013): p. 589.
- Kim, H.J., La délimitation de la frontière maritime dans le golfe du Bengale: courir deux lièvres à la fois avec succès dans le règlement de la délimitation maritime, *Annuaire français de droit international*, vol. 58 (2013): p. 443–470.
- Kopela, S., *Dependent Archipelagos in the Law of the Sea* (Leiden: Nijhoff, 2013). 317 p.
- Kraska, J., and Pedrozo, R.A., Security Council Maritime Enforcement, in Kraska, J., and Pedrozo, R.A., *International Maritime Security Law* (Leiden: Nijhoff, 2013): p. 903–921.
- Kwiatkowska, B., Fundamental Principle of “without Prejudice” in Submissions to the United Nations Commission on the Limits of the Continental Shelf (UNCLCS) in East, South, West and North Africa, in Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 131–172.
- Kwiatkowska, B., Submissions to the UN Commission on the Limits of the Continental Shelf: The Practice of Developing States in Cases of Disputed and Unresolved Maritime Boundary Delimitations Or Other Land Or Maritime Disputes, *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 219–341.
- Lowe, V., and Tzanakopoulos, A., The Development of the Law of the Sea by the International Court of Justice, in Tams, C.J., and Sloan, J.G. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013).
- Magnússon, B.M., Outer Continental Shelf Boundary Agreements, *International and Comparative Law Quarterly*, vol. 62 (2013): p. 345–372.
- Mahinga, J., *Le tribunal international du droit de la mer: organisation, compétence et procédure* (Brussels: Larcier, 2013). 376 p.
- Molenaar, E.J., Oude Elferink, A.G., and Rothwell, D., *The Law of the Sea and the Polar Regions: Interactions between Global and Regional Regimes* (Leiden: Nijhoff, 2013). 432 p.
- Naldi, G., The Status of the Disputed Waters Surrounding Gibraltar, *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 701–718.
- Nordquist, M.H., et al (eds), *The Regulation of Continental Shelf Development: Rethinking International Standards* (Leiden: Nijhoff, 2013). 374 p.
- Orihuela Calatayud, E., La Convención de las Naciones Unidas sobre el Derecho del Mar y el compromiso de sus Estados parte respecto de la Corte Internacional de Justicia, in Bernárdez, S.T.[a.]. (ed), *El derecho internacional en el mundo multipolar del siglo XXI: obra homenaje al profesor Luis Ignacio Sánchez Rodríguez* (Madrid: Iprolex, 2013): p. 535–553.

- Papastavridis, E., *The Interception of Vessels on the High Seas: Contemporary Challenges to the Legal Order of the Oceans* (Oxford: Hart, 2013). 367 p.
- Peiris, N., ARA Libertad from ITLOS: How Provisional a Provisional Measure should be? *Hague Yearbook of International Law*, vol. 25 (2013): p. 159–172.
- Pinto, M.C.W., Article 76 of the UN Convention on the Law of the Sea and the Bay of Bengal Exception, *Asian Journal of International Law*, vol. 3 (2013): p. 215–235.
- Plakokefalos, I., Shared Responsibility Aspects of the Dispute Settlement Procedures in the Law of the Sea Convention, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 385–405.
- Powell, E., Taming the Beast: How the International Legal Regime Creates and Contains Flags of Convenience, *Annual Survey of International and Comparative Law*, vol. 19 (2013): p. 263–300.
- Roach, J.A., Arbitration Under the Law of the Sea Convention, in Moore, J.N. (ed), *International Arbitration: Contemporary Issues and Innovations* (Leiden: Nijhoff, 2013): p. 135–146.
- Ronzitti, N., The Enrica Lexie Incident: Law of the Sea and Immunity of State Officials Issues, *Italian Yearbook of International Law*, vol. 22 (2013): p. 3–22.
- Scheiber, H.N. (ed), *Regions, Institutions, and Law of the Sea: Studies in Ocean Governance* (Leiden: Nijhoff, 2013). 554 p.
- Song, Y., Survey of Declarations Or Statements made by the Parties to the Law of the Sea Convention: 30 Years After Adoption, *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 5–59.
- Takei, Y., *Filling Regulatory Gaps in High Seas Fisheries: Discrete High Seas Fish Stocks, Deep-Sea Fisheries, and Vulnerable Marine Ecosystems* (Leiden: Nijhoff, 2013). 294 p.
- Tanaka, Y., International Tribunal for the Law of the Sea: the Ara Libertad Case (*Argentina v. Ghana*, 15 December 2012), Request for the Prescription of Provisional Measures, *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 375–387.
- Teresita Mastaglia, G., Cuestiones territoriales relativas al Derecho del Mar. Comentario sobre la Sentencia de la Corte Internacional de Justicia en el caso: *Diferendo Territorial y Marítimo (Nicaragua v. Colombia)*, *Ars Boni et Aequi*, vol. 9 (2013).
- Treves, T., The Fight Against Piracy and the Law of the Sea, *Italian Yearbook of International Law*, vol. 22 (2013): p. 23–37.
- United Nations, Division for Ocean Affairs and the Law of the Sea. *United Nations Convention on the Law of the Sea at Thirty: Reflections* (New York: United Nations, 2013). 152 p.
- Vander Zwaag, D.L., The ICJ, ITLOS and the Precautionary Approach: Paltry Progressions, Jurisprudential Jousting, *University of Hawai'i Law Review*, vol. 35 (2013): p. 617–637.
- Van Dyke, J.M., et al (eds), *Governing Ocean Resources: New Challenges and Emerging Regimes: A Tribute to Judge Choon-Ho Park* (Leiden: Nijhoff, 2013). 528 p.

