



**REPORT
OF THE
INTERNATIONAL COURT
OF JUSTICE**

1 August 1971—31 July 1972

**GENERAL ASSEMBLY
OFFICIAL RECORDS : TWENTY-SEVENTH SESSION
SUPPLEMENT No. 5 (A/8705)**

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CONTENTS

	<i>Page</i>
I. Composition of the Court	1
II. Jurisdiction of the Court	1
A. Jurisdiction of the Court in contentious cases	1
B. Jurisdiction of the Court in advisory proceedings	1
III. Judicial work of the Court	2
A. Appeal relating to the Jurisdiction of the Council of the International Civil Aviation Organization	2
B. Fisheries Jurisdiction	2
C. Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal	2
D. Action pursuant to the Judgment in the <i>North Sea Continental Shelf</i> cases	3
E. Action pursuant to the Advisory Opinion concerning the <i>Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970)</i>	3
IV. Statute and Rules of Court and administrative matters	3
A. Review of the role of the Court	3
B. Proposed amendments to the Statute	4
C. Revision of the Rules of Court	4
D. Celebration of the fiftieth anniversary of the institution of the international judicial system	4
V. Publications and documents of the Court	4

1. The present report on the work of the International Court of Justice covers the period from 1 August 1971 to 31 July 1972. It follows the report for 1970-1971,¹ of which the General Assembly took note on 17 December 1971.

I. COMPOSITION OF THE COURT

2. There has been no change in the composition of the Court since the five judges elected by the General Assembly and Security Council on 27 October 1969 took up their duties. The terms of office of five other judges will expire on 5 February 1973. The measures necessary for the triennial elections whereby vacancies are filled are taken by the Secretary-General (Statute of the Court, Arts. 4-12).

3. The President and the Vice-President of the Court are, respectively, Sir Muhammad Zafrulla Khan and Fouad Ammoun, who were each elected by the Court in February 1970 to a three-year term of office.

4. The other Members of the Court are, in order of seniority: Sir Gerald Fitzmaurice, L. Padilla Nervo, I. Forster, A. Gros, C. Bengzon, S. Petrán, M. Lachs, C. D. Onyeama, H. C. Dillard, L. Ignacio-Pinto, F. de Castro, F. D. Morozov and E. Jiménez de Aréchaga.

5. With a view to the speedy despatch of business the Court forms annually a Chamber of Summary Procedure (Statute, Art. 29). This Chamber was constituted on 12 April as follows:

Members:

President Sir Muhammad Zafrulla Khan, Vice-President Ammoun, and Judges Padilla Nervo, Bengzon and Lachs.

Substitute Members:

Judges Ignacio-Pinto and de Castro.

6. The Court learned with deep regret of the death in September 1971 of Mr. Levi Carneiro, Member of the Court from 1951 to 1954.

7. The Registrar of the Court is Mr. S. Aquarone and the Deputy-Registrar is Mr. W. Tait.

II. JURISDICTION OF THE COURT

A. JURISDICTION OF THE COURT IN CONTENTIOUS CASES

8. On 31 July 1972, the 132 States Members of the United Nations, and also Liechtenstein, San Marino and Switzerland, were parties to the Statute of the Court.

9. In addition, the Court is open to the Federal Republic of Germany and the Republic of Viet-Nam in cases covered by declarations which they have filed with the Registry of the Court in accordance with Security Council resolution 9 (1946) of 15 October 1946.

10. On 18 January 1972 the Government of the Philippines terminated its former declaration of acceptance of the compulsory jurisdiction of the Court under Article 36 of the Statute and deposited with the Secretary-General a fresh declaration of acceptance. The declaration by Turkey expired on 23 May 1972 and has not yet been renewed.

11. There are now 46 States which recognize the jurisdiction of the Court as compulsory, though sometimes with reservations, in relation to any other State accepting the same obligations.

