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## 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-second 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 2014.

Chapter VIII contains decisions given in 2014 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

|              |  |
|--------------|--|
| ABCC         | Advisory Board on Compensation Claims (United Nations)                         |
| AJAB         | Advisory Joint Appeals Board (ICAO)  |
| 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            |
| CCLM         | Committee on Constitutional and Legal Matters (FAO)                            |
| 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                                    |
| DPKO         | Department of Peacekeeping Operations (United Nations)                         |
| DPI          | Department of Public Information (United Nations)                              |
| EBRD         | European Bank for Reconstruction and Development                               |
| ECOWAS       | Economic Community of West African States                                      |
| EU           | European Union   |
| EUFOR RCA    | European Union Force in the Central African Republic                           |
| EUFOR ALTHEA | European Union Force ALTHEA  |
| FAO          | Food and Agriculture Organization of the United Nations                        |
| HLTF         | United Nations System High-Level Task Force on Global Food Security            |
| 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   |
| ICTR         | International Criminal Tribunal for Rwanda                                     |
| ICTY         | International Criminal Tribunal for the former Yugoslavia                      |
| IFAD         | International Fund for Agricultural Development                                |

|          |  |
|----------|--|
| IGAD     | Intergovernmental Authority on Development   |
| IGO      | Intergovernmental organization   |
| ILC      | International Law Commission   |
| ILO      | International Labour Organization  |
| IMF      | International Monetary Fund  |
| IMO      | International Maritime Organization  |
| 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   |
| JBVMM    | Joint Border Verification and Monitoring Mission (UNISFA)                                    |
| MENUB    | United Nations Electoral Observation Mission in Burundi                                      |
| MEU      | Management Evaluation Unit (United Nations)  |
| MINURSO  | United Nations Mission for the Referendum in Western Sahara                                  |
| MINUSMA  | United Nations Multidimensional Integrated Stabilization Mission in Mali                     |
| MINUSCA  | United Nations Multidimensional Integrated Stabilization Mission in Central African Republic |
| 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  |
| OAU      | Organization of African Unity  |
| OCHA     | Office for the Coordination of Humanitarian Affairs  |
| 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)  |
| UNAKRT   | United Nations Assistance to the Khmer Rouge Trials  |



|            |  |
|------------|--|
| 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   |
| UNDOF      | United Nations Disengagement Observer Force  |
| UNDP       | United Nations Development Programme   |
| UNDT       | United Nations Dispute Tribunal  |
| UNECA      | United Nations Economic Commission for Africa  |
| UNECE      | United Nations Economic Commission for Europe  |
| UNEP       | United Nations Environment Programme   |
| UNESCO     | United Nations Educational, Scientific and Cultural Organization   |
| UNFCC      | United Nations Framework Convention on Climate Change  |
| UNFICYP    | United Nations Peacekeeping Force in Cyprus  |
| UNFPA      | United Nations Population Fund   |
| UN Habitat | United Nations Human Settlements Programme   |
| UNHAS      | United Nations Humanitarian Air Service  |
| UNHCR      | Office of the United Nations High Commissioner for Refugees  |
| UNICEF     | United Nations Children's Fund   |
| UNIDO      | United Nations Industrial Development Organization   |
| UNIDROIT   | International Institute for the Unification of Private Law   |
| 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   |
| 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 |
| UNLP       | United Nations Laissez-Passer  |
| UNMEER     | United Nations Mission for Ebola Emergency Response  |
| UNMIK      | United Nations Interim Administration Mission in Kosovo  |
| UNMIL      | United Nations Mission in Liberia  |
| UNMISS     | United Nations Mission in the Republic of South Sudan  |
| UNMOGIP    | United Nations Military Observer Group in India and Pakistan   |

|          |  |
|----------|--|
| UNOAU    | United Nations Office to the African Union   |
| UNOCA    | United Nations Regional Office for Central Africa                                  |
| UNOCI    | United Nations Operation in Côte d'Ivoire  |
| UNODC    | United Nations Office on Drugs and Crime   |
| UNON     | United Nations Office at Nairobi   |
| UNOWA    | United Nations Office for West Africa  |
| 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                 |
| UNRWA    | United Nations Relief and Works Agency for Palestine Refugees in the Near East     |
| 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  |
| UNSOA    | United Nations Support Office for AMISOM   |
| UNSOM    | United Nations Assistance Mission in Somalia                                       |
| UNSU     | United Nations Staff Union   |
| UNTSO    | United Nations Truce Supervision Organization                                      |
| UNU      | United Nations University  |
| UN-Women | United Nations Entity for Gender Equality and the Empowerment of Women             |
| UNWTO    | United Nations World Tourism Organization  |
| UPU      | Universal Postal Union   |
| 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

#### QATAR

#### **Decree No. 34 (2014) approving accession to the 1947 Convention on the Privileges and Immunities of the Specialized Agencies (34/2014)\***

[...]

##### *Article 1*

The accession by the State of Qatar to the 1947 Convention on the Privileges and Immunities of the Specialized Agencies, the text of which is annexed to this Decree, is hereby approved, in accordance with article 68 of the Constitution, with reservations to article VII, section 24, and article IX, section 32 of the Convention, as indicated in the aforementioned instrument of accession.

##### *Article 2*

All concerned parties shall implement this Decree in their respective areas of competence. It shall enter into force from the date of issuance and shall be published in the Official Gazette.

[Signed]

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\* Translation from the original in Arabic. See also chapter II.B.



## 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\*\*

In 2014, no States acceded to the Convention. As at 31 December 2014, there were 160 States parties to the Convention.\*\*\*

##### 2. Agreements relating to missions, offices and meetings

###### (a) Agreement between the Organisation for the Prohibition of Chemical Weapons (OPCW), the United Nations and the Government of the Syrian Arab Republic concerning the status of the Joint OPCW–United Nations Mission for the Elimination of Syrian Chemical Weapons. Damascus, 5 February 2014\*\*\*\*

Without prejudice to the sovereignty of the Syrian Arab Republic;

Further to the proposals made by the Organisation for the Prohibition of Chemical Weapons (hereinafter “the OPCW”) and the United Nations in their letters of 16 October 2013, 13 November 2013, 10 January 2014 and 23 January 2014;

And in order to ensure the timely, safe and secure conduct of the mandate set out in decision EC-M-33/DEC.1 of the Executive Council of the OPCW, dated 27 September 2013, and United Nations Security Council resolution 2118 (2013), adopted on 27 September 2013, and any subsequent decision or resolution of the relevant organs of the OPCW or

---

\* 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 States parties to the Convention, see *Multilateral Treaties Deposited with the Secretary-General*, available on the website <http://treaties.un.org>.

\*\*\*\* Entered into force provisionally on 5 February 2014 by signature and definitively on 7 April 2014, in accordance with the provisions of article 59.

the United Nations relevant to, and relating specifically to, the elimination of the Syrian chemical weapons programme;

Noting that the foregoing constitutes an integral part of this Agreement;

The OPCW, the United Nations and the Syrian Arab Republic (hereinafter “the Parties”) have agreed on the following:

#### I. DEFINITIONS AND COMPOSITION

1. For the purpose of the present Agreement the following definitions shall apply:

(a) “Joint Mission” means the Joint OPCW–United Nations Mission established by the Director-General of the OPCW and the Secretary-General of the United Nations to implement OPCW Executive Council decision EC-M-33/DEC.1, dated 27 September 2013, and United Nations Security Council resolution 2118 (2013), adopted on 27 September 2013, and any subsequent decision or resolution of the relevant organs of the OPCW or the United Nations relevant to, and relating specifically to, the elimination of the Syrian chemical weapons programme. Subject to the normal liquidations period and subject to the completion of Syria’s obligations under the aforementioned decisions and resolutions within the first half of 2014, all Joint Mission personnel and assets should be out of the Syrian Arab Republic three months following completion of its mandate. All references to the “Joint Mission” shall be understood to include the following integral parts thereof.

- (i) The “Special Coordinator” appointed by the Secretary-General of the United Nations, in consultation with the Director-General of the OPCW. Any reference to the Special Coordinator in this Agreement shall, except in paragraph 26 below, include any member of the Joint Mission to whom he or she delegates a specified function or authority. It shall also include, including in paragraph 26 below, any member of the Joint Mission whom the Secretary-General of the United Nations may designate as acting Special Coordinator, successor or designated assign, in the event of the death, resignation or incapacity of the Special Coordinator.
- (ii) An “OPCW Component” consisting of the OPCW officials and of other persons assigned by the Director-General of the OPCW to carry out the activities under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (hereinafter the “Chemical Weapons Convention”), and as provided in OPCW Executive Council Decision EC-M-33/DEC.1 and United Nations Security Council resolution 2118 (2013);
- (iii) A “UN Component” consisting of United Nations officials and of other persons assigned by the Secretary-General of the United Nations to serve with the Joint Mission or assist the Special Coordinator.