- Wolfrum, R., Arbitration and the Law of the Sea: A Comparison of Dispute Resolution Procedures, in Moore, J.N. (ed), *International Arbitration: Contemporary Issues and Innovations* (Leiden: Nijhoff, 2013): p. 123–134.
- Zhang, H., The Sponsoring State’s “Obligation to Ensure” in the Development of the International Seabed Area, *International Journal of Marine and Coastal Law*, vol. 28 (2013): p. 681–699.

23. Law of treaties

- Caflich, L., The Effect of Armed Conflict on Treaties: A Stocktaking, in Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013): p. 31–54.
- Cassella, S., Le guide de la pratique sur les réserves aux traités: une nouvelle forme de codification? *Annuaire français de droit international*, vol. 58 (2013): p. 29–60.
- Dezallai, A., La fonction de dépositaire du Secrétaire général des Nations unies à l’heure de l’utilisation des nouvelles technologies: continuité dans la modernité, *Revue générale de droit international public*, vol. 117 (2013): p. 75–100.
- Durkee, M.J., Persuasion Treaties, *Virginia Law Review*, vol. 99 (2013): p. 63–130.
- Eichensehr, K.E., Treaty Termination and the Separation of Powers, *Virginia Journal of International Law*, vol. 53 (2013): p. 247–308.
- Elkins, Z., Ginsburg, T., and Simmons, B., Getting to Rights: Treaty Ratification, Constitutional Convergence, and Human Rights Practice, *Harvard International Law Journal*, vol. 54 (2013): p. 61–95.
- Galbraith, J., Treaty Options: Towards a Behavioral Understanding of Treaty Design, *Virginia Journal of International Law*, vol. 53 (2013): p. 309–363.
- Gowlland-Debbas, V., The Role of the International Court of Justice in the Development of the Contemporary Law of Treaties, in Tams, C.J., and Sloan, J.G. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013).
- Moloo, R., When Actions Speak Louder than Words: The Relevance of Subsequent Party Conduct to Treaty Interpretation, *Berkeley Journal of International Law*, vol. 31 (2013): p. 39–88.
- Mortenson, J.D., The Travaux of Travaux: Is the Vienna Convention Hostile to Drafting History? *American Journal of International Law*, vol. 107 (2013): p. 780–822.
- Nolte, G. (ed), *Treaties and Subsequent Practice* (Oxford: Oxford University Press, 2013). 432 p.
- Soussan, A., À propos de l’articulation des consentements étatiques aux conventions originaires et aux conventions d’amendement, *Revue générale de droit international public*, vol. 117 (2013): p. 871–894.

Tan Zhi Peng, B., The International Law Commission's Draft Articles on the Effects of Armed Conflicts on Treaties: Evaluating the Applicability of Impossibility of Performance and Fundamental Change, *Asian Journal of International Law*, vol. 3 (2013): p. 51–76.

Yahyaoui Krivenko, E., The “Reservations Dialogue” as a Constitution-Making Process, *International Community Law Review*, vol. 15 (2013): p. 381–403.

24. Membership and representation

Leclercq, J.F., Brèves considérations pratiques sur le démembrement d'État en droit international public, *Revue de droit international et de droit comparé*, vol. 90 (2013): p. 277–313.

Poissonnier, G., La Palestine, État non-membre observateur de l'organisation des Nations Unies, *Journal du droit international*, vol. 140 (2013): p. 427–454.

25. Most favoured nation clause

Weiler, T., *The Interpretation of International Investment Law: Equality, Discrimination and Minimum Standards of Treatment in Historical Context* (Leiden: Nijhoff, 2013). 526 p.

26. Natural resources

Boisson de Chazournes, L., *Fresh Water in International Law* (Oxford: Oxford University Press, 2013). 265 p.

Cuq, M., *L'eau en droit international: convergences et divergences dans les approches juridiques* (Brussels: Larcier, 2013). 148 p.

Fitzmaurice, M., The International Convention for the Regulation of Whaling and International Whaling Commission: Conservation or Preservation: Can the Gordian Knot be Cut (or Untangled)? *Yearbook of Polar Law*, vol. 5 (2013): p. 451–490.

Vandegrift, J., Elephant Poaching: CITES Failure to Combat the Growth in Chinese Demand for Ivory, *Virginia Environmental Law Journal*, vol. 31 (2013): p. 102–135.

Weiss, E.B., *International Law for a Water-Scarce World* (Leiden: Nijhoff, 2013). 343 p.

27. Non-governmental organizations

Ben-Ari, R.H., *The Legal Status of International Non-Governmental Organizations: Analysis of Past and Present Initiatives (1912–2012)* (Leiden: Nijhoff, 2013). 209 p.

Lintel, I., and Ryngaert, C., The Interface between Non-Governmental Organisations and the Human Rights Committee, *International Community Law Review*, vol. 15 (2013): p. 359–379.