12. Since 1 August 1971 four treaties providing for the jurisdiction of the Court in contentious cases have been registered with the Secretariat of the United Nations and brought to the knowledge of the Court: Agreement of 27 July 1961 between Lebanon and

Liberia for the establishment and operation of air services; Protocol on the privileges and immunities of the European Space Research Organization, opened for signature on 31 October 1963; Agreement of 1 December 1970 for the establishment of a Commission for the campaign for controlling the desert locust in North-West Africa; Agreement of 17 July 1971 between the United Kingdom and Ghana for the provision of a special loan to the Government of Ghana to facilitate the payment of commercial debts.

13. Lists of treaties and conventions in force which govern the jurisdiction of the Court appear in Chapter IV of the Court's *Yearbook 1971-1972*. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

B. JURISDICTION OF THE COURT IN ADVISORY PROCEEDINGS

14. The following organizations are at present authorized to request advisory opinions of the Court on legal questions:

United Nations (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly, Committee on Applications for Review of Administrative Tribunal Judgements)

International Labour Organisation

Food and Agriculture Organization of the United Nations

¹ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 5 (A/8405).

United Nations Educational, Scientific and Cultural Organization
World Health Organization
International Bank for Reconstruction and Development
International Finance Corporation
International Development Association
International Monetary Fund
International Civil Aviation Organization

International Telecommunication Union
World Meteorological Organization
Inter-Governmental Maritime Consultative Organization
International Atomic Energy Agency

15. Provision for the advisory jurisdiction of the Court is also made in certain international instruments, listed in Chapter IV of the Court's *Yearbook 1971-1972*.

III. JUDICIAL WORK OF THE COURT

16. During the period under review, three new contentious cases and one request for an advisory opinion were submitted to the Court. Since it met on 12 April 1972, the Court has held 9 public sittings and 33 private meetings.

A. APPEAL RELATING TO THE JURISDICTION OF THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

17. On 30 August 1971 the Government of India submitted to the Court an Application against the Government of Pakistan by which it appealed from a decision whereby the Council of ICAO, on 29 July 1971, declared itself to have jurisdiction in a dispute between India and Pakistan. The Indian Government having decided on 4 February 1971, in consequence of the diversion of an aircraft, to suspend any overflying of Pakistan by Indian aircraft and to withdraw from Pakistan aircraft the authorization to overfly its own territory, the Government of Pakistan had submitted the matter to the ICAO Council on 3 March 1971 and the Indian Government had raised preliminary objections concerning the jurisdiction of the Council.

18. The President of the Court being a national of one of the Parties, the Vice-President has been acting as President in this case. The Indian Government chose Mr. Nagendra Singh to sit as a judge *ad hoc*. The Court has otherwise been composed for the case as detailed in paragraphs 3 and 4 above.

19. The time-limits for the filing of written pleadings (Memorial and Reply of the Government of India, and Counter-Memorial and Rejoinder of the Government of Pakistan) were fixed or extended by Orders of 16 September and 3 December 1971 and of 19 January and 20 March 1972. These pleadings were filed within the time-limits fixed and the written proceedings closed on 16 May 1972, the date on which the Rejoinder was filed.

20. One of the Parties having advanced the contention that questions concerning the construction of the 1944 Chicago Convention on International Civil Aviation were in issue, the Court fixed a time-limit within which ICAO might submit its written observations to the Court. The Secretary General of ICAO stated that it did not intend to submit observations.

21. The oral proceedings occupied nine sittings, which were held in the Peace Palace between 19 June and 3 July 1972. His Excellency Lieutenant-General

Yadavindra Singh, as Agent, and Mr. Palkhivala, as chief counsel, presented the contentions of India, and His Excellency Mr. Kharas, as Agent, and Mr. Yahya Bakhtiar, as chief counsel, addressed the Court on behalf of Pakistan.²

B. FISHERIES JURISDICTION

22. The United Kingdom of Great Britain and Northern Ireland filed in the Registry of the Court, on 14 April 1972, an Application instituting proceedings against Iceland and, on 19 July 1972, a request for the indication of interim measures of protection. The case originates in the decision of the Government of Iceland to extend, as from 1 September 1972, its limits of exclusive fisheries jurisdiction from a distance of 12 nautical miles from the base-lines round its coasts to one of 50 nautical miles, a decision which the Government of the United Kingdom considers contrary to international law.