The Joint Mission may act through either: (i) the UN Component; (ii) the OPCW Component or (iii) jointly through the Special Coordinator and/or both Components and shall include personnel, services, equipment, provisions, supplies, materials or other goods, including spare parts and means of transport, including vehicles, aircraft and vessels provided by contributing States or organizations to the Joint Mission or for the Joint Mission;



(b) A “member of the Joint Mission” means the Special Coordinator and any member of the OPCW or UN Components of the Joint Mission;

(c) “The Government” means the Government of the Syrian Arab Republic;

(d) “The territory” means the territory of the Syrian Arab Republic;

(e) A “contributing State or organization” means a Member State of the United Nations which is a State Party to the Chemical Weapons Convention or an organization providing personnel, equipment, services, provisions, supplies, materials or other goods, including spare parts and means of transport, including vehicles, aircraft and vessels, to the Joint Mission or for the Joint Mission;

(f) “The Chemical Weapons Convention” means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, adopted on 3 September 1992, to which the Syrian Arab Republic is a Party;

(g) “The UN General Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which the Syrian Arab Republic is a Party;

(h) “Contractors” means persons, other than members of the Joint Mission, engaged by the United Nations or the OPCW, including juridical as well as natural persons and their employees and subcontractors, to perform services for the United Nations, the OPCW or the Joint Mission and/or to supply equipment, provisions, supplies, materials or other goods, including spare parts and means of transport, in support of the activities of the Joint Mission. Such contractors shall not be considered third party beneficiaries to this Agreement;

(i) “Vehicles” means civilian and military vehicles in use by the United Nations or the OPCW and operated by members of the Joint Mission, contributing States or contractors in support of OPCW or United Nations activities;

(j) “Aircraft” means civilian and military aircraft in use by the United Nations or OPCW and operated by members of the Joint Mission, contributing States or contractors in support of Joint Mission activities;

(k) “Vessels” means civilian and military vessels in use by the United Nations or OPCW and operated by members of the Joint Mission, contributing States or contractors in support of Joint Mission activities.

## II. APPLICATION OF THE PRESENT AGREEMENT

2. Unless specifically provided otherwise, the provisions of the present Agreement and any obligation undertaken by the Government and any privilege, immunity, facility or concession granted to the Joint Mission or to any member thereof or to contractors thereunder shall apply in the Syrian Arab Republic only.

## III. APPLICATION OF THE UN GENERAL CONVENTION

3. The Joint Mission, its property, funds and assets, and its members shall enjoy the privileges and immunities specified in the present Agreement, as well as those provided for in the UN General Convention without prejudice to any privileges and immunities that may be conferred to the OPCW Component under the Chemical Weapons Convention.

4. Article II of the UN General Convention shall apply to the Joint Mission and to the property, funds and assets of contributing States used in connection with the Joint Mission and its OPCW and UN Components.

#### IV. STATUS OF THE JOINT MISSION

5. The Joint Mission shall enjoy such status and such privileges and immunities as are necessary to ensure the independent exercise of its activities and the fulfilment of its purposes. The Joint Mission and its members shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of the present Agreement. The Joint Mission and its members shall respect all local laws and regulations. The Special Coordinator and the Heads of the OPCW and UN Components shall take all appropriate measures to ensure the observance of those obligations.

6. The Government undertakes to respect the exclusively international nature of the Joint Mission, including the OPCW and UN Components thereof.

#### *Flags, markings and identification*

7. The Government recognizes the right of the United Nations and the OPCW to display within the Syrian Arab Republic the United Nations and OPCW flags on the headquarters of the Joint Mission, its camps and its other premises and on vehicles, aircraft vessels and otherwise as decided by the Special Coordinator. Other flags or pennants may be displayed only in exceptional cases. In such cases, the Joint Mission shall give sympathetic consideration to observations or requests of the Government.

8. Vehicles, aircraft and vessels of the Joint Mission shall carry a distinctive United Nations and/or OPCW identification, which shall be notified to the Government.

#### *Communications*

9. In addition to the privileges and immunities enjoyed by the UN and the OPCW respectively under the UN General Convention and the Chemical Weapons Convention, the Joint Mission shall enjoy in the territory for its official communications treatment not less favourable than that accorded by the Government of the Syrian Arab Republic to any other government including its diplomatic mission in the matter of priorities, rates and taxes on its communications by mail, telephone, electronic mail, facsimile, radio, satellite or other means of communication and press rates for information to the media, including press and radio. No censorship shall be applied to the official correspondence and other official communications of the Joint Mission. All communications directed to the Joint Mission and all outward communications of the Joint Mission, by whatever means or whatever form transmitted, shall be unrestricted and inviolable. The Joint Mission shall have the right to use codes and to dispatch and receive its correspondence and other official communications by courier or in bags, in prior coordination with the Government, which shall have the same immunities and privileges as diplomatic couriers and bags.

10. Subject to the provisions of paragraph 9:

(a) The Joint Mission shall have the right to establish, install and operate United Nations radio stations under its exclusive control to disseminate information

relating to its mandate to, and promote understanding of its role among, the public in the Syrian Arab Republic. Programmes broadcast on such stations shall be under the exclusive editorial control of the Joint Mission and shall not be subject to any form of censorship. The Joint Mission shall make the broadcast signal of such stations available to the Syrian national broadcaster upon request to further dissemination through the Syrian national broadcasting system. Such United Nations radio stations shall be operated in accordance with the International Telecommunication Convention and Regulations. The frequencies on which such stations may operate shall be decided upon in prior coordination with the Government. If no decision has been reached five (5) working days after the matter has been raised by the Special Coordinator with the Government, the Government shall immediately allocate suitable frequencies for use by such stations. The Joint Mission shall be exempt from any taxes on and fees for the allocation of frequencies for use by such stations, as well as from any taxes on or fees for their use.

(b) The Joint Mission shall have the right to disseminate to the public in the Syrian Arab Republic and to the public abroad information relating to its mandate and its role through electronic media, including websites, social media, webcasts, data feeds and on-line and messaging services. The content of data disseminated through such media shall be under the exclusive editorial control of the Joint Mission and shall not be subject to any form of censorship. The Joint Mission shall be exempt from any prohibitions or restrictions regarding the production and dissemination of such data, including any requirement that permits be obtained or issued for such purposes.

(c) The Joint Mission shall have the right to disseminate to the public in the Syrian Arab Republic information relating to its mandate and its role through official printed documents and publications, which the OPCW or the United Nations may produce themselves or through private publishing companies in the Syrian Arab Republic. The content of such documents and publications shall be under the exclusive editorial control of the OPCW and/or the United Nations and shall not be subject to any form of censorship. The Joint Mission shall be exempt from any prohibitions or restrictions regarding the production or the publication or dissemination of such official documents and publications, including any requirement that permits be obtained or issued for such purposes. This exemption shall also apply to private publishing companies in the Syrian Arab Republic which the OPCW and/or the United Nations may use for the production, publication or dissemination of such materials or publications.

(d) The Joint Mission shall have the right to install and operate radio sending, receiving and repeater stations, as well as satellites systems, in order to connect appropriate points within the territory of the Syrian Arab Republic with each other and with OPCW and United Nations offices in other countries, and to exchange telephone, voice, facsimile and other electronic data with the OPCW and United Nations global telecommunication networks. Such telecommunication services shall be operated in accordance with the International Telecommunication Convention and Regulations. The frequencies on which such services may operate shall be decided upon in cooperation with the Government. If no decision has been reached five (5) working days after the matter has been raised by the Special Coordinator with the Government, the Government shall immediately allocate suitable frequencies to the Joint Mission for this purpose. The Joint Mission shall be exempt from any taxes on, and fees for, the allocation of frequencies for this purpose, as well as from any and all taxes on, and from any and all fees for, their use.

(e) The Joint Mission shall enjoy, within the territory of the Syrian Arab Republic, the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, electronic mail, facsimile or any other means, and of establishing the necessary facilities for maintaining such communications within and between premises of the Joint Mission or of the OPCW and United Nations respectively, including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The sites on which sending, receiving and repeater stations may be erected (if not on the afore-mentioned premises) shall be decided upon in cooperation with the Government and shall be allocated expeditiously. The Government shall, within five (5) working days of being so requested by the Special Coordinator, allocate suitable frequencies for this purpose. The Joint Mission shall be exempt from any taxes on and fees for their use. Connections with the local telephone and electronic data systems may be made only after consultation and in accordance with arrangements made with the Government. Use of those local systems shall be charged at the most favourable rate.

(f) The Joint Mission may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of the Joint Mission. The Government shall be informed of the nature of such arrangements and shall not interfere with or apply censorship to the mail of the Joint Mission, its Components or its members. In the event that postal arrangements applying to private mail of members of the Joint Mission are extended to transfers of currency or the transport of packages and parcels, the conditions under which such operations are conducted shall be agreed with the Government.

#### *Travel and transport*

11. The Joint Mission, its members and contractors, together with their property, equipment, provisions, supplies, fuel, materials and other goods, including spare parts, as well as vehicles, aircraft and vessels, including the vehicles, aircraft and vessels of contractors used exclusively in the performance of services for the Joint Mission, shall enjoy full and unrestricted freedom of movement without delay throughout the Syrian Arab Republic by the most direct route possible, without the need for travel permits or prior authorization or notification, except in the case of movements by air, which will be governed by paragraph 11(b) below.

(a) This freedom of movement shall, with respect to large movements of personnel, stores, vehicles, vessels or aircraft through airports or on railways or roads used for general traffic or navigable waterways within the Syrian Arab Republic, be coordinated with the Government to the extent possible.

(b) Not later than five (5) working days after this Agreement enters into force, the Government shall inform the Special Coordinator of the standing diplomatic clearance number for the aircraft of the Joint Mission, including aircraft of contractors used exclusively in the performance of services for the Joint Mission. When using its own aircraft, including aircraft of contractors used exclusively in the performance of services for the Joint Mission, the Joint Mission shall provide the Government with a flight plan prior to entering the airspace of the Syrian Arab Republic, in accordance with applicable international standards, and the Government shall ensure that the above-mentioned flight plan is approved not less than three (3) hours before the scheduled departure of the Joint Mission

from the last airfield prior to entering the airspace of the Syrian Arab Republic, unless the Joint Mission has given less than three (3) hours notice of its flight's departure.