28. Outer space law

- Brisibe, T., An Introduction to United Nations COPUOS Recommendations on National Legislation Relevant to the Peaceful Exploration and use of Outer Space, *Zeitschrift für Luft- und Weltraumrecht: Vierteljahresschrift des Instituts für Luft- und Weltraumrecht der Universität Köln*, vol. 62 (2013): p. 728–739.
- Button, M., Cleaning Up Space: The Madrid Protocol to the Antarctic Treaty as a Model for Regulating Orbital Debris, *William and Mary Environmental Law and Policy Review*, vol. 37 (2013): p. 539.
- Hollingsworth, G., Space Junk: Why the United Nations must Step in to Save Access to Space, *Santa Clara Law Review*, vol. 53 (2013): p. 239–266.
- Nirmal, B.C., Tackling the Problem of Space Debris: Need for an International Legal Framework, *Indian Journal of International Law*, vol. 53 (2013): p. 27–45.
- Onley, R.D., Death from Above? The Weaponization of Space and the Threat to International Humanitarian Law, *Journal of Air Law and Commerce*, vol. 78 (2013): p. 739–765.
- Orozco Sáenz, M., La solución de controversias en derecho del espacio ultraterrestre análisis comparativo, *Anuario español de derecho internacional*, vol. 29 (2013): p. 363–392.
- Schladebach, M., Space Debris as a Legal Challenge, *Max Planck Yearbook of United Nations Law*, vol. 17 (2013): p. 61–85.
- Sundahl, M.J., *The Cape Town Convention: Its Application to Space Assets and Relation to the Law of Outer Space* (Leiden: Nijhoff, 2013). 266 p.
- Trapp, T.J., Taking Up Space by any Other Means: Coming to Terms with the Nonappropriation Article of the Outer Space Treaty, *University of Illinois Law Review*, vol. 2013 (2013): p. 1681–1714.
- Von der Dunk, F. G., Beyond what? Beyond Earth Orbit? ... ! The Applicability of the Registration Convention to Private Commercial Manned Sub-Orbital Spaceflight, *California Western International Law Journal*, vol. 43 (2013): p. 269–341.

29. Peaceful settlement of disputes

- Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013). 356 p.
- Boutros-Ghali, B., The Challenges of Preventive Diplomacy: The Role of the United Nations and its Secretary-General, in Cahill, K.M. (ed), *History and Hope: The International Humanitarian Reader* (New York: The Center for International Humanitarian, 2013): p. 178–191.
- Giraudeau, G., *Les différends territoriaux devant le juge international: entre droit et transaction* (Leiden: Nijhoff, 2013). 547 p.
- Indlekofer, M., *International Arbitration and the Permanent Court of Arbitration* (Alphen aan den Rijn: Kluwer, 2013). 445 p.

Jenca, M., The Concept of Preventive Diplomacy and its Application by the United Nations in Central Asia, *Security and Human Rights*, vol. 24 (2013): p. 183–194.

Spain, A., International Dispute Resolution in an Era of Globalization, in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 41–70.

Tumonis, V., Adjudication Fallacies: The Role of International Courts in Interstate Dispute Settlement, *Wisconsin International Law Journal*, vol. 31 (2013): p. 35–64.

30. Peacekeeping and related activities

Cierco, T., Evaluating UNMIT's Contribution to Establishing the Rule of Law in Timor-Leste, *Asia-Pacific Review*, vol. 20 (2013): p. 79–99.

De Carvalho, B., Sending, O.J., and Egeland, J., *Protection of Civilians in UN Peacekeeping: Concept, Implementation and Practice* (Germany: Nomos, 2013). 206 p.

Edström, H., and Gyllensporre, D., *Political Aspirations and Perils of Security: Unpacking the Military Strategy of the United Nations* (Basingstoke: Palgrave Macmillan, 2013). 280 p.

Jara Gómez, A.M., Precisiones sobre las operaciones de mantenimiento de la paz de la ONU y la mujer. In *Mujer y guerra en los balcanes. Kosovo: entre los derechos perdidos y la identidad pendiente* (Madrid: Dykinson, 2013): p. 89–118.

Karlsruud, J., Special Representatives of the Secretary-General as Norm Arbitrators? Understanding Bottom-Up Authority in UN Peacekeeping, *Global Governance*, vol. 19 (2013): p. 525–544.

Kleffner, J.K., and Harrison Dinniss, H.A., Keeping the Cyber Peace: International Legal Aspects of Cyber Activities in Peace Operations, *International Law Studies* (2013): p. 512–535.

Kujirakwinja Kalinda, B., L'immunité de juridiction pénale des membres du personnel militaire d'une opération de maintien de la paix des Nations Unies, *Revue de droit international et de droit comparé*, vol. 90 (2013): p. 549–594.

Lopez, M.C., Towards Dual Or Multiple Attribution: The Strasbourg Court and the Liability of Contracting Parties' Troops Contributed to the United Nations, *International Organizations Law Review*, vol. 10 (2013): p. 193–222.

Melillo, M., Cooperation between the UN Peacekeeping Operation and the ICC in the Democratic Republic of the Congo, *Journal of International Criminal Justice*, vol. 11 (2013): p. 763–782.

Nyabeyu Tchoukeu, L., Actualisation et universalisation du financement des opérations de maintien de la paix de l'Organisation des Nations Unies, *Revue de droit international et de droit comparé*, vol. 90 (2013): p. 185–212.

Oswald, B., Informal Justice and United Nations Peace Operations, *International Organizations Law Review*, vol. 10 (2013): p. 166–192.

- Poku, N., HIV/AIDS, State Fragility, and United Nations Security Council Resolution 1308: A View from Africa, *International Peacekeeping*, vol. 20 (2013): p. 521–535.
- Salerno, F., International Responsibility for the Conduct of “Blue Helmets”: Exploring the Organic Link, in Ragazzi, M. (ed), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie* (Leiden: Nijhoff, 2013): p. 415–427.
- Simm, G., *Sex in Peace Operations* (Cambridge: Cambridge University Press, 2013). 247 p.
- Spagnolo, A., The Crime of Attacking Peacekeepers, in Pocar, F., Pedrazzi, M., and Frulli, M. (eds), *War Crimes and the Conduct of Hostilities: Challenges to Adjudication and Investigation* (Cheltenham: Edward Elgar, 2013): p. 153–170.
- Thielen, O., *Le recours à la force dans les opérations de maintien de la paix contemporaines* (Paris: LGDJ, 2013). 456 p.
- Voetelink, J., Status of Forces and Criminal Jurisdiction, *Netherlands International Law Review*, vol. 60 (2013): p. 231–250.