23. The Federal Republic of Germany filed in the Registry of the Court on 5 June 1972 an Application instituting proceedings against Iceland and, on 21 July 1972, a request for the indication of interim measures of protection. The case originates in the same decision as the case instituted by the United Kingdom.

24. The Court has decided to sit on 1 and 2 August 1972, respectively, for the purpose of hearing the observations of the Parties on the subject of the request for the indication of interim measures of protection filed in the two cases.³

C. APPLICATION FOR REVIEW OF JUDGEMENT NO. 158 OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL

25. On 3 July 1972 the Court received a request submitted by the Committee on Applications for Review of Administrative Tribunal Judgements for an advisory opinion on questions relating to Judgement No. 158 delivered by the Administrative Tribunal of the United Nations in Geneva on 28 April, in the case of *Fasla v. the Secretary-General*. It was by virtue of Article 11 of the Statute of the Administrative Tribunal that the Committee decided on 20 June 1972, at the request of Mr. Fasla, to seek an advisory opinion of the Court.⁴

² The Judgment of the Court was delivered on 18 August 1972.

³ Two Orders were made on 17 August 1972.

⁴ See AT/DEC/158, A/AC.86/R.59 and A/AC.86/14.

26. By an Order of 14 July 1972 the Court has fixed 20 September 1972 as the time-limit for the submission of written statements in accordance with Article 66, paragraph 2, of the Statute of the Court.

D. ACTION PURSUANT TO THE JUDGMENT IN THE NORTH SEA CONTINENTAL SHELF CASES

27. By its Judgment of 29 February 1969 (*I. C. J. Reports 1969*, p. 3), the Court indicated the principles and rules of international law applicable to the delimitation of the North Sea continental shelf as between the Federal Republic of Germany, on the one hand, and Denmark and the Netherlands respectively, on the other, beyond the partial boundaries already established. As they had agreed, the three governments concerned negotiated a delimitation in accordance with those principles and rules, after which two bilateral treaties and a tripartite protocol were signed in Copenhagen on 28 January 1971.⁵

28. As a result of these delimitations, the zones of the North Sea continental shelf appertaining respectively to the Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland acquired a common boundary. After further negotiations, three agreements determining or amending the delimitations of the continental shelf between the United Kingdom and each of the three Parties to the *North Sea Continental Shelf* cases were concluded in London on 25 November 1971.

⁵ See reports of the International Court of Justice 1968-1969 [*Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 5 (A/7605 and Corr.1)*], paras. 19-26, and 1970-1971 [*Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 5 (A/8405)*], paras. 24 and 25.

E. ACTION PURSUANT TO THE ADVISORY OPINION CONCERNING THE LEGAL CONSEQUENCES FOR STATES OF THE CONTINUED PRESENCE OF SOUTH AFRICA IN NAMIBIA (SOUTH WEST AFRICA) NOTWITHSTANDING SECURITY COUNCIL RESOLUTION 276 (1970)

29. The Advisory Opinion requested of the Court by the Security Council in its resolution 284 (1970) of 24 July 1970 was delivered on 21 June 1971 (*I. C. J. Reports 1971*, p. 16).

30. On 2 September 1971, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted a consensus in which it took note of the Advisory Opinion delivered by the Court.⁶

31. After considering a report dated 23 September 1971⁷ by the *Ad Hoc* Sub-Committee on Namibia and discussing the question at 11 meetings held from 27 September to 20 October 1971,⁸ the Security Council adopted on 20 October, by 13 votes to none, with two abstentions, resolution 301 (1971), in which it stated that it took note of the Advisory Opinion of the Court and endorsed the Court's opinion expressed in the operative part of the Advisory Opinion.⁹

32. On 21 December 1971, on the recommendation of the Fourth Committee, the General Assembly adopted by 111 votes to 2, with 10 abstentions, resolution 2871 (XXVI) in which it took note of the Advisory Opinion of the Court.