12. The Government shall, where necessary, provide the Joint Mission with maps and other information, including maps of and information on the location of minefields and other dangers and impediments, which may be useful in facilitating the Joint Mission's movements and ensuring the safety and security of its members and contractors.

13. The Joint Mission's vehicles, aircraft and vessels, including vehicles, aircraft and vessels of contractors used exclusively in the performance of services for the Joint Mission, shall not be subject to registration or licensing by the Government, it being understood that all vehicles, aircraft and vessels shall carry third party insurance. The Joint Mission shall provide the Government, from time to time, with updated lists of the Joint Mission's vehicles, aircraft and vessels. Upon request, the Government shall provide parking, servicing and fuel as required by the Joint Mission for its vehicles, aircraft and vessels, including vehicles, aircraft and vessels of contractors used exclusively in the performance of services for the Joint Mission. Without prejudice to paragraph 14 below, the Joint Mission shall bear the cost of such fuel and services, if any.

14. The Joint Mission and its members and contractors, together with vehicles, aircraft and vessels, including vehicles, aircraft and vessels of contractors used exclusively in the performance of services for the Joint Mission, may use roads, bridges, canals and other waterways, port facilities, airfields and airspace without the payment of any form of monetary contributions, dues, tolls, user fees, including airport taxes, landing fees, parking fees and overflight fees, or port fees or charges, including wharfage and pilotage charges. However, the Joint Mission and its contractors will not claim exemption from charges which are in fact charges for services rendered, it being understood that such charges shall be charged at the most favourable rates.

#### *Privileges and immunities granted to the Joint Mission*

15. The Joint Mission shall enjoy such status and such privileges and immunities as are necessary to ensure the independent exercise of its activities and the fulfilment of its purposes. As provided for in paragraph 4 of the present Agreement, the Joint Mission, its property, funds and assets, wherever located and by whomsoever held, and its members shall enjoy the privileges and immunities specified in the present Agreement, as well as those defined in the UN General Convention without prejudice to any privileges and immunities that may be conferred to the OPCW Component under the Chemical Weapons Convention. Its Contractors shall enjoy the facilities provided for in this Agreement. The Government recognizes in particular:

(a) The inviolability and immunity from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action, of the premises, property and assets of the Joint Mission, including, subject to the provisions of the Chemical Weapons Convention, the equipment and samples carried by the Joint Mission members and any information generated, received, stored or processed by the Joint Mission;

(b) The Joint Mission, including its Components may, free of any duty, taxes, fees and charges and free of other prohibitions and restrictions, transfer funds and currencies

to or from the Syrian Arab Republic, to or from any other State, or within the Syrian Arab Republic, and convert any currency held by it into any other currency;

(c) The right of the Joint Mission, as well as of its contractors, to import, by the most convenient and direct route by land, sea, air or waterway, free of duty, taxes, fees and charges and free of other prohibitions and restrictions, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, which are for the exclusive and official use of the Joint Mission. For this purpose, the Government agrees to expeditiously establish, at the request of the Joint Mission, temporary customs clearance facilities for the Joint Mission, and its contractors at locations in the Syrian Arab Republic convenient for the Joint Mission not previously designated as official ports and points of entry to the Syrian Arab Republic;

(d) The right of the Joint Mission as well as of its contractors, to clear ex customs and excise warehouse, free of duty, taxes and fees and free of other prohibitions and restrictions, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, which are for the exclusive and official use of the Joint Mission;

(e) The right of the Joint Mission, as well as of its contractors, to re-export or otherwise dispose of all items of property and equipment, including spare parts and means of transport, as far as they are still usable, and all unconsumed provisions, supplies, materials, fuel and other goods so imported or cleared ex customs and excise warehouse which are not transferred, or otherwise disposed of, on terms and conditions to be agreed upon, to the competent local authorities to the Syrian Arab Republic or to an entity nominated by them.

To the end that such importation, clearances, transfer or exportation may be effected with the least possible delay, mutually satisfactory procedures, including documentation, shall be agreed between the Joint Mission and the Government at the earliest possible date.

#### V. FACILITIES FOR THE JOINT MISSION AND ITS CONTRACTORS

##### *Premises required for conducting the operational and administrative activities of the Joint Mission*

16. The Government shall provide, without cost to the Joint Mission, in agreement with the Special Coordinator, the Head of the OPCW Component and/or the Head of the United Nations Component and for as long as may be required, such areas for headquarters, camps, working space, including equipment storage space, lodging, or other premises as may be necessary for the conduct of the operational and administrative activities of the Joint Mission, including the establishment of the necessary facilities for maintaining communications in accordance with paragraph 10 of the present Agreement and for target practice. Without prejudice to the fact that all such premises remain territory of the Syrian Arab Republic, they shall be inviolable and subject to the exclusive control and authority of the United Nations and the OPCW acting individually or through the Joint Mission. The Government shall guarantee unimpeded access to such premises.

17. The Government undertakes to assist the Joint Mission, in obtaining and by making available, where applicable, water, sewerage, electricity and other utilities free of charge, or, where this is not possible, at the most favourable rate, and free of duties, fees and taxes, including value-added tax. Where such utilities and facilities are not provided



free of charge, payment shall be made by the Joint Mission on terms to be agreed with the competent authority. The Joint Mission shall be responsible for the maintenance and upkeep of facilities so provided. In the event of interruption or threatened interruption of service, the Government undertakes to give, as far as within its powers, the same priority to the needs of the Joint Mission as to essential government services.

18. The Joint Mission, shall have the right, where necessary, to generate, within its premises, electricity for its use and to transmit and distribute such electricity. It shall also have the right, where necessary, to construct water wells and waste water treatment systems within its premises for its own use in coordination with the Government.

19. Any government official or any other person seeking entry to the Joint Mission premises shall seek and obtain the prior permission of the Special Coordinator or a member of the Joint Mission with delegated authority therefrom who alone may grant that permission. Entry into the Joint Mission premises shall be subject to the applicable security, safety and confidentiality rules and procedures of the Joint Mission.

*Provisions, supplies and services, and sanitary arrangements*

20. The Government shall grant promptly all necessary authorizations, permits and licenses required for the import of equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, used in support of the Joint Mission, including in respect of import by contractors, free of any prohibitions and restrictions and without the payment of monetary contributions or duties, fees or taxes, including value-added tax. The Government likewise agrees to grant promptly all necessary authorizations, permits and licenses required for the purchase or export of such goods, including in respect of purchase or export by contractors, free of any prohibitions and restrictions without the payment of monetary contributions, duties, fees, charges or taxes.

21. The Government shall assist the Joint Mission, to the extent possible, in obtaining equipment, provisions, supplies, fuel, materials and other goods and services, from local sources required for its subsistence and operations. In respect of equipment, provisions, supplies, fuel, materials and other goods and services purchased locally by the Joint Mission or by contractors for the official and exclusive use of the Joint Mission, the Government shall make appropriate administrative arrangements for the remission of any excise, tax or monetary contribution payable as part of the price. The Government shall exempt the Joint Mission and contractors from general sales taxes in respect of all local purchases for official use. In making purchases on the local market, the Joint Mission shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy.

22. For the proper performance of the services provided by contractors, other than Syrian nationals resident in the Syrian Arab Republic, in support of the Joint Mission, the Government agrees to provide such contractors with facilities for their entry into and departure from the Syrian Arab Republic, without delay or hindrance, as well as for their repatriation in times of crisis. For this purpose, the Government shall promptly issue to contractors, free of charge and without any restrictions and within four (4) working days of application, all necessary visas, permits, registrations and licenses. Contractors, other than Syrian nationals resident in the Syrian Arab Republic, shall be accorded exemption from taxes and monetary contributions in the Syrian Arab Republic on services, equipment,

provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, provided to the Joint Mission, including corporate, income, social security and other similar taxes arising directly from or related directly to the provision of such services or goods.

23. The Joint Mission and the Government shall cooperate with respect to the sanitary services and shall extend to each other their fullest cooperation in matters concerning health, particularly with respect to the control of communicable diseases, in accordance with international conventions. In particular, the Government shall provide the Joint Mission with full information on the specific health and safety hazards prevailing in the territory and the likely risks associated with those hazards.

#### *Recruitment of local personnel*

24. The Joint Mission may recruit locally such personnel as it requires. Upon the request of the Special Coordinator, the Head of the OPCW Component and/or the Head of the UN Component, the Government undertakes to facilitate the recruitment of qualified local staff by the Joint Mission and to accelerate the process of such recruitment.

#### *Currency*

25. The Government undertakes to make available to the Joint Mission, against reimbursement in a mutually acceptable currency, local currency required for the use of the Joint Mission, including the pay and emoluments of its members, at the rate of exchange most favourable to the Joint Mission.

### VI. STATUS OF THE MEMBERS OF THE JOINT MISSION

#### *Privileges and immunities*

26. The Special Coordinator, the Head of the OPCW Component and the Head of the UN Component and such high-ranking members of the Special Coordinator's staff as may be agreed upon with the Government shall have the status specified in Sections 19 and 27 of the UN General Convention, provided that the privileges and immunities referred to therein shall be those accorded to diplomatic envoys by international law, in addition to any privileges and immunities that the OPCW Component may otherwise enjoy pursuant to the Chemical Weapons Convention and any agreements concluded pursuant to paragraph 50 of article VIII of the Chemical Weapons Convention.