31. Piracy

- Akiyama, M., New Approaches to Protecting Shipping from Piracy and Terrorism, in Van Dyke, J.M., et al (eds), *Governing Ocean Resources: New Challenges and Emerging Regimes: A Tribute to Judge Choon-Ho Park* (Leiden: Nijhoff, 2013): p. 375–391.
- Bevilacqua, G., Counter Piracy Armed Services, the Italian System and the Search for Clarity on the use of Force at Sea, *Italian Yearbook of International Law*, vol. 22 (2013): p. 39–57.
- Chiara Noto, M., Mesures anti-piraterie en Somalie entre les droits de l’homme et les garanties du droit humanitaire. La contribution de la jurisprudence et de la pratique des mécanismes de contrôle non juridictionnel, in Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013): p. 497–512.
- Iyi, J., Somali Piracy, UNSC Resolutions 1816–1851: Dilemma of State Failure and the Burden of Legitimacy, *African Yearbook on International Humanitarian Law*, vol. 2011 (2013): p. 47–78.
- Nanda, V.P., Maritime Piracy: How can International Law and Policy Help Address this Growing Global Menace? in Van Dyke, J.M., et al (eds), *Governing Ocean Resources: New Challenges and Emerging Regimes: A Tribute to Judge Choon-Ho Park* (Leiden: Nijhoff, 2013): p. 343–373.
- Shnider, S., Universal Jurisdiction Over “Operation of a Pirate Ship: The Legality of the Evolving Piracy Definition in Regional Prosecutions, *North Carolina Journal of International Law and Commercial Regulation*, vol. 38 (2013): p. 473.
- Thouvenin, J.-M., Piraterie maritime: pas d’internationalisation de la fonction juridictionnelle, *Anuario Colombiano de Derecho Internacional*, vol. 6 (2013): p. 47–76.
- Treves, T., The Fight Against Piracy and the Law of the Sea, *Italian Yearbook of International Law*, vol. 22 (2013): p. 23–37.

32. Political and security questions

- Boisson de Chazournes, L., Kohen, M.G., and Viñuales, J.E. (eds), *Diplomatic and Judicial Means of Dispute Settlement* (Leiden: Nijhoff, 2013). 356 p.
- Carswell, A.J., Unblocking the UN Security Council: The Uniting for Peace Resolution, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 453–480.
- Chan, K., State Failure and the Changing Face of the *Jus Ad Bellum*, *Journal of Conflict and Security Law*, vol. 18 (2013): p. 395–426.
- Corten, O., and Klein, P., L'action des Nations Unies en Côte d'Ivoire: jusqu'où le Conseil de sécurité peut-il intervenir dans l'ordre juridique interne des Etats? *LAfrique et le droit international: variations sur l'organisation internationale: Liber Amicorum Raymond Ranjeva: reflections on the international organization* (Paris: Pedone, 2013): p. 73–99.
- De Wet, E., From Kadi to Nada: Judicial Techniques Favouring Human Rights Over United Nations Security Council Sanctions, *Chinese Journal of International Law*, vol. 12 (2013): p. 787–807.
- Edström, H., and Gyllensporre, D., *Political Aspirations and Perils of Security: Unpacking the Military Strategy of the United Nations*, (Basingstoke: Palgrave Macmillan, 2013). 280 p.
- Gehring, T., and Dorfler, T., Division of Labor and Rule-Based Decision-Making within the UN Security Council: The Al-Qaeda/Taliban Sanctions Regime, *Global Governance*, vol. 19 (2013): p. 567–588.
- Gordon, J., Crippling Iran: The U.N. Security Council and the Tactic of Deliberate Ambiguity, *Georgetown Journal of International Law*, vol. 44 (2013): p. 973–1006.
- Henderson, C., and Lubell, N., The Contemporary Legal Nature of UN Security Council Ceasefire Resolutions, *Leiden Journal of International Law*, vol. 26 (2013): p. 369–397.
- Heupel, M., With Power Comes Responsibility: Human Rights Protection in United Nations Sanctions Policy, *European Journal of International Relations*, vol. 19 (2013): p. 773–796.
- Krause, J., The United Nations' Role in Preserving Peace, in Jorgensen, K.E., and Laatikainen, K.V. (eds), *Routledge Handbook on the European Union and International Institutions: Performance, Policy, Power* (London: Routledge, 2013): p. 141–156.
- Travis, H., Wargaming the “Arab Spring”: Predicting Likely Outcomes and Planning U.N. Responses, *Cornell International Law Journal*, vol. 46 (2013): p. 75–142.
- Wilson, G., The United Nations Security Council, Libya and Resolution 1973: Protection of Civilians or Tool for Regime Change? in Panara, C., and Wilson, G. (eds), *The Arab Spring: New Patterns for Democracy and International Law* (Leiden: Nijhoff, 2013): p. 101–121.

33. Progressive development and codification of international law (in general)

- Harrison, J., The International Law Commission and the Development of International Investment Law, *George Washington International Law Review*, vol. 45 (2013): p. 413–442.

- Murphy, S.D., The Expulsion of Aliens and Other Topics: The Sixty-Fourth Session of the International Law Commission, *American Journal of International Law*, vol. 107 (2013): p. 164.
- Norodom, A.-T., and Lagrange, P., Travaux de la Commission du droit international et de la sixième commission, *Annuaire français de droit international*, vol. 58 (2013): p. 349–394.
- Villalpando, S., Codification Light: A New Trend in the Codification of International Law at the United Nations, *Anuário Brasileiro de Direito Internacional*, vol. 8 (2013): p. 117–155.

34. Recognition of States

- Wyler, E., *Théorie et pratique de la reconnaissance d'État: une approche épistémologique du droit international* (Brussels: Bruylant, 2013). 380 p.