⁶ *Official Records of the Security Council, Twenty-sixth Year, S/10303.*

⁷ *Ibid.*, *Twenty-sixth Year, S/10330.*

⁸ *Ibid.*, *Twenty-sixth Year, 1583rd to 1585th, 1587th to 1589th, 1593rd to 1595th and 1597th and 1598th meetings.*

⁹ See report of the International Court of Justice 1970-1971 [*Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 5 (A/8405)*], para. 21.

IV. STATUTE AND RULES OF COURT AND ADMINISTRATIVE MATTERS

A. REVIEW OF THE ROLE OF THE COURT

33. By resolution 2723 (XXV) of 15 December 1970 the General Assembly had requested the Secretary-General to transmit a questionnaire to Member States and States parties to the Statute of the Court on the basis of which they might submit their views and suggestions concerning the role of the Court, and to prepare a comprehensive report in the light of the opinions expressed by States and, should the Court so have desired, by the Court.¹⁰ This report was submitted by the Secretary-General on 15 September 1971.¹¹

34. On 25 September 1971, on the recommendation of the General Committee, the General Assembly decided to include in the agenda of its twenty-sixth session the question of the "Review of the Role of the International Court of Justice" and referred the item to the Sixth Committee. The Sixth Committee discussed

the subject at 12 meetings held from 9 to 17 November and from 29 November to 1 December 1971, and it included a summary record of the views expressed during this discussion in the report which it submitted to the General Assembly on 10 December 1971.¹²

35. On 15 December 1971, on the recommendation of the Sixth Committee, the General Assembly adopted resolution 2818 (XXVI) by which it invited Member States and States parties to the Statute of the Court which had not yet been able to do so to transmit their comments to the Secretary-General by 1 July 1972; requested the Secretary-General to transmit those comments to the General Assembly at its twenty-seventh session; requested the Secretary-General to transmit to the Court the above-mentioned report together with the summary records of the discussions held in the Sixth Committee; invited the Court to submit its views on the matter if it so desired; expressed the hope that the Court would complete the revision of its Rules as soon as possible; and decided to include the question in the provisional agenda of its twenty-seventh session.

¹⁰ See report of the International Court of Justice 1970-1971 [*Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 5 (A/8405)*], paras. 27-31.

¹¹ *Official Records of the General Assembly, Twenty-sixth Session, agenda item 90, document A/8382 and Add.1-4.*

¹² *Ibid.*, *Twenty-sixth Session, Annexes, agenda item 90, document A/8568.*

B. PROPOSED AMENDMENTS TO THE STATUTE

36. On the proposal of the Court, the General Assembly had included in the agenda of its twenty-fourth session, and, subsequently, of its twenty-fifth session, an item entitled "Amendment to Article 22 of the Statute of the International Court of Justice (Seat of the Court) and consequential amendments to Articles 23 and 28". At the end of each of these sessions the Assembly decided, on the recommendation of the Sixth Committee, to postpone consideration of the item and requested the Secretary-General to include it in the provisional agenda of the following regular session.¹³

37. At its 1939th meeting, held on 25 September 1971, the General Assembly decided, on the recommendation of the General Committee, to postpone consideration of the question once more and requested the Secretary-General to include it in the provisional agenda of its twenty-seventh session.

C. REVISION OF THE RULES OF COURT

38. The Rules of Court adopted by the Court on 6 May 1946 (*I.C.J. Acts and Documents*, No. 1, 2nd ed., pp. 54-83) have remained in force unchanged ever since. The Court has nevertheless kept its procedure under constant review and from time to time considered the desirability of undertaking a comprehensive revision of its Rules. Such a revision was begun in 1967, when the Court set up a Committee of five of its Members to prepare appropriate proposals for submission to the Court; the composition of this Committee was modified in 1970.¹⁴

39. During the period under review the Committee met from 9 to 20 August 1971 and from 1 to 14

¹³ See reports of the International Court of Justice 1968-1969 [*Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 5 (A/7605) and Corr.1*], paras. 32 and 33, 1969-1970 [*Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 5 (A/8005)*], paras. 26-30, and 1970-1971 [*Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 5 (A/8405)*], paras. 32 and 33.