27. Officials of the United Nations assigned to the United Nations Component to serve with the Joint Mission shall remain officials of the United Nations entitled to the privileges and immunities of articles V and VII of the UN General Convention. In addition to their privileges and immunities under Part II of the Verification Annex of the Chemical Weapons Convention, the Officials assigned to the OPCW Component to serve with the Joint Mission, shall enjoy the privileges and immunities set out in Sections 18, 24 and 25 of the UN General Convention.

28. Without prejudice to the privileges and immunities that they may otherwise enjoy under Part II of the Verification Annex of the Chemical Weapons Convention, the experts of the OPCW assigned to the OPCW Component to serve with the Joint Mission, and other persons and experts, engaged by the Joint Mission, other than United Nations



officials, whose names are for that purpose notified to the Government by the Special Coordinator shall be considered as experts on mission within the meaning of article VI of the UN General Convention and shall enjoy the privileges, immunities, exemptions and facilities set out in that article and in article VII of the UN General Convention.

29. Locally recruited personnel of the Joint Mission shall enjoy the immunities concerning official acts, the exemption from taxation and the immunity from national service obligations provided for in Sections 18(a), (b) and (c) of the UN General Convention. It is understood that locally recruited personnel are only exempt from national service obligations for the period of their service with the Joint Mission and can, therefore, fulfil their national service obligations after they have completed their service with the Joint Mission.

30. Members of the Joint Mission shall be exempt from taxation in respect of salaries and emoluments paid to them by the OPCW or the United Nations or from a contributing State and any income received from outside the Syrian Arab Republic. They shall also be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

31. Members of the Joint Mission shall have the right to import free of any customs duties or related charges their personal effects in connection with their arrival in the Syrian Arab Republic required by them by reason of their presence in the Syrian Arab Republic with the Joint Mission. Special facilities shall be granted by the Government for the speedy processing of entry and exit for the Syrian Arab Republic for all members of the Joint Mission upon prior written notification by, and in coordination with, the Special Coordinator, the Head of the United Nations Component or the OPCW Component, the United Nations Secretariat or the OPCW Technical Secretariat. On departure from the Syrian Arab Republic, members of the Joint Mission may take with them such funds that were received by them in pay and emoluments from the OPCW or the United Nations, any unspent funds that the members of the Mission have brought into the Syrian Arab Republic in connection with the conduct of activities for the Joint Mission, or any funds from a contributing State and are a reasonable residue thereof.

#### *Entry and departure*

32. The Special Coordinator and members of the Joint Mission shall, whenever so required, have the right to enter into and depart from the Syrian Arab Republic.

33. The Government undertakes to facilitate the entry into and departure from the Syrian Arab Republic, without delay or hindrance, of the Special Coordinator and members of the Joint Mission and shall be kept informed of such movement. For that purpose, the Special Coordinator and members of the Joint Mission shall be exempt from passport and visa regulations and immigration inspection and restrictions, as well as from payment of any fees or charges on entering into or departing from the Syrian Arab Republic.

34. For the purpose of such entry or departure, members of the Joint Mission shall only be required to have: (a) an individual or collective movement order issued by, or under the authority of, the Secretary-General of the United Nations, the Director-General of the OPCW, the Special Coordinator; and (b) a personal identity card issued in accordance with paragraph 35 of the present Agreement, except in the case of first entry, when the United Nations *laissez-passer*, national passport, or personal identity card issued by the OPCW or the United Nations shall be accepted in lieu of the said identity card.

*Identification*

35. The Special Coordinator shall issue to each member of the Joint Mission before or as soon as possible after such member's first entry into the Syrian Arab Republic, as well as to all locally recruited personnel and contractors, a numbered identity card, showing the bearer's name and photograph. Except as provided for in paragraph 34 of the present Agreement, that identity card shall be the only document required of a member of the Joint Mission for the purpose of identification.

36. Members of the Joint Mission as well as locally recruited personnel and contractors shall be required to present, but not to surrender, their Joint Mission identity cards upon demand of an appropriate official of the Government.

*Uniforms and arms*

37. Military liaison officers of the Joint Mission may wear, while performing official duties, the national military uniform of their respective States with standard United Nations accoutrements. United Nations Security Officers and Field Service officers may wear the United Nations uniform. The wearing of civilian dress by the above-mentioned members of the Joint Mission may be authorized by the Special Coordinator at other times. Military liaison officers of the Joint Mission, as well as United Nations Security Officers and United Nations close protection officers designated by the Special Coordinator, may possess and carry arms, ammunition and other items of military equipment, including global positioning devices, while on official duty in accordance with their orders. Apart from officers on close protection missions, Joint Mission officers who are authorized to carry weapons while on official duty must be in uniform at all times when armed, unless otherwise authorized by the Special Coordinator.

*Permits and licenses*

38. The Government agrees to accept as valid, without tax or fee, a permit or license issued by the Special Coordinator for the operation by any member of the Joint Mission, including locally recruited personnel, of any of the Joint Mission's vehicle and for the practice of any profession or occupation in connection with the functioning of the Joint Mission, provided that no permit to drive a vehicle shall be issued to any person who is not already in possession of an appropriate and valid national license.

39. The Government agrees to accept as valid, and where necessary to validate, free of charge and without any restrictions, licenses and certificates already issued by appropriate authorities in other States in respect of aircraft and vessels, including those operated by contractors exclusively for the Joint Mission on the understanding that such licenses and certificates meet international standards and practices. Without prejudice to the foregoing, the Government further agrees to grant promptly, free of charge and without any restrictions, necessary authorizations, licenses and certificates, where required, for the acquisition, use, operation and maintenance of aircraft and vessels.

40. Without prejudice to the provisions of paragraph 37 above, the Government further agrees to accept as valid, without tax or fee, permits or licenses issued by the Special Coordinator to the military liaison officers of the Joint Mission and the United Nations Security Officers and United Nations close protection officers designated by the Special

Coordinator in accordance with paragraph 37 above, and in prior coordination with the Government, for the carrying or use of firearms or ammunition in connection with the functioning of the Joint Mission.

*Arrest and transfer of custody, and mutual assistance*

41. The Special Coordinator shall take all appropriate measures to ensure respect for local laws and regulations and the maintenance of discipline and good order among members of the Joint Mission, including locally recruited personnel.

42. Subject to the provisions of paragraphs 26 and 28, officials of the Government may take into custody any member of the Joint Mission only when so requested by the Secretary-General of the United Nations or the Director-General of the OPCW, as communicated by the Special Coordinator.

43. When a person is arrested or taken into custody under paragraph 42, the Joint Mission or the Government, as the case may be, may make a preliminary interrogation, but may not delay the transfer of custody. Following such transfer, the person concerned will be made available upon request to the arresting authority for further interrogation.

44. The Joint Mission and the Government shall assist each other in carrying out all necessary investigations into offences in respect of which either or both have an interest, in the production of witnesses and in the collection and production of evidence, including the seizure of and, if appropriate, the handing over of items connected with an offence. The handing over of any such items may, however, be made subject to their return on the terms specified by the authority delivering them. Each party shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraph 42.

*Safety and security*

45. The Government shall ensure that the provisions of the Convention on the Safety of United Nations and Associated Personnel are applied to and in respect of the Joint Mission, its members and associated personnel and their equipment and premises. In particular:

(i) the Government shall ensure the safety, security and freedom of movement on the territory of the Syrian Arab Republic, of the Joint Mission, its members and associated personnel and their property and assets and take all appropriate measures to that end. It shall take all appropriate steps to protect members of the Joint Mission and its associated personnel and their equipment and premises from any attack or action that would prevent them from performing their duties in the implementation of OPCW Executive Council decision EC-M-33/DEC.1 and United Nations Security Council resolution 2118(2013) and any subsequent decision or resolution of the relevant organs of the OPCW or the United Nations relevant to, and relating specifically to, the elimination of the Syrian chemical weapons programme. This is without prejudice to the fact that all premises of the Joint Mission are inviolable and subject to the exclusive control and authority of the OPCW and the United Nations;

(ii) if members of the Joint Mission or its associated personnel are captured, detained or taken hostage in the course of the performance of their duties and their identification

has been established, they shall not be subjected to interrogation and they shall be promptly released and returned to the OPCW or the United Nations or to the Joint Mission or other appropriate authorities. Pending their release, such personnel shall be treated in accordance with universally recognized standards of human rights and, where relevant, the principles and spirit of the Geneva Conventions of 1949;

(iii) the Government shall establish the following acts as crimes under its national law and make them punishable by appropriate penalties, taking into account their grave nature:

- (a) a murder, kidnapping or other attack upon the person or liberty of any member of the Joint Mission or its associated personnel;
- (b) a violent attack upon the official premises, the private accommodation or the means of transportation of any member of the Joint Mission or its associated personnel likely to endanger his or her person or liberty;
- (c) a threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act;
- (d) an attempt to commit any such attack; and
- (e) an act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack;

(iv) the Government shall establish its jurisdiction over the crimes set out in paragraph 45(iii) above:

- (a) when the crime was committed on the territory of the Syrian Arab Republic;
- (b) when the alleged offender is a national of the Syrian Arab Republic;
- (c) when the alleged offender, other than a member of the Joint Mission, is present in the territory of the Syrian Arab Republic, unless it has extradited such a person to the State on whose territory the crime was committed, or to the State of his or her nationality, or to the State of his or her habitual residence if he or she is a stateless person, or to the State of the nationality of the victim;

(v) the Government shall ensure the prosecution, without exception and without delay, of persons accused of acts described in paragraph 45(iii) above who are present in the territory of the Syrian Arab Republic (if the Government does not extradite them), as well as those persons that are subject to its criminal jurisdiction who are accused of other acts in relation to the Joint Mission or its members or associated personnel which, if committed in relation to the forces of the Government or against the local civilian population, would have rendered such acts liable to prosecution.