35. Refugees and internally displaced persons

- Fischbach, M.R., The United Nations Conciliation Commission for Palestine's Records on Palestinian Refugee Property Losses, in Brynen, R., and El-Rifai, R. (eds), *Compensation to Palestinian Refugees and the Search for Palestinian-Israeli Peace* (London: Pluto Press, 2013): p. 69–88.
- Janmyr, M., *Protecting Civilians in Refugee Camps: Unable and Unwilling States, UNHCR and International Responsibility* (Leiden: Nijhoff, 2013). 400 p.
- Naser, M.M., Climate-Induced Displacement in Bangladesh: Recognition and Protection Under International Law, *Nordic Journal of International Law*, vol. 82 (2013): p. 487–527.
- Simeon, J.C. (ed), *The UNHCR and the Supervision of International Refugee Law*, (Cambridge University Press: Cambridge, 2013). 359 p.
- Wilson, G., The United Nations Security Council and Refugee Flows as “Threats to the Peace”, in Islam, R., and Bhuiyan, J.H., *An Introduction to International Refugee Law* (Leiden: Nijhoff, 2013): p. 267–289.

36. Rule of law

- Köchler, H., Global Powers and the Rule of Law, in Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 427–443.
- Martin-Ortega, O., Hybrid Tribunals and the Rule of Law: War Crimes Chamber of the State Court of Bosnia and Herzegovina, in Mitchell, S.M., and Carey, H.F. (eds), *Trials and Tribulations of International Prosecution* (Lanham, MD: Lexington Books, 2013): p. 195–208.
- Tomuschat, C., Democracy and the Rule of Law, in Shelton, D. (ed), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013): p. 469–496.

Wouters, J., Ryngaert, C., and Cloots, A.S., The International Legal Framework Against Corruption: Achievements and Challenges, *Melbourne Journal of International Law*, vol. 14 (2013): p. 205.

37. Self-defence

Silvy, V., and Veuthey, M., *Le recours à la légitime défense contre le terrorisme international* (Paris: Connaissances et savoirs, 2013). 236 p.

38. Self-determination

Alexidze, L., Kosovo and South Ossetia: Similar Or Different?: Consequences for International Law, *Baltic Yearbook of International Law*, vol. 12 (2013): p. 75–101.

Anderson, G., Secession in International Law and Relations: What are we Talking about? *Loyola of Los Angeles International and Comparative Law Review*, vol. 35 (2013): p. 343–388.

Anderson, G., Unilateral Non-Colonial Secession in International Law and Declaratory General Assembly Resolutions: Textual Content and Legal Effects, *Denver Journal of International Law and Policy*, vol. 41 (2013): p. 345–395.

Coleman, A., *Resolving Claims to Self-Determination: Is there a Role for the International Court of Justice?* (New York: Routledge, 2013). 362 p.

Dugard, J., *The Secession of States and their Recognition in the Wake of Kosovo* (Leiden: Nijhoff, 2013). 297 p.

French, D., *Statehood and Self-Determination: Reconciling Tradition and Modernity in International Law* (Cambridge: Cambridge University Press, 2013). 534 p.

Huet, V., *Le principe de l'autodétermination des peuples: concept et applications concrètes* (Paris: l'Harmattan, 2013). 233 p.

Romero-Nieves, L., The International Court of Justice and the Development of the Right to Self-Determination: An Approach to the Case of Puerto Rico, *Revista Jurídica de la Universidad Interamericana de Puerto Rico*, vol. 47 (2013): p. 669–700.

Sterio, M., A Tale of Two States: Territoriality and Minority Rights in Kosovo and Georgia, *Baltic Yearbook of International Law*, vol. 12 (2013): p. 103–130.

Vidmar, J., *Democratic Statehood in International Law: The Emergence of New States in Post-Cold War Practice* (Oxford: Hart, 2013). 281 p.

Waters, T.W., Misplaced Boldness: The Avoidance of Substance in the International Court of Justice's Kosovo Opinion, *Duke Journal of Comparative and International Law*, vol. 23 (2013): p. 267–334.

Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013). 688 p.

39. State immunity

- Alebeek, R.V., Jurisdictional Immunities of the State (*Germany v. Italy*): On Right Outcomes and Wrong Terms, *German Yearbook of International Law*, vol. 55 (2012): p. 281–317.
- Apostolidis, C., Le souverain, la règle, l'exception, *Revue générale de droit international public: droit des gens, histoire diplomatique, droit pénal, droit fiscal, droit administratif*, vol. 117 (2013): p. 795–831.
- Barker, J.C., International Court of Justice: Jurisdictional Immunities of the State (*Germany v. Italy*) Judgment of 3 February 2012, *International and Comparative Law Quarterly*, vol. 62 (2013): p. 741–752.
- Barker, J.C., Negotiating the Complex Interface between State Immunity and Human Rights: An Analysis of the International Court of Justice Decision in *Germany v. Italy*, *International Community Law Review*, vol. 15 (2013): p. 415–436.
- Bianchi, A., Gazing at the Crystal Ball (again): State Immunity and *Jus Cogens* Beyond *Germany v. Italy*, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 457–475.
- Boschiero, N., Jurisdictional Immunities of the State and Exequatur of Foreign Judgments: A Private International Law Evaluation of the Recent ICJ Judgment in *Germany v. Italy*, in Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013): p. 781–824.
- Calisto, M., Jurisdictional Immunities of the State: *Germany v. Italy* before the ICJ from an Italian Perspective, *German Yearbook of International Law*, vol. 55 (2012): p. 319–343.
- Colangelo, A.J., Jurisdiction, Immunity, Legality, and *Jus Cogens*, *Chicago Journal of International Law*, vol. 14 (2013): p. 53–91.
- Del Mar, K., The Effects of Framing International Legal Norms as Rules or Exceptions: State Immunity from Civil Jurisdiction, *International Community Law Review*, vol. 15 (2013): p. 143–170.
- Dickinson, A., *Germany v. Italy* and the Territorial Tort Exception: Walking the Tightrope, *Journal of International Criminal Justice*, vol. 11 (2013): p. 147–166.
- Espósito, C., Of Plumbers and Social Architects: Elements and Problems of the Judgment of the International Court of Justice in Jurisdictional Immunities of States, *Journal of International Dispute Settlement*, vol. 4 (2013): p. 439–456.
- Fox, H., and Webb, P., *The Law of State Immunity* (Oxford: Oxford University Press, 2013). 645 p.
- Hahn, A., Dealing with Sovereigns: Immunity Risks and Planning Tools, *Schweizerische Zeitschrift für internationales und europäisches Recht*, vol. 23 (2013): p. 225–241.
- Harvey, J., (R)Evolution of State Immunity Following Jurisdictional Immunities of the State (*Germany v. Italy*)—Winds of Change Or Hot Air? *University of Tasmania Law Review*, vol. 32 (2013): p. 208–247.
- Higgins, R., Equality of States and Immunity from Suit: A Complex Relationship, *Netherlands Yearbook of International Law*, vol. 43 (2013): p. 129–149.