¹⁴ See reports of the International Court of Justice 1967-1968 [*Official Records of the General Assembly, Twenty-third Session, Supplement No. 17 (A/7217 and Corr.1)*], paras. 28-34, and 1970-1971 [*Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 5 (A/8405)*], paras. 34-35.

V. PUBLICATIONS AND DOCUMENTS OF THE COURT

43. The publications of the Court are distributed to the governments of all States entitled to appear before the Court and major law libraries throughout the world; in addition, the Court participates as appropriate in the system of depositary libraries of United Nations publications and in the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law. The sale of the Court's publications is organized by the Sales Section of the United Nations Secretariat, and they may be obtained throughout the world from any bookseller selling United Nations publications. Catalogues, with annual supplements, are distributed free of charge (latest edition: 1972).

44. The publications of the Court at present comprise three annual series, *Reports of Judgments*,

March 1972, and the Court resumed its discussions on 14 April 1972. Although the full revision of its Rules has not yet been completed, the Court adopted, on 10 May 1972, amendments to such articles as appeared to call for modification as a matter of priority with the aim of making its procedure as simple as possible, providing for greater flexibility, avoiding delays and simplifying both contentious and advisory proceedings, in so far as such improvements depend upon the Court. Of the 85 articles of the existing Rules, 18 will be amended or subdivided, while certain new articles are to be added. The new Rules of Court will thus comprise 91 articles, of which 23 will be new or amended texts.

40. The text of the Rules of Court as thus amended (*I.C.J. Acts and Documents* No. 2) was immediately transmitted to the States entitled to appear before the Court, the Secretary-General of the United Nations and the international organizations authorized to request advisory opinions of the Court. These Rules will come into force on 1 September 1972, but the present Rules will continue to apply to cases submitted before that date and to all phases of such cases.

41. The Court will continue its work on the further revision of its Rules.

D. CELEBRATION OF THE FIFTIETH ANNIVERSARY OF THE INSTITUTION OF THE INTERNATIONAL JUDICIAL SYSTEM

42. On 27 April 1972, in the presence of a distinguished gathering, including the Minister for Foreign Affairs and the Minister of Justice of the Netherlands, most of the Ambassadors or Chargés d'Affaires accredited to the Netherlands, the President of the European Court of Human Rights, the President of the Court of Justice of the European Communities, and members of the Permanent Court of Arbitration and of the International Law Commission, the Court held in the Peace Palace a special sitting to commemorate the fiftieth anniversary of the institution of the international judicial system. The President of the Court gave an address in which, having recalled that the Permanent Court of International Justice had held its inaugural sitting in the same Hall on 15 February 1922, he traced the evolution and spoke of the future prospects of international judicial settlement.

Advisory Opinions and Orders, a *Bibliography* of works and documents relating to the Court, and a *Yearbook*. The most recent volumes of the first two series appeared early in 1972 (*I.C.J. Reports 1971* and *I.C.J. Bibliography No. 25*) and the most recent volume in the third of the series referred to above (*I.C.J. Yearbook 1971-1972*) will be published simultaneously with the issue of the present report.

45. The Court also publishes a series entitled *Pleadings, Oral Arguments Documents*, which contains the documentation relating to each case submitted to it. The volumes in this series are published as soon as practicable after the end of each case. The two volumes of *Pleadings, Oral Arguments, Documents* appearing during the period under review related to the case concerning the *Legal Consequences for*

States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970). It should be noted that, even before the termination of a case, the Court may, after obtaining the views of the parties, make the pleadings and documents available on request to the government of any State entitled to appear before the Court. The Court may also, with the consent of the parties, make these documents accessible to the public.

46. The Court publishes its constitutional texts in a series entitled *Acts and Documents concerning the*

Organization of the Court. The Rules of Court as amended on 10 May 1972 have now appeared in this series (*I.C.J. Acts and Documents No. 2*).

47. The Court regularly sends out press communiqués, bulletins and background notes to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction.

(Signed) ZAFRULLA KHAN

President of the International Court of Justice
The Hague, 1 August 1972

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