

**REPORT
OF THE
INTERNATIONAL COURT
OF JUSTICE**

1 August 1980 - 31 July 1981

GENERAL ASSEMBLY

OFFICIAL RECORDS: THIRTY-SIXTH SESSION

SUPPLEMENT No. 4 (A/36/4)



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I. COMPOSITION OF THE COURT

1. The present composition of the Court is as follows: President Sir Humphrey Waldock; Vice-President T. O. Elias; Judges I. Forster, A. Gros, M. Lachs, P. D. Morozov, Nagendra Singh, J. M. Ruda, H. Mosler, S. Oda, R. Ago, A. El-Erian, J. Sette-Camara, A. El-Khani and S. Schwebel.

2. In accordance with Article 29 of the Statute, the Court forms annually a chamber of summary procedure. On 7 March 1981 this chamber was constituted as follows:

Members:

President Waldock; Vice-President Elias; Judges Morozov, Nagendra Singh and Oda.

Substitute Members:

Judges Sette-Camara and El-Khani.

3. The Court records with deep sorrow the death in office of Judge Baxter, on 25 September 1980, and Judge Tarazi, on 4 October 1980. On 15 January 1981 Mr. S. Schwebel and Mr. A. El-Khani, respectively, were elected to fill the resultant vacancies.

4. The Registrar of the Court is Mr. S. Torres Bernárdez and its Deputy-Registrar Mr. A. Pillepich.

II. JURISDICTION OF THE COURT

A. JURISDICTION OF THE COURT IN CONTENTIOUS CASES

5. On 31 July 1981 the 154 Member States of the United Nations, together with Liechtenstein, San Marino and Switzerland, were parties to the Statute of the Court.

6. On 1 August 1980 the Government of Barbados deposited with the Secretary-General a declaration of acceptance of the compulsory jurisdiction of the Court under Article 36, paragraph 2, of the Statute. On 23 January 1981 the Government of Malta deposited with the Secretary-General a further declaration, concerning certain categories of disputes.

7. There are thus now 47 States which recognize (a number of them with reservations) the jurisdiction of the Court as compulsory in accordance with declarations filed under Article 36, paragraph 2, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Canada, Colombia, Costa Rica, Democratic Kampuchea, Denmark, Dominican Republic, Egypt, El Salvador, Finland, Gambia, Haiti, Honduras, India, Israel, Japan, Kenya, Liberia, Liechtenstein, Luxembourg, Malawi, Malta, Mauritius, Mexico, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Philippines, Portugal, Somalia, Sudan, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. The texts of the declarations filed by those States appear in Chapter IV, Section II, of the *I.C.J. Yearbook 1980-1981*.

8. Since 1 August 1980, four treaties providing for the jurisdiction of the Court in contentious cases and registered with the Secretariat of the United Nations have been brought to the knowledge of the Court: the Convention of 1 June 1967 on Conduct of Fishing Operations in the North Atlantic, the Convention of 8 November 1968 on Road Signs and Signals, the Convention of 8 September 1969 on the Privileges and Im-

munities of the Agency for the Prohibition of Nuclear Weapons in Latin America, and the Convention of 5 October 1973 on the Grant of European Patents.

9. Lists of treaties and conventions in force which provide for the jurisdiction of the Court appear in Chapter IV, Section III, of the *I.C.J. Yearbook 1980-1981*. 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

10. In addition to the 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), the following organizations are at present authorized to request advisory opinions of the Court on legal questions:

- International Labour Organisation;
- Food and Agriculture Organization of the United Nations;
- 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;

World Intellectual Property Organization;
International Fund for Agricultural Development;
International Atomic Energy Agency.

11. The international instruments which make provision for the advisory jurisdiction of the Court are listed in Chapter IV, Section I, of the *I.C.J. Yearbook 1980-1981*.