- Kolb, R., and Oliveira, T.B.J., Le droit des immunités juridictionnelles étatiques et l'arrêt de la Cour Internationale de Justice dans l'affaire italo-allemande, *Schweizerische Zeitschrift für internationales und europäisches Recht*, vol. 23 (2013): p. 243–264.
- Laval, P.-F., L'arrêt de la Cour internationale de Justice dans l'affaire des *Immunités juridictionnelles de l'Etat (Allemagne c. Italie; Grèce intervenant)*, *Annuaire français de droit international*, vol. 58 (2013): p. 147–180.
- McGregor, L., State Immunity and Human Rights: Is there a Future After *Germany v. Italy*? *Journal of International Criminal Justice*, vol. 11 (2013): p. 125–145.
- McMenamin, M., State Immunity before the International Court of Justice: Jurisdictional Immunities of the State (*Germany v. Italy*), *Victoria University of Wellington Law Review*, vol. 44 (2013): p. 189.
- Nesi, G., The Quest for a “Full” Execution of the ICJ Judgment in *Germany v. Italy*, *Journal of International Criminal Justice*, vol. 11 (2013): p. 185–198.
- O’Keefe, R., Jurisdictional Immunities, in Tams, C.J., and Sloan, J.G. (eds), *The Development of International Law by the International Court of Justice* (Oxford: Oxford University Press, 2013): p. 107–148.
- O’Keefe, R., Tams, C.J., and Tzanakopoulos, A., *The United Nations Convention on Jurisdictional Immunities of States and their Property: A Commentary* (Oxford: Oxford University Press, 2013). 456 p.
- Ronzitti, N., The Enrica Lexie Incident: Law of the Sea and Immunity of State Officials Issues, *Italian Yearbook of International Law*, vol. 22 (2013): p. 3–22.
- Sanger, A., Immunity of State Officials from the Criminal Jurisdiction of a Foreign State, *International and Comparative Law Quarterly*, vol. 62 (2013): p. 193–224.
- Staiano, F., Domestic Workers’ Human Rights Versus Diplomatic Immunity: Developments in International and National Jurisprudence, *Italian Yearbook of International Law*, vol. 22 (2013): p. 187–200.
- Wuerth, I.B., Foreign Official Immunity: Invocation, Purpose, Exceptions, *Schweizerische Zeitschrift für internationales und europäisches Recht*, vol. 23 (2013): p. 207–223.

40. State responsibility

- Arcari, M., Le juge et la codification du droit de la responsabilité: quelques remarques concernant l'application judiciaire des articles de la CDI sur la responsabilité, in Boschiero, N., et al (eds), *International Courts and the Development of International Law: Essays in Honour of Tullio Treves* (The Hague: Asser Press, 2013): p. 19–30.
- Arimatsu, L., The Law of State Responsibility in Relation to Border Crossings: An Ignored Legal Paradigm. *International Law Studies* (2013): p. 21–53.
- Bratspies, R.M., State Responsibility for Human-Induced Environmental Disasters, *German Yearbook of International Law*, vol. 55 (2012): p. 175–216.
- Crawford, J., *State Responsibility: The General Part* (Cambridge: Cambridge University Press, 2013). 825 p.

- Nieto-Navia, R., State Responsibility in Respect of International Wrongful Acts of Third Persons: The Theory of Control, in Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 495–505.
- Power, S., State Responsibility and the Exploitation of the Oil for Food Scheme: *Republic of Iraq v. ABB AG et al*, *Dublin University Law Journal*, vol. 36 (2013): p. 374–383.
- Sarooshi, D., International Organizations and State Responsibility, in Ragazzi, M. (ed), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie* (Leiden: Nijhoff, 2013): p. 79–87.
- Tournier, A., De Brunsbüttel à Kinshasa—Le droit de la réparation dans la jurisprudence des cours mondiales à l’aune de l’arrêt *Diallo*, *Annuaire français de droit international*, vol. 58 (2013): p. 205–222.
- Tully, S., “By Means of its Own Choosing”: Is the Court Refashioning the Remedies of State Responsibility? *International Community Law Review*, vol. 15 (2013): p. 459–481.
- Zambrano, V., State Responsibility for Human Rights Violations: The Ultimate Control Test and the Interpretation of UN Security Council Resolutions, *European Human Rights Law Review*, vol. 2013 (2013): p. 180–186.

41. State sovereignty

- Becker-Weinberg, V., Recalling the Falkland Islands (Malvinas) Sovereignty Formula, *Ocean Yearbook Online*, vol. 27 (2013): p. 411–433.
- Dickinson, R., Transformation of the Modern State: State Sovereignty and Human Rights in the Internet Age, *Connecticut Journal of International Law*, vol. 29 (2013): p. 51–68.
- Ku, J., and Yoo, J.C., Globalization and Sovereignty, *Berkeley Journal of International Law*, vol. 31 (2013): p. 210–235.
- Resnik, J., Globalization(s), Privatization(s), Constitutionalization, and Statization: Icons and Experiences of Sovereignty in the 21st Century, *International Journal of Constitutional Law*, vol. 11 (2013): p. 162–199.
- Yang, Z., The End of State Sovereignty?—from a Chinese Perspective, in Sevastik, P. (ed), *Aspects of Sovereignty: Sino-Swedish Reflections* (Leiden: Nijhoff, 2013): p. 161–178.

42. Transitional justice

- Andreevska, E., Transitional Justice and Democratic Change: Key Concepts, *Lex et Scientia International Journal*, vol. 20 (2013): p. 54–64.
- Berdal, M.R., and Davies, H., The United Nations and International Statebuilding After the Cold War, in Berdal, M.R., and Zaum, D. (eds), *Political Economy of Statebuilding: Power After Peace* (London: Routledge, 2013): p. 111–139.
- Chehtman, A., Developing Local Capacity for War Crimes Trials: Insights from BiH, Sierra Leone, and Colombia, *Stanford Journal of International Law*, vol. 49 (2013): p. 297–329.

- De Brouwer, A., and Ruvebana, E., The Legacy of the Gacaca Courts in Rwanda: Survivors' Views, *International Criminal Law Review*, vol. 13 (2013): p. 937–976.
- Drumbl, M.A., The Future of International Criminal Law and Transitional Justice, in Schabas, W.A., McDermott, Y., and Hayes, N. (eds), *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (Farnham: Ashgate Publishing Ltd, 2013): p. 531–546.
- Essomba, S., Quelle complémentarité entre la justice transitionnelle et la justice pénale internationale? *Revue internationale de droit pénal*, vol. 2013 (2013): p. 183–206.
- Grenfell, L., *Promoting the Rule of Law in Post-Conflict States* (Cambridge: Cambridge University Press, 2013). 329 p.
- King, E.L., Does Justice always Require Prosecution? The International Criminal Court and Transitional Justice Measures, *George Washington International Law Review*, vol. 45 (2013): p. 101.
- Matwijkiw, A., and Matwijkiw, B., Post-Conflict Justice: Legal Doctrine, General Jurisprudence, and Stakeholder Frameworks, in Ziccardi Capaldo, G., and Bassiouni, M.C. (eds), *Global Trends: Law, Policy and Justice: Essays in Honour of Professor Giuliana Ziccardi Capaldo* (Oxford: Oxford University Press, 2013): p. 345–370.
- Méndez, J.E., and Cone, C., Transitional Justice, in Sheeran, S. (ed), *Routledge Handbook of International Human Rights Law* (London: Routledge, 2013): p. 761–780.
- Mitchell, S.M., Restorative Justice, RPF Rule, and the Success of Gacaca, in Mitchell, S.M., and Carey, H.F. (eds), *Trials and Tribulations of International Prosecution* (Lanham, MD: Lexington Books, 2013): p. 255–268.
- Murphy, S.D., Kidane, W., and Snider, T.R., *Litigating War: Arbitration of Civil Injury by the Eritrea-Ethiopia Claims Commission* (Oxford: Oxford University Press, 2013). 1038 p.
- Sharp, D.N., Beyond the Post-Conflict Checklist: Linking Peacebuilding and Transitional Justice through the Lens of Critique, *Chicago Journal of International Law*, vol. 14 (2013): p. 165–196.
- Sripati, V., United Nations Constitutional Assistance in Statebuilding, in Chandler, D., and Sisk, T.D. (eds), *Routledge Handbook of International Statebuilding* (London: Routledge, 2013): p. 143–155.
- Sriram, C.L., *Transitional Justice and Peacebuilding on the Ground: Victims and Ex-Combatants* (New York: Routledge, 2013). 320 p.
- Wameyo, A., Transitional Justice: A Two Prong Approach: Reconciliation and Criminal Responsibility for Kenya Post 2007 Elections Violence, *African Yearbook of International Law*, vol. 17 (2009): p. 411–446.

43. Use of force

- Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013). 448 p.

- Corten, O., Regulating Resort to Force: A Response to Matthew Waxman from a “Bright-Liner”, *European Journal of International Law*, vol. 24 (2013): p. 191–197.
- Douhan, A.F., and Centre d'études diplomatiques et stratégiques (Paris), *Regional Mechanisms of Collective Security: The New Face of Chapter VIII of the Charter?* (Paris: Harmattan, 2013). 241 p.
- Henderson, C., The Centrality of the United Nations Security Council in the Legal Regime Governing the use of Force, in White, N.D. (ed), *Research Handbook on International Conflict and Security Law: “Jus Ad Bellum, Jus in Bello,” and “Jus Post Bellum”* (Cheltenham: Elgar, 2013): p. 120–169.
- Torres Bernárdez, S., Problemas actuales del recurso a la fuerza en Derecho internacional: la autorización del recurso a la fuerza por las Naciones Unidas, in Bernárdez, S.T.[.a]. (ed), *El derecho internacional en el mundo multipolar del siglo XXI: obra homenaje al profesor Luis Ignacio Sánchez Rodríguez* (Madrid: Iprolex, 2013): p. 631–644.
- Webb, P., The Use of Force and the Emerging International Judicial System, in Byrnes, A., Hayashi, M., and Michaelsen, C. (eds), *International Law in the New Age of Globalization* (Leiden: Nijhoff, 2013): p. 121–143.
- Waxman, M.C., Regulating Resort to Force: Form and Substance of the UN Charter Regime, *European Journal of International Law*, vol. 24 (2013): p. 151–189.



The United Nations System

UN Principal Organs

- General Assembly
- Security Council
- Economic and Social Council
- Secretariat
- International Court of Justice
- Trusteeship Council⁶

Subsidiary Bodies
Main and other sessional committees
Disarmament Commission
Human Rights Council
International Law Commission
Standing committees and ad hoc bodies

Funds and Programmes¹
UNCTAD United Nations Conference on Trade and Development
 • **ITC** International Trade Centre (UNCTAD/WTO)
UNDP United Nations Development Programme
 • **UNCDF** United Nations Capital Development Fund
 • **UNV** United Nations Volunteers
UNEP United Nations Environment Programme
UNFPA United Nations Population Fund

Subsidiary Bodies
Counter-terrorism committees
International Criminal Tribunal for Rwanda (ICTR)
International Criminal Tribunal for the former Yugoslavia (ICTY)
Military Staff Committee
Peacekeeping operations and political missions
Sanctions committees (ad hoc)
Standing committees and ad hoc bodies

Functional Commissions
Crime Prevention and Criminal Justice
Narcotic Drugs
Population and Development
Science and Technology for Development
Social Development
Statistics
Status of Women
Sustainable Development
United Nations Forum on Forests

Regional Commissions
ECA Economic Commission for Africa
ECE Economic Commission for Europe
ECLAC Economic Commission for Latin America and the Caribbean
ESCAP Economic and Social Commission for Asia and the Pacific
ESCWA Economic and Social Commission for Western Asia

Departments and Offices
EOSG Executive Office of the Secretary-General
DESA Department of Economic and Social Affairs
DFS Department of Field Support
DGACM Department for General Assembly and Conference Management
DM Department of Management
DPA Department of Political Affairs
DPI Department of Public Information
DPKO Department of Peacekeeping Operations
DSS Department of Safety and Security
OCHA Office for the Coordination of Humanitarian Affairs
OHCHR Office of the United Nations High Commissioner for Human Rights

Notes:
¹ The United Nations, its Funds and Programmes, the Specialized Agencies, IAEA and WTO are all members of the United Nations System Chief Executives Board for Coordination (CEB).
² UNRWA and UNIDIR report only to the General Assembly (GA).
³ IAEA reports to the Security Council and the GA.
⁴ WTO has no reporting obligation to the GA, but contributes on an ad hoc basis to GA and Economic and Social Council (ECOSOC) work on, inter alia, finance and development issues.
⁵ Specialized Agencies are autonomous organizations whose work is coordinated through ECOSOC (intergovernmental level) and CEB (inter-secretariat level).
⁶ The Trusteeship Council suspended operation on 1 November 1994, as on 1 October 1994 Palau, the last United Nations Trust Territory, became independent.
 This is not an official document of the United Nations, nor is it intended to be all inclusive.

UN-HABITAT United Nations Human Settlements Programme

UNHCR Office of the United Nations High Commissioner for Refugees

UNICEF United Nations Children's Fund

UNODC United Nations Office on Drugs and Crime

UNRWA² United Nations Relief and Works Agency for Palestine Refugees in the Near East

UN-Women United Nations Entity for Gender Equality and the Empowerment of Women

WFP World Food Programme

■ Research and Training Institutes

UNICRI United Nations Interregional Crime and Justice Research Institute

UNIDIR² United Nations Institute for Disarmament Research

UNITAR United Nations Institute for Training and Research

UNRISD United Nations Research Institute for Social Development

UNSSC United Nations System Staff College

UNU United Nations University

■ Other Entities

UNAIDS Joint United Nations Programme on HIV/AIDS

UNISDR United Nations International Strategy for Disaster Reduction

UNOPS United Nations Office for Project Services

■ Related Organizations

CTBTO Preparatory Commission Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization

IAEA^{1,3} International Atomic Energy Agency

OPCW Organisation for the Prohibition of Chemical Weapons

WTO^{1,4} World Trade Organization

■ Advisory Subsidiary Body

Peacebuilding Commission

■ Other Bodies

Committee for Development Policy
Committee of Experts on Public Administration

Committee on Non-Governmental Organizations

Permanent Forum on Indigenous Issues
United Nations Group of Experts on Geographical Names

Other sessional and standing committees and expert, ad hoc and related bodies

■ Specialized Agencies^{1,5}

FAO Food and Agriculture Organization of the United Nations

ICAO International Civil Aviation Organization

IFAD International Fund for Agricultural Development

ILO International Labour Organization

IMF International Monetary Fund

IMO International Maritime Organization

ITU International Telecommunication Union

UNESCO United Nations Educational, Scientific and Cultural Organization

UNIDO United Nations Industrial Development Organization

UNWTO World Tourism Organization

UPU Universal Postal Union

WHO World Health Organization

WIPO World Intellectual Property Organization

WMO World Meteorological Organization

■ World Bank Group

• **IBRD** International Bank for Reconstruction and Development

• **ICSID** International Centre for Settlement of Investment Disputes

• **IDA** International Development Association

• **IFC** International Finance Corporation

• **MIGA** Multilateral Investment Guarantee Agency

OIOS Office of Internal Oversight Services

OLA Office of Legal Affairs

OSAA Office of the Special Adviser on Africa

SRS/CAAC Office of the Special Representative of the Secretary-General for Children and Armed Conflict

SRS/SG/SVC Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict

ONODA Office for Disarmament Affairs

UNOG United Nations Office at Geneva

UN-OHRLS Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States

UNON United Nations Office at Nairobi

UNOV United Nations Office at Vienna