46. Upon the request of the Special Coordinator, the Government shall provide such security, as necessary, to protect the Joint Mission, its members and associated personnel and their equipment during the exercise of their functions.

#### *Jurisdiction*

47. In addition to any privileges and immunities that they may otherwise enjoy, all members of the Joint Mission, including OPCW and United Nations experts and locally

recruited personnel, shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by or for the Joint Mission and after the expiration of the other provisions of the present Agreement. It is understood that such privileges and immunities are granted in the interests of the OPCW, the United Nations and their Joint Mission and not for the personal benefit of the individuals themselves. The Director-General of the OPCW and the Secretary-General of the United Nations shall have the right and the duty to waive the immunity of their respective personnel in any case where, in their respective opinion, the immunity would impede the course of justice and can be waived, in accordance with the Chemical Weapons Convention and the UN General Convention, without prejudice to the interests of the OPCW and the United Nations.

48. Should the Government consider that any member of the Joint Mission has committed a criminal offence, it shall promptly inform the Special Coordinator and present to him or her any evidence available to it. Subject to the provisions of paragraph 26, the Special Coordinator shall conduct any necessary supplementary inquiry, including any determination concerning immunities by the Secretary-General of the United Nations or the Director-General of the OPCW, and then agree with the Government whether or not criminal proceedings should be instituted. Failing such agreement the question shall be resolved as provided in paragraph 54 of the present Agreement. In the event that criminal proceedings are instituted in accordance with the present Agreement, the courts and authorities of the Syrian Arab Republic shall ensure that the member of the Joint Mission concerned is brought to trial and tried in accordance with international standards of justice, fairness and due process of law, as set out in the International Covenant on Civil and Political Rights (hereinafter "the Covenant"), to which Syria is a party, and that, in the event that he or she is convicted, the death penalty shall not be required or pronounced; the Syrian authorities further undertake that, where the death penalty may apply and in the event that such penalty is imposed, it will not be executed, but will be commuted to life imprisonment or any lesser appropriate sentence.

49. If any civil claim is lodged against a member of the Joint Mission before any court in the Syrian Arab Republic, the Special Coordinator shall be notified immediately and, subject to a determination by the Secretary-General of the United Nations or the Director-General of the OPCW, he or she shall certify to the court whether or not the proceeding is related to the official duties of such member.

(a) If the Special Coordinator certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 53 of the present Agreement shall apply.

(b) If the Special Coordinator certifies that the proceeding is not related to official duties, the proceeding may continue. In that event, the courts and authorities of the Syrian Arab Republic shall grant the member of the Joint Mission concerned sufficient opportunity to safeguard his or her rights in accordance with due process of law and shall ensure that the suit is conducted in accordance with international standards of justice, fairness and due process of law, as set out in the Covenant. If the Special Coordinator certifies that a member of the Joint Mission is unable, because of his or her official duties or authorized absence, to protect his or her interests in the proceeding, the court shall, at the defendant's

request, suspend the proceeding until the elimination of the incapacity, but for no more than ninety (90) days. Property of a member of the Joint Mission that is certified by the Special Coordinator to be needed by the defendant for the fulfilment of his or her official duties shall be free from seizure for the satisfaction of a judgment, decision or order. The personal liberty of a member of the Joint Mission shall not be restricted in a civil proceeding, whether to enforce a judgment, decision or order, to compel an oath or for any other reason.

#### *Deceased members*

50. The Special Coordinator, the Director-General of the OPCW or the Secretary-General of the United Nations shall have the right to take charge of and dispose of the body of a member of property located within the Syrian Arab Republic, in accordance with relevant OPCW or United Nations procedures.

### VII. LIMITATIONS ON LIABILITY

51. The Government shall be responsible for dealing with, and hold the OPCW and the United Nations harmless in respect of any claims, including third-party claims, relating to damages to the environment, and/or to public health caused by the destruction of the Syrian chemical weapons programme, and arising from the implementation of OPCW Executive Council decision EC-M-33/DEC.1 and United Nations Security Council resolution 2118(2013) and any subsequent decision or resolution of the relevant organs of the OPCW or the United Nations relevant to, and relating specifically to, the elimination of the Syrian chemical weapons programme.

52. The Government shall also be responsible for dealing with, and hold the OPCW and the United Nations harmless in respect of any other claims, including third party claims, arising from the implementation of OPCW Executive Council decision EC-M-33/DEC.1 and United Nations Security Council resolution 2118 (2013) and any subsequent decision or resolution of the relevant organs of the OPCW or the United Nations relevant to, and relating specifically to, the elimination of the Syrian chemical weapons programme, unless the relevant Organisation agrees that such claims arise from or are directly attributable to the gross negligence or wilful misconduct of that Organisation, its officials or experts on mission. In that event, third party claims for property loss or damage and for personal injury, illness or death arising from or directly attributed to the gross negligence or wilful misconduct of the OPCW or the United Nations, their respective officials or experts on mission, shall be settled through the procedures provided in paragraph 53 below, provided that the claim is submitted within six (6) months following the occurrence of the loss, damage or injury, within six (6) months from the time he or she had discovered the loss, damage or injury, but in any event not later than one year after the termination of the mandate of the Joint Mission. Upon determination of liability as provided in this Agreement, the OPCW or the United Nations shall pay compensation within such financial limitations as have been approved by the General Assembly in its resolution 52/247 of 26 June 1998, which shall apply, *mutatis mutandis*, to the OPCW and its officials and experts on mission.

53. Subject to paragraph 52 above, any third party claim of a private law character, not resulting from the operational necessity of the Joint Mission, to which the Joint Mission

or any member thereof is a party and over which the courts of the Syrian Arab Republic do not have jurisdiction because of any provision of the present Agreement, shall be settled in accordance with the applicable procedures of the OPCW and the United Nations for the settlement of disputes.

#### VIII. SETTLEMENT OF DISPUTES

54. Subject to paragraphs 51 and 52 above, all other disputes between the Joint Mission and the Government arising out of the interpretation or application of the present Agreement will be amicably settled by negotiations between the United Nations, the OPCW and the Government. All disputes that are not settled by negotiation shall, unless otherwise agreed by the parties to this Agreement, be submitted to a tribunal of three arbitrators. The Director-General of the OPCW or the Secretary-General of the United Nations or both jointly, as the case may be, shall appoint one arbitrator and the Government shall appoint one arbitrator of the tribunal and the chairman shall be appointed by joint agreement by the Director-General or the Secretary-General and the Government. If no agreement is reached as to the chairman's appointment within thirty (30) days of the appointment of the first arbitrator of the tribunal, the President of the International Court of Justice may, at the request of either the Director-General, the Secretary-General of the United Nations or the Government, appoint the chairman. Any vacancy on the tribunal shall be filled by the same method prescribed for the original appointment, and the 30-day period prescribed above shall start as soon as there is a vacancy for the chairmanship. The tribunal shall determine its own procedures, provided that any three members shall constitute a quorum for all purposes (except for a period of 30 days after the creating of a vacancy) and all decisions shall require the approval of any two members. The awards of the tribunal shall be final. The awards of the tribunal shall be notified to the parties and, if against a member of the Joint Mission, the Special Coordinator, the Director-General of the OPCW or the Secretary-General of the United Nations shall use his or her best endeavours to ensure compliance. The decisions of the tribunal shall be final and binding on the parties.

55. All differences between the United Nations and the Government arising out of the interpretation or application of the present arrangements concerning the UN General Convention shall be dealt with in accordance with the procedure set out in Section 30 of that Convention. All differences between the OPCW and the Government arising out of the interpretation or application of the present arrangements concerning the Chemical Weapons Convention shall be dealt with in accordance with the procedure set out in article XIV of that Convention.

#### IX. SUPPLEMENTARY ARRANGEMENTS

56. The Secretary-General of the United Nations, the Director-General of the OPCW and/or the Special Coordinator and the Government may conclude supplementary arrangements to the present Agreement, including on the provision of medical services and emergency medical evacuation services.



## X. LIAISON

57. The Special Coordinator and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

## XI. MISCELLANEOUS PROVISIONS

58. Wherever the present Agreement refers to privileges, immunities and rights of the Joint Mission and to facilities that the Syrian Arab Republic undertakes to provide to the Joint Mission, the Government shall have the ultimate responsibility for the observance, implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local authorities.

59. The present Agreement shall apply provisionally upon signature and enter into force on the date of receipt of the Government's written notification to the Director-General of the OPCW and the Secretary-General of the United Nations of the completion by the Syrian Arab Republic of its relevant internal procedures.

60. The present Agreement shall remain in force until the departure of the final element of the Joint Mission from the Syrian Arab Republic upon completion of the Joint Mission's mandate within the Syrian Arab Republic upon completion by the Syrian Arab Republic of its relevant internal procedures.