III. JUDICIAL WORK OF THE COURT

12. During the period under review the Court held 12 public sittings and 32 private meetings. It delivered an Advisory Opinion in the case concerning *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*. It made an order in the contentious case concerning *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*. It delivered a judgment and made an order in the contentious case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

A. CONTINENTAL SHELF (TUNISIA/LIBYAN ARAB JAMAHIRIYA)

13. On 1 December 1978 the Government of Tunisia had notified to the Registrar of the Court a Special Agreement, drawn up in Arabic between Tunisia and the Libyan Arab Jamahiriya on 10 June 1977, which had come into force on the date of exchange of instruments of ratification, namely, 27 February 1978. A certified French translation of the Agreement had been attached.

14. The Special Agreement provided for the reference to the Court of a dispute between Tunisia and the Libyan Arab Jamahiriya concerning the delimitation of the continental shelf between them. *Inter alia*, it provided for a Memorial and a Counter-Memorial to be filed by each Party.

15. On 19 February 1979 the Government of the Libyan Arab Jamahiriya had likewise communicated to the Registry a copy in Arabic of the Special Agreement, together with a certified English translation.

16. Taking into account the agreement between the two States on the time-limits for the filing of the written pleadings, the Vice-President of the Court, by an Order of 20 February 1979, had fixed 30 May 1980 as the time-limit for the filing of a Memorial by each Party (*I.C.J. Reports 1979*, p. 3). The agents of the Parties had filed their respective Memorials within this time-limit and these had been communicated to the other Party at a meeting with the President.

17. On 3 June 1980 the President, having regard to Article 46, paragraph 1, of the Rules of Court and to the periods specified by the Parties in the Special Agreement, had made an Order fixing 1 December 1980 as the time-limit for the filing of a Counter-Memorial by Tunisia and 2 February 1981 as the time-limit for the filing of a Counter-Memorial by the Libyan Arab Jamahiriya (*I.C.J. Reports 1980*, p. 70). The agents of the Parties filed the Counter-Memorials within the respective time-limits prescribed in the Order and the two Counter-Memorials were then exchanged between the Parties at a meeting with the President.

18. Both States have appointed a judge *ad hoc* in accordance with Article 31 of the Statute of the Court.

The Libyan Arab Jamahiriya chose Mr. E. Jiménez de Aréchaga, and Tunisia Mr. J. Evensen.

19. On 30 January 1981 the Government of Malta filed an Application requesting permission to intervene under Article 62 of the Statute. Pursuant to Article 83 of the Rules of Court, the Government of Tunisia and the Government of the Libyan Arab Jamahiriya submitted written observations on this Application. Since objection had been made therein to Malta's application to intervene, the Court, under Article 84 of the Rules, held on 19-21 and 23 March public sittings at which it heard argument presented on behalf of Malta, the Libyan Arab Jamahiriya and Tunisia.

20. On 14 April the Court delivered at a public sitting a Judgment finding unanimously that Malta's request could not be granted (*I.C.J. Reports 1981*, p. 20). Judges Morozov, Oda and Schwebel appended separate opinions to the Judgment (*ibid.*, p. 22, pp. 23-34 and 35-40).

21. After the Court's decision on the Application by Malta for permission to intervene, the case continued its course. On 16 April 1981, both countries having indicated a wish to submit additional written pleadings as envisaged in the Special Agreement between them, the President made an order fixing 15 July 1981 as the time-limit for the filing of replies by Tunisia and the Libyan Arab Jamahiriya (*I.C.J. Reports 1981*, p. 42). The agents of the Parties filed their respective replies within the time-limit so fixed and the case has become ready for hearing. The oral proceedings are likely to start around mid-September.

B. UNITED STATES DIPLOMATIC AND CONSULAR STAFF IN TEHRAN (UNITED STATES OF AMERICA V. IRAN)

22. These proceedings, instituted on 29 November 1979, by the United States of America against Iran were the subject of a Judgment dated 24 May 1980 (*I.C.J. Reports*, p. 3) in which the Court, in response to a submission by the United States, had reserved its decision on the form and amount of the reparation due from the Islamic Republic of Iran. On 6 April and 1 May 1981 letters addressed to the Court on behalf of the United States Government made it clear that the United States, in consequence of the commitments entered into by it and Iran at Algiers on 19 January, desired that all currently pending proceedings before the Court relating to its claims for reparation be discontinued and the case be removed from the list. Those letters having been transmitted to Iran and no observations having been received from its Government, the President of the Court made an Order on 12 May 1981 where he placed on record the discontinuance of the proceedings in the case, following upon an agreement between the Parties, and directed that the case be removed from the list (*I.C.J. Reports 1981*, p. 45).

C. INTERPRETATION OF THE AGREEMENT OF
25 MARCH 1951 BETWEEN THE WHO AND EGYPT

23. On 20 May 1980 the Assembly of the World Health Organization had requested the Court to give an advisory opinion on the following questions:

"1. Are the negotiation and notice provisions of Section 37 of the Agreement of 25 March 1951 between the World Health Organization and Egypt applicable in the event that either Party to the agreement wishes to have the regional office transferred from the territory of Egypt?

"2. If so, what would be the legal responsibilities of both the World Health Organization and Egypt, with regard to the regional office in Alexandria, during the two-year period between notice and termination of the Agreement?"

24. The Director-General of the Organization, pursuant to Article 65, paragraph 2, of the Statute, had transmitted to the Court a dossier of documents likely to throw light upon these questions.

25. In accordance with Article 66, paragraph 2, of the Statute, the World Health Organization and the States Members of the WHO which are entitled to appear before the Court had been informed that the Court would be prepared to receive from them written or oral statements furnishing information on the questions submitted.

26. By an Order of 6 June 1980 the President of the Court had fixed 1 September 1980 as the time-limit for the submission of written statements (*I.C.J. Reports 1980*, p. 67). Written statements were received from the Governments of Bolivia, Egypt, Iraq, Jordan, Kuwait, the Syrian Arab Republic, the United Arab Emirates and the United States of America.

27. On 21, 22 and 23 October 1980 the Court held public sittings at which oral statements were made on behalf of Egypt, the Syrian Arab Republic, Tunisia, the United Arab Emirates and the United States of America, and the Director of the Legal Division of the WHO answered questions put to him by Members of the Court.

28. On 20 December 1980, at a public sitting, the Court delivered its Advisory Opinion (*I.C.J. Reports 1980*, p. 73), the operative part of which reads as follows:

"The Court,

"1. By twelve votes to one,

"Decides to comply with the request for an advisory opinion.

"In favour: President Sir Humphrey Waldock; Vice-President Elias; Judges Forster, Gros, Lachs, Nagendra Singh, Ruda, Mosler, Oda, Ago, El-Erian and Sette-Camara;

"Against: Judge Morozov;

"2. With regard to Question 1,

"By twelve votes to one,

"Is of the opinion that in the event specified in the request, the legal principles and rules, and the mutual obligations which they imply, regarding con-

sultation, negotiation and notice, applicable as between the World Health Organization and Egypt are those which have been set out in paragraph 49 of this Advisory Opinion and in particular that:

"(a) their mutual obligations under those legal principles and rules place a duty both upon the Organization and upon Egypt to consult together in good faith as to the question under what conditions and in accordance with what modalities a transfer of the Regional Office from Egypt may be effected;

"(b) in the event of its being finally decided that the Regional Office shall be transferred from Egypt, their mutual obligations of co-operation place a duty upon the Organization and Egypt to consult together and to negotiate regarding the various arrangements needed to effect the transfer from the existing to the new site in an orderly manner and with a minimum of prejudice to the work of the Organization and the interests of Egypt;

"(c) Their mutual obligations under those legal principles and rules place a duty upon the party which wishes to effect the transfer to give a reasonable period of notice to the other Party for the termination of the existing situation regarding the Regional Office at Alexandria, taking due account of all the practical arrangements needed to effect an orderly and equitable transfer of the Office to its new site;

"In favour: President Sir Humphrey Waldock; Vice-President Elias; Judges Forster, Gros, Lachs, Nagendra Singh, Ruda, Mosler, Oda, Ago, El-Erian and Sette-Camara;

"Against: Judge Morozov;

"3. With regard to Question 2,

"By eleven votes to two,

"Is of the opinion that, in the event of a decision that the Regional Office shall be transferred from Egypt, the legal responsibilities of the World Health Organization and Egypt during the transitional period between the notification of the proposed transfer of the Office and the accomplishment thereof are to fulfil in good faith the mutual obligations which the Court has set out in answering Question 1;

"In favour: President Sir Humphrey Waldock; Vice-President Elias; Judges Forster, Gros, Nagendra Singh, Ruda, Mosler, Oda, Ago, El-Erian and Sette-Camara;

"Against: Judges Lachs and Morozov."

Judges Gros, Lachs, Ruda, Mosler, Oda, Ago, El-Erian and Sette-Camara appended separate opinions to the Advisory Opinion (*ibid.*, pp. 99-189). Judge Morozov appended a dissenting opinion (*ibid.*, pp. 190-197).

D. APPLICATION FOR REVIEW OF JUDGEMENT NO. 273
OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL

29. On 28 July 1981 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. 273 delivered by the Administrative Tribunal of the United Nations in Geneva on 15 May, in the case

of *Mortished v. the Secretary-General*. It was by virtue of Article 11 of the Statute of the Administrative Tribunal that the Committee decided on 13 July 1981, at the request of the United States Government, to seek an advisory opinion of the Court.

30. By an Order of 6 August 1981 the President of the Court has fixed 30 October 1981 as the time-limit for the submission of written statements by the United Nations and its Member States in accordance with Article 66, paragraph 2, of the Statute of the Court.

IV. ADMINISTRATIVE QUESTIONS

31. The Registry is pursuing, at the direction of the President and under the supervision of the Rules Committee, a full analytical study of the Court's past practice in regard to the application of its Statute and Rules, in order to provide a systematic account. The Court is assisted in its work by several committees: the Budgetary and Administrative Committee, composed

of the President, the Vice-President, Judges Gros, Lachs and Ruda; the Rules Committee, composed of Judges Lachs, Morozov, Mosler, Ago and El-Erian; the Committee on Relations, composed of Judges Morozov, Oda and Sette-Camara; the Library Committee, composed of Judges Ruda, Mosler, Oda and Schwebel.

V. PUBLICATIONS AND DOCUMENTS OF THE COURT

32. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court and the major law libraries of the world. The sale of the Court's publications is organized by the Sales Sections of the United Nations Secretariat, which are in touch with specialized booksellers and distributors throughout the world. A catalogue (latest edition: 1981) is, with its annual addenda, distributed free of charge. The question of ensuring easier and speedier availability of the Court's publications throughout the world is receiving the particular attention of the Registry.

33. The publications of the Court include three annual series: *Reports of Judgments, Advisory Opinions and Orders*, a *Bibliography* of works and documents relating to the Court, and a *Yearbook*. The most recent publications in the first two series are *I.C.J. Reports 1980* and *I.C.J. Bibliography No. 33*.

34. The documentation of each case is published by the Court after the end of the proceedings, under the title *Pleadings, Oral Arguments, Documents*. However, even before the termination of a case, the Court

may, after ascertaining 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, after ascertaining the views of the Parties, make them accessible to the public on or after the opening of the oral proceedings.

35. The Court distributes press communiqués, background notes and a handbook to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The handbook has so far been published in English, French, Spanish and German editions.

36. More comprehensive information on the work of the Court during the period under review is contained in the *I.C.J. Yearbook 1980-1981*, published concurrently with the issue of the present report.

(Signed) Humphrey WALDOCK
President of the International Court of Justice

The Hague, 1 August 1981

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