

Dual DistributionELECTION OF FIVE MEMBERS OF THE INTERNATIONAL  
COURT OF JUSTICEMemorandum prepared by the SecretariatI. Introductory note

1. In conformity with Articles 4 and 8 of the Statute of the International Court of Justice, the General Assembly and the Security Council, voting independently, elected, on 6 February 1946, fifteen judges to serve on the Court.
2. At the twenty-sixth plenary meeting of the General Assembly held on 9 February 1946, the terms of office of the judges were fixed by the drawing of lots, in accordance with Article 13, paragraph 2 of the Statute of the Court\*, as follows:

Nine years, terminating on 5 February 1955:

Judges Alejandro Alvarez.....	(Chile)
Jose Philadelpho de Barros e Azevedo.....	(Brazil)
Jules Basdevant.....	(France)
Jose Gustavo Guerrero.....	(El Salvador)
Sir Arnold Duncan McNair.....	(United Kingdom)

Six years, terminating on 5 February 1952:

Judges Isidro Fabela Alfaro.....	(Mexico)
Green Haywood Hackworth.....	(United States of America)
Helge Klaestad.....	(Norway)
Sergei Borisovitch Krylov.....	(Union of Soviet Socialist Republics)
Charles de Visscher.....	(Belgium)

Three years, terminating on 5 February 1949:

Judges Abdel Hamid Badawi Pasha.....	(Egypt)
Hsu Mo.....	(China)
John Erskine Read.....	(Canada)
Bogdan Winiarski.....	(Poland)
Milovan Zoricic.....	(Yugoslavia)

3. In view of the fact that the term of office of Judges Badawi Pasha, Hsu Mo, Read, Winiarski and Zoricic was for a period of three years,

\* Hereinafter referred to as "the Statute".

it is necessary for the General Assembly and the Security Council to elect, during the third regular session of the General Assembly, five judges for a term of office of nine years beginning on 6 February 1949.

4. In accordance with Article 5 of the Statute, the Secretary-General addressed on 7 June 1948 a written request to the members of the Permanent Court of Arbitration belonging to the States which are parties to the Statute, inviting them to undertake, by national groups, the nomination of persons in a position to accept the duties of a member of the Court, and requesting that the nominations be sent in time to reach the Secretary-General not later than 15 August 1948. A similar request was sent on the same date to the members of the national groups appointed under Article 4, paragraph 2 of the Statute, by Members of the United Nations not represented in the Permanent Court of Arbitration.

5. On the basis of the nominations received and in pursuance of Article 7 of the Statute, a list in alphabetical order of all the persons thus nominated has been submitted to the General Assembly and to the Security Council by the Secretary-General (document A/623 - S/991, with later additions and corrections).

## II. Procedure for the election in the General Assembly and in the Security Council

6. The election will take place in accordance with the Statute of the International Court of Justice (rule 139 of the rules of procedure of the General Assembly and rule 40 of the provisional rules of procedure of the Security Council).

7. On the day of the election, the General Assembly and the Security Council will proceed to elect the five members of the Court independently of one another (Article 6)\*.

8. The list of persons nominated will be printed in the Journal of the General Assembly; the names of the candidates will also appear on the ballot papers which will be distributed at the time of the elections. Only those candidates whose names appear on the ballot papers are eligible for election (Article 7).

9. The electors will mark by a cross on the ballot papers the names of the five candidates for whom they wish to vote.

10. The persons to be elected, regardless of their nationality, should be of high moral character, and should possess the qualifications required in their respective countries for appointment to the highest

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\* The articles quoted in parenthesis refer to the Statute.

judicial offices or be jurisconsults of recognized competence in international law; further, the electors are required to bear in mind that, in the Court as a whole, the representation of the main forms of civilization and of the principal legal systems of the world should be assured (Articles 2 and 9).

11. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council will be considered as elected (Article 10).

12. In the Security Council, six votes constitute an absolute majority at the election and no distinction will be made between permanent and non-permanent members of the Council (Article 10, paragraph 2).

13. Not more than one national of the same State can be elected as a member of the Court (Article 3). If more than one national of the same State obtains an absolute majority of the votes both in the General Assembly and in the Security Council, the eldest of those only will be considered as elected (Article 10, paragraph 3).

14. Balloting in the General Assembly, as in the Security Council, will proceed as follows: a ballot will be taken for the purpose of selecting, by an absolute majority, five candidates from the list which has been circulated by the Secretary-General. If in the first ballot less than five candidates receive an absolute majority of votes cast, a second ballot will be taken and balloting will continue in the same meeting until five of the candidates have received an absolute majority (rule 140 of the rules of procedure of the General Assembly and rule 61 of the provisional rules of procedure of the Security Council).

15. At this point the President of the Assembly will notify the President of the Security Council of the names of the five candidates who have received an absolute majority and he will, after receipt of the corresponding list of candidates from the Security Council, announce the election of those candidates having received an absolute majority of votes in both the Assembly and the Security Council.

16. If less than five candidates have been thus elected by the General Assembly and the Security Council, the Assembly and the Council will proceed in a second meeting by further ballots to elect the candidates for the vacancies remaining to be filled (Article 11).

17. The above procedure will be continued until the Assembly and the Security Council have elected five candidates. The Assembly and the Council may, however, after their third meetings (i.e. series of ballots) form at any time a joint conference consisting of six members, three

appointed by the General Assembly and three by the Security Council, at the request of either the General Assembly or the Security Council (Article 12).

18. This joint conference may, by an absolute majority, agree upon a candidate for each seat still vacant and submit his name for the approval of the General Assembly and the Security Council. If unanimously agreed, it may propose the name of a candidate not included in the alphabetical list if he fulfils the required conditions (Article 12).

19. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected will, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council (Article 12, paragraph 3).

20. Immediately after the election, the Secretary-General will inform those elected and ask them whether they are prepared to accept office.

Should any of the persons elected declare that he is not prepared to accept office, a new election for the remaining vacant seat will take place at once.

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