(a) The provisions of paragraphs 47, 50, 51, 52 and 53 shall remain in force;

(b) The provisions of paragraphs 54 and 55 shall remain in force until all claims made in accordance with the provisions of paragraphs 54 have been settled.

61. Without prejudice to existing agreements regarding their legal status and operations in the Syrian Arab Republic, the provisions of the present Agreement shall apply to offices, funds and programmes of the United Nations, their property, funds and assets and their officials and experts on mission that are deployed in the Syrian Arab Republic and perform functions in relation to the Joint Mission.

62. Without prejudice to existing agreements regarding their legal status and operations in the Syrian Arab Republic, the provisions of the present Agreement may, as appropriate, be extended to specialized agencies and related organizations of the United Nations, their property, funds and assets and their officials and experts on mission that are deployed in the Syrian Arab Republic and perform functions in relation to the Joint Mission, provided that this is done with the written consent of the Special Coordinator, the specialized agency or related organization concerned and the Government.

*In witness whereof*, the undersigned, being the duly authorized plenipotentiary of the Government and the duly appointed representative of the OPCW and the United Nations, have, on behalf of the Parties, signed the present Agreement.

This Agreement shall be concluded in the English and Arabic languages which are equally authentic on the undersigned that, in the event of a difference in interpretation, the English text shall prevail.

*Done* at Damascus in three original copies in each of the English and Arabic languages, on 5 February 2014.



For the Organisation for  
the Prohibition of Chemical  
Weapons

[Signed] JULIAN TANGAERE  
Head of OPCW Component  
Deputy Head of Mission

For the United Nations

[Signed] ABDULLAH FADIL  
Head of UN Component  
Deputy Head of Mission

For the Government of the  
Syrian Arab Republic

[Signed] BASHAR JA'AFARI  
Permanent Representative of  
the Syrian Arab Republic to  
the United Nations

**(b) Supplementary Agreement to the Agreement between the United Nations and the United Republic of Tanzania Concerning the Headquarters of the International Residual Mechanism for Criminal Tribunals, for the Premises of the Mechanism. Dar es Salaam, 5 February 2014\***

*Whereas* article 3 of the Statute of the International Residual Mechanism for Criminal Tribunals (hereinafter the “Mechanism”), attached as Annex 1 to Security Council resolution 1966 (2010) adopted on 22 December 2010, provides that the branch of the Mechanism for the International Criminal Tribunal for Rwanda (hereinafter the “ICTR”) shall have its seat in Arusha;

*Whereas* the Agreement between the United Nations and the United Republic of Tanzania concerning the Headquarters of the International Residual Mechanism for Criminal Tribunals (hereinafter the “Headquarters Agreement”) was signed in Dar es Salaam on 26 November 2013;

*Whereas* the Government of the United Republic of Tanzania (hereinafter the “Government”) offered to provide land in Arusha at no cost to the United Nations for the premises of the branch of the Mechanism for the ICTR;

*Whereas* the General Assembly of the United Nations, by resolution 67/244 B of 12 April 2013, has authorised the activities related to all phases of the construction of the premises of the Mechanism in Arusha;

*Whereas*, in connection with the Headquarters Agreement, the United Nations and the Government wish to provide for the terms and conditions for a grant of land in Arusha to the United Nations for the premises of the branch of the Mechanism for the ICTR;

*Now therefore*, the United Nations and the United Republic of Tanzania (hereinafter the “Parties”) agree as follows:

*Article 1 Grant of Right of Occupancy in Respect of Land*

1. The Government hereby agrees to grant to the United Nations and the United Nations accepts, free of any charges, taxes, levies or other imposts, a ninety-nine (99) year exclusive right of occupancy to the parcel of land, described and delineated in the map

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\* Entered into force on 5 February 2014 by signature, in accordance with the provisions of article 12.

attached as Annex I\* to this Agreement, measuring approximately 6.549 Hectares (corresponding to approximately 16.17 acres) in Arusha in an area known as Lakilaki (hereinafter the "Land"), inclusive of the rights set forth in this Agreement including the right to construct and own buildings, structures and other improvements now or hereafter placed thereon (hereinafter the "Right of Occupancy").

2. The Land shall be used by the United Nations as the premises of the Mechanism including all ancillary facilities required, as determined by the United Nations, for the immediate and future requirements of the Mechanism and may be transferred, assigned or sublet by the United Nations, in whole or in part, to other United Nations or United Nations-related organs, programmes, funds, institutes, agencies, commissions, committees, tribunals, missions, departments, or offices.

3. The Government shall promptly issue a certificate of occupancy in respect of the Land, in the name of the United Nations, and shall convey evidence of such certification within thirty (30) days from the date of the entry into force of this Agreement, provided, however, that failure to do so shall have no effect on the rights of the United Nations to use the Land as set forth in this Agreement, including, but not limited to, in article 4. The certificate of occupancy shall be consistent with the terms of this Agreement, and shall not impose any additional obligations or requirements upon the United Nations.

4. In accordance with the Headquarters Agreement, all buildings and other structures and improvements on the Land shall be exempt from any and all charges, levies, taxes and other imposts.

#### *Article 2 Warrant of Title and Intended Use*

The Government hereby warrants and covenants as follows:

(a) That it is the absolute and exclusive owner of the Land and has the power to convey a full and effective Right of Occupancy in respect thereof as provided under this Agreement;

(b) That the Land is now and shall remain free of any and all claims, encumbrances, liens, rights or interests of third parties;

(c) That, to the Government's knowledge, the Land is suitable for its intended use by the United Nations;

(d) That, to the Government's knowledge, there are no known hazardous materials or environmental contaminants on, in or under the Land; and

(e) That the United Nations shall have no obligation to pay any compensation for third party claims, whether past, present or future, in respect of the Land and, should any such claim be brought against the United Nations, the Government shall indemnify and hold the United Nations harmless.

#### *Article 3 Clearance of the Land and other obligations relating to the Land*

1. The Government shall, within thirty (30) days from the date of the entry into force of this Agreement, relocate any and all persons or livestock occupying or using the Land and remove any and all buildings and other structures standing on it.

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\* The annex is not reproduced herein.

2. The Government shall provide suitable temporary access roads up to the boundary of the Land and provide temporary electrical and water supply to the main points of entry (hereinafter “MPOEs”) on the Land for use during the construction of the buildings and facilities no later than 1 September 2014.

3. The Government shall ensure the Land’s permanent connection to the national electricity grid and other utilities networks by constructing facilities such as mains, conduits and power lines to provide water, gas, electricity, telephone and internet service to the MPOEs on the Land for each service in accordance with the United Nations’ design and construction schedule and with sufficient time for testing and commissioning prior to expected occupancy.

4. The Government shall maintain, extend or modify permanent public roads so as to provide permanent and efficient public access to the boundary of the Land and as otherwise required for use of the Land for the purposes set forth herein no later than three (3) months after the completion of construction, as determined by the United Nations. The United Nations shall notify the Government in writing at least three months prior to the date on which the United Nations expects construction to be complete for the purpose of this provision.

5. With respect to the Government’s obligations in paragraphs 2, 3, and 4 of this article, the geographic placement for the roads and MPOEs for all utilities shall be determined in consultation with the United Nations and in accordance with the United Nations’ design.

6. All of the obligations under this article shall be at the Government’s own expense.

#### *Article 4 Possession and rights accruing to the United Nations*

1. Immediately upon the entry into force of this Agreement, the United Nations shall take possession of the Land. The United Nations shall have and enjoy full, quiet and undisturbed possession of the Land and the Improvements (as defined below) on it without diminution of title or possession.

2. The United Nations shall have the right to:

(a) Connect roads on the Land to adjacent public roads;

(b) Connect to public utilities and sewage systems;

(c) Construct and/or install all buildings, other structures and improvements (including to construct fences to enclose the Land or any part thereof) and all facilities as may be necessary for the purposes of the Mechanism or other United Nations or United Nations-related entities as determined by the United Nations and to install infrastructure, equipment, ancillary amenities and connections for utilities and sewage systems, and to make such alterations, additions or other improvements to the Land or as it deems necessary for its purposes (hereinafter, collectively, the “Improvements”); and

(d) Use for its purposes other than commercial exploitation air, water or other natural resources, excluding minerals, under, on, above or appurtenant to the Land.

3. The United Nations undertakes:

(a) To provide to the Government of Tanzania the information that would otherwise be required in the ordinary course in connection with design and construction of the Improvements, while not formally required to comply with the planning, building

and permitting requirements, including, but not limited to, limitations on buildable area, function, setbacks, zoning, plannable areas or size; and

(b) To comply with the substantive requirements of applicable building and fire safety laws, and the height restrictions necessary for the safe operation of aircraft as notified by the Government of Tanzania promptly following signature of this Agreement.

#### *Article 5 Amenities*

The Government shall ensure that the use made of the land and buildings in the vicinity of the Land shall not diminish the amenities of the Land or otherwise adversely affect its usefulness for the purposes for which it is used by the United Nations.

#### *Article 6 Right to Dispose*

Except as otherwise provided in this Agreement, the United Nations shall not in any manner dispose of all or any part of the Land or transfer title to any building or buildings and facilities constructed therein by the United Nations.

#### *Article 7 Reversion and Compensation*

1. Upon notice by the United Nations to the Government that the Land and Improvements have ceased to be used for the aforesaid purposes, the United Nations shall execute an appropriate conveyance in order for title to the use and occupation of the Land to revert to the Government, subject to payment by the Government of fair and reasonable compensation for Improvements on the Land owned by the United Nations based on the fair value of such Improvements, as determined by the Government and the United Nations. Any dispute concerning the amount of compensation payable hereunder to the United Nations shall be settled in accordance with article 44 of the Headquarters Agreement.

2. In the event that the Government fails promptly to compensate the United Nations as provided in paragraph 1, above, the United Nations may otherwise dispose for value of its Right of Occupancy hereby created, and, for that purpose, the United Nations may lawfully pass title to use and occupation of the Land and ownership of the Improvements to a purchaser, subject to the approval of the purchaser by the Government, which approval shall not unreasonably be withheld, and upon payment by the United Nations of fair and reasonable compensation to the Government for the remaining term of the Right of Occupancy of the Land in an unimproved state. Any dispute concerning the amount of compensation payable hereunder to the Government shall be settled in accordance with article 44 of the Headquarters Agreement.

#### *Article 8 Facilities and Exemptions for the Design, Construction and Maintenance of Improvements*

In relation to the design, construction or maintenance of Improvements, the Government shall ensure:

(a) That the United Nations or any agent thereof (which agency shall be evidenced by written documentation signed by a duly authorized representative of the United Nations) shall be permitted to import into Tanzania all materials, equipment, supplies and

other goods and services necessary for the purposes of or relating to the Land and/or the Improvements, and that such materials, equipment, supplies, goods and services shall be exempt from all taxes, duties, levies and other charges and imposts imposed by the Government, including but not limited to import duties;

(b) That the imported materials, equipment, supplies, goods and services shall be cleared expeditiously through customs;

(c) That all goods and services purchased by or provided to the United Nations or any of its contractors (including such contractor's sub-contractors) for the exclusive use of the United Nations shall be free from the imposition of value-added tax;

(d) That there will be no hindrances or encumbrances on the transportation of the imported or domestically-sourced materials, equipment, supplies, goods and services from the port of entry or point-of-sale to the Land in accordance with construction requirements as determined by the United Nations; and

(e) That all personnel, including experts, consultants or contractors of the United Nations, and their employees involved in the construction of the Improvements or in connection thereto, shall be provided with multiple entry visas without charge and their entry into and departure from the United Republic of Tanzania shall not be unduly delayed or hindered.

#### *Article 9 Settlement of Disputes*

Any dispute between the Parties concerning or relating to the interpretation or application of this Agreement shall be settled in accordance with article 44 of the Headquarters Agreement.

#### *Article 10 Privileges and Immunities*

1. The provisions of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946, to which the United Republic of Tanzania acceded on 29 October 1962, and the provisions of the Headquarters Agreement shall prevail over any provisions conflicting therewith of any acts or laws of the United Republic of Tanzania that might otherwise be applicable to the grant of land to the United Nations for the seat of the Mechanism and the use of the Land.

2. Nothing in this Agreement shall be construed as a waiver, express or implied, of the privileges and immunities of the United Nations, including the Mechanism.

#### *Article 11 Amendment or Termination*

1. This Agreement may be amended or terminated at any time upon the mutual written consent of the Parties.

2. No amendment or termination of this Agreement or other related document concerning the title to the Land shall have any effect or force on the property rights of the United Nations unless expressly agreed by the United Nations and documented in an appropriate legal conveyance and in accordance with article 7, paragraph 2, above.

*Article 12 Entry into Force*

This Agreement shall enter into force upon signature by both Parties.

*Article 13 Application*

This Agreement shall be applied and interpreted consistently with the Headquarters Agreement.

*In witness whereof*, the respective representatives of the Parties have signed this Agreement.

*Done* at Dar es Salaam on this 5th day of February 2014 in duplicate in the English language, both texts being equally authentic.

For the United Nations

For the Government of the United  
Republic of Tanzania

[Signed] STEPHEN MATHIAS  
Assistant Secretary-General for Legal  
Affairs

[Signed] RAJAB H. GAMAHA  
Deputy Permanent Secretary of the  
Ministry of Foreign Affairs and  
International Cooperation

**(c) Agreement between the United Nations and the Government of the Independent State of Samoa relating to the arrangements for the third international conference on Small Island Developing States, to be held in Apia, Samoa, from 28 August to 4 September 2014. New York, 24 February 2014\***

THIRD INTERNATIONAL CONFERENCE ON SMALL ISLAND DEVELOPING STATES

The present agreement is made between the Government of the Independent State of Samoa (hereinafter referred to as the “Government”) and the United Nations

*Whereas* the General Assembly of the United Nations, by its resolution 66/288 of 11 September 2012, is desirous to convene a third international conference on Small Island Developing States (“SIDS”) in recognition of the importance of coordinated, balanced and integrated actions to address the sustainable development challenges faced by SIDS in 2014;

*Whereas* the Government has agreed to host the Third International Conference on Small Island Developing States (hereinafter referred to as the “Conference”);

*Now therefore*, United Nations and the Government (collectively hereinafter referred to as the “Parties” and individually as the “Party”) hereby agree as follows:

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\* Entered into force on 24 February 2014 by signature, in accordance with article XVI.

*Article I Venue of the Conference*

1. The Conference shall be held in Apia, Samoa at the Faleata Sports Complex at Tuanaimato from 1 to 4 September 2014, to be preceded by activities related to the Conference from 28 to 30 August 2014.

2. The Government shall provide venues within the Faleata Sports Complex for the use by all States Members of the United Nations, members of specialized agencies, the International Atomic Energy Agency as well as relevant stakeholders, including associate members of the regional commissions, organizations and bodies of the United Nations, international financial institutions and major groups identified in Agenda 21, for exhibitions, seminars, meetings, cultural activities and other incidental activities related to the Conference.

*Article II Participation in the Conference*

1. Participation in the Conference and its Preparatory Committee shall be open to the following:

- (a) Representatives of SIDS;
- (b) Representatives of United Nations organs;
- (c) Representatives of specialized or related agencies;
- (d) Observers from intergovernmental, nongovernmental and other organizations invited by the United Nations to participate in the Conference including alternative representatives or observers, advisers, experts and assistants;
- (e) Associate members of regional commissions;
- (f) Other persons invited by the United Nations;
- (g) Officials of the United Nations Secretariat;
- (h) All other persons invited by the United Nations in consultation with the Government on official business incidental to the Conference.

2. The Secretary-General of the Conference shall forward to the Government the names of the organizations and persons referred to in paragraph 1 of this article on a regular basis and shall update this information as soon as possible prior to the commencement of the Conference.

3. The Secretary-General of the Conference shall designate the officials of the United Nations to attend the Conference for the purpose of servicing activities related to the Conference. The Secretary-General of the Conference shall provide to the Government a list of such personnel and their functions in relation to the Conference no later than one month after the signing of this Agreement. This list shall form Annex I of this Agreement.\* Should there be any changes to the list the United Nations shall provide the Government with an updated list.

4. The public meetings of the Conference shall be open to representatives of information media accredited by the United Nations at its discretion after consultation with the Government.

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\* Annex not reproduced herein.

### *Article III Premises, equipment, utilities and supplies*

1. The Government shall provide at its own expense, for as long as required for the purposes of the Conference the necessary premises, including conference rooms for informal meetings, office space, working areas and other related facilities, utilities and supplies. The Government and the United Nations shall, no later than one month after the signing of this Agreement, agree on these requirements which shall form Annex II of this Agreement.\*

2. The premises and facilities referred to under paragraph 1 above shall remain at the disposal of the United Nations throughout the duration of the Conference. The premises and facilities shall be available to the United Nations one (1) week prior to the commencement of the Conference and five (5) days after the conclusion as the United Nations in consultation with the Government shall deem necessary for the settlement of any outstanding matter connected with the Conference.

3. The Government shall at its own expense furnish, equip and maintain in good repair all the aforesaid rooms and facilities in a manner the United Nations considers adequate for the effective conduct of the Conference.

4. The Government shall bear the cost for the transport and insurance charges from any established United Nations Office to the Conference Venue and vice versa of all United Nations equipment and supplies required for the successful operation of the Conference, at least one week prior to the opening of the Conference. The morning after the conclusion of the conference, the Government shall provide a freight forward company who will aid in the preparation of the air shipment of the United Nations' equipment and supplies used for the operation of the Conference back to United Nations Headquarters. The shipping agent shall provide any necessary materials and logistical needs to ensure that the materials leave the conference centre that day.

5. The United Nations shall determine the mode of shipment of such equipment and supplies in consultation with the Government.

6. Premises and facilities provided in accordance with this article may be made available in an appropriate manner, to the observers including those groups referred to in article II for the purpose of conducting activities related to the Conference.

### *Article IV Medical facilities*

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

2. For serious emergencies, the Government shall ensure immediate transportation and admission to a hospital. Each participant shall be responsible for covering their own medical costs.

### *Article V Accommodation*

The Government shall ensure that adequate accommodation in hotels or other types of accommodation is available at reasonable commercial rates for persons participating in or attending the Conference identified by the Secretary-General of the Conference as per paragraphs 1 and 2 of article II.

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\* Annex not reproduced herein.



*Article VI Transport*

1. The Government shall ensure the availability of transportation at reasonable commercial rates for all participants between the airport, the principal hotels and the Conference premises.

2. The Government shall provide adequate and safe means of transportation to and from the designated airports to the principal hotels as well as the Conference premises at least three days prior and two days after the close of the conference to all servicing United Nations staff members and participants.

3. The Government shall endeavour to ensure that the United Nations Transportation Officer along with the Chief of Protocol receive the proper airport credentials in order to be able to gain access to key areas such as: Customs area, baggage area, VIP lounges, parking, and the airport tarmac, if needed in the Host Country. In addition, the Government shall make the necessary arrangements to make available the following: a designated Diplomatic Visa lane for the purpose of expediting and clearing staff members travelling with United Nations *Laissez-Passers*, and an on-site Conference hospitality/liaison desk at Faleolo International Airport.

4. The Government, in consultation with the United Nations, shall provide at its own expense, a sufficient number of vehicles, qualified drivers and sufficiently adequate designated parking facilities, as well as such other local transportation as is required by the Secretariat in connection with the Conference. Supplemental transportation may be required to facilitate extended hours of operations for United Nations staff servicing the Conference during non-normal working hours. The distribution of the vehicles shall be determined by the United Nations Transportation Officer based on the specific requirements of each United Nations department.

*Article VII Police Protection and Security*

1. The Government shall, provide such police protection and security as may be required to ensure the effective operation of the Conference in an atmosphere of security without interference of any kind. Such police service shall be under the direct supervision and control of a senior officer to be designated by the Government. The designated officer shall work in close cooperation with the senior security officer appointed by the United Nations Department of Safety and Security for this purpose.

2. The United Nations and the Government shall cooperate in the preparation of a comprehensive security plan based on the United Nations security assessment of the Conference. This security plan shall be the framework upon which all tasks relating to security will be executed by the relevant Government security authorities.

*Article VIII Local Personnel for the Conference*

1. The Government shall appoint an official who shall be responsible in consultation with the Secretary-General of the Conference, for making the necessary arrangements for the Conference as required under this Agreement.

2. The Government shall engage and provide at its own expense adequate local personnel as agreed between the United Nations and the Government for the purposes of carrying out duties relating to the Conference as identified by the Government

and United Nations. The Government and the United Nations shall, no later than one month after the signing of this Agreement, agree on these requirements, which shall form Annex III of this Agreement.\*

3. The Government shall arrange at the request or on behalf of the Secretary-General of the Conference local personnel referred to in paragraph 2 above, to be available before, during and five (5) days after the Conference or any date agreed to by the Parties in order to assist with the settlement of any outstanding matter connected with the Conference. Such personnel shall carry out duties relating to the Conference over-time and provide night services as may be required by the United Nations in consultation with the Government.

#### *Article IX Financial Arrangements*

1. The Government and the United Nations shall, no later than one month after the signing of this Agreement, agree on the sum of funds to be deposited with the United Nations covering the estimated costs referenced in paragraph 4 below. These requirements shall form Annex IV of this Agreement.\* The Government shall deposit with the United Nations the agreed sum no later than two months after such agreement on the amount is concluded. If necessary, the Government shall make further advances as requested by the United Nations so that the latter will not at any time have to finance temporarily from its cash resources the extra costs that are the responsibility of the Government.

2. The Government will assist the United Nations in opening bank account(s) in the Host Country and in facilitating payments to meeting participants.

3. The deposit and the advances required by paragraph 1 above shall be used only to pay the obligations of the United Nations in respect of the Conference.

4. In addition to its financial responsibility provided for elsewhere in this Agreement the Government shall, in accordance with the United Nations General Assembly resolution 47/202, bear the actual additional costs directly or indirectly involved in holding the Conference and the activities related to the Conference from 28 to 30 August 2014. Such additional costs shall include, but not restricted to:

(a) Additional costs of travel and of staff entitlements of the United Nations officials assigned by the Secretary-General of the Conference to undertake preparatory visits to the host country and to attend the Conference;

(b) The costs of shipment of any necessary equipment and supplies required by the United Nations for the successful operation of the Conference;

(c) Arrangements for travel and shipment that shall be made by the Secretariat of the Conference in accordance with the Staff Regulations and Rules of the United Nations in regard to travel standards, baggage allowances, subsistence payments and terminal expenses. The list of United Nations officials required to service the Conference and the related travel costs shall be reflected in Annex IV of this Agreement.\*

5. At the conclusion of the Conference, the United Nations shall give the Government a detailed set of accounts showing the actual additional costs paid by the United Nations and to be borne by the Government pursuant to paragraph 1 of this article. These costs

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\* Annex not reproduced herein.

shall be expressed in United States currency (“USD”) using the United Nations official rate of exchange at the time the United Nations paid the costs.

- i. The United Nations, on the basis of this detailed set of accounts shall return to the Government any unspent funds of all deposits or advances made by the Government, within one (1) month of receipt of the detailed accounts.
- ii. Should the additional costs exceed the total amount deposited the Government shall remit the outstanding balance within one (1) month of receipt of the detailed accounts from the Secretariat to the Conference.
- iii. The final accounts will be subject to auditing as provided in the Financial Regulations and Rules of the United Nations, and the final adjustment of accounts will be subject to any observations which may arise from the audit carried out by the United Nations Board of Auditors, whose determination shall be accepted as final by both the United Nations and the Government.

#### *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 arising out of:

(a) Injury to persons or damage to or loss of property in the Conference venue provided by or under the control of the Government;

(b) Injury to persons or damage to or loss of property caused by or incurred in using any transport services provided by or under the control of the Government for the purposes of the Conference;

(c) The employment of personnel provided or arranged for by the Government for the Conference.

2. The Government shall indemnify and hold harmless the United Nations and its officials in respect of any such action, claim or other demand, except where it is agreed by the Government and the United Nations that such action, claim or demand arises from gross negligence or wilful misconduct of such persons.

#### *Article XI Privileges and immunities*

1. The Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946 (hereinafter “the Convention”), shall be applicable only in respect of the Conference for the duration of the Conference. Persons enjoying diplomatic privileges and immunities pursuant to this Agreement shall enjoy such privileges and immunities in accordance with the Vienna Convention on Diplomatic Relations, which was brought into effect in Samoa by the 1978 Diplomatic Privileges and Immunities Act. In particular:

a. The representatives of States and of the intergovernmental organs referred to in article II, paragraph 1 (a), (b) and (e) shall enjoy the privileges and immunities provided under article IV of the Convention;

b. Officials of the United Nations participating in or performing functions in connection with the Conference referred to in article II, paragraphs 1 (g) and 3 shall enjoy the privileges and immunities provided under articles V and VII of the Convention;

c. Any experts on mission for the United Nations in connection with the Conference shall enjoy the privileges and immunities provided under articles VI and VII of the Convention;

d. The representatives or observers referred to in article II, paragraph 1 (d), (f), and (h), 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; The personnel provided by the Government under article VIII, above, 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 Conference; and

e. The representatives of the specialized or related agencies, referred to in article II, paragraph 1 (c), above, shall enjoy the privileges and immunities provided by the Convention on the Privileges and Immunities of the Specialized Agencies or the Agreement on the Privileges and Immunities of the International Atomic Energy Agency as appropriate;

f. The representatives of the information media referred to in article II, paragraph 4, shall be accorded the appropriate facilities necessary for the independent exercise of their functions in connection with the Conference.

2. All persons referred to in article II shall have the right of entry into and exit from Samoa, and no impediment shall be imposed on their transit to and from the conference area. They shall be granted facilities for speedy travel. Visas and entry permits, where required, shall be granted free of charge, as speedily as possible. Arrangements shall also be made to ensure that visas for the duration of the Conference are delivered at airport to participants who were unable to obtain them prior to their arrival.

4. For the purpose of the Convention, the conference premises specified in article III, paragraph 1, above, shall be deemed to constitute premises of the United Nations in the sense of section 3 of the Convention and access thereto shall be subject to the authority and control of the United Nations. The premises shall be inviolable for the duration of the Conference, including the preparatory stage and the winding-up.\*

5. All persons referred to in article II, above, shall have the right to take out of Samoa at the time of their departure, without any restriction, any unexpended portions of the funds/allowance they brought in to Samoa in connection with the Conference.

#### *Article XII Co-operation with the appropriate Government authorities*

1. Without prejudice to the privileges and immunities accorded by under this Agreement, it is the duty of all persons enjoying such privileges and immunities to comply with the laws and regulations of the host country. They also have a duty not to interfere in the internal affairs of the host country.

2. The United Nations shall co-operate at all times with the appropriate authorities to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in connection with the privileges, immunities, facilities and courtesies accorded under this Agreement.

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\* The numbering of paragraphs corresponds to the original of the Agreement.

3. Where the Government considers there has been an abuse of the privileges or immunities conferred by this Agreement, consultations will be held between the Government and the Secretary-General of the Conference to determine whether any such abuse has occurred.

*Article XII Import duties and tax*

The United Nations, its equipment including but not limited to technical equipment accompanying representatives of the information media, and all other property for the purposes of the Conference shall be exempt from all direct and indirect taxes and import duties levied by national or local authorities or otherwise. The Government agrees to issue without undue delay any necessary import and export permits for this purpose. Such equipment or property related to the Conference shall be sent back to the United Nations Headquarters after the conclusion of the Conference, unless alternative arrangements have been made with the agreement of the Government.

*Article XIV Settlement of disputes*

1. Any dispute between the United Nations and the Government concerning the interpretation or application of this Agreement or of any supplementary Agreement, except for a dispute subject to Section 30 of the Convention or to any other applicable agreement, which is not settled by negotiations or other agreed mode of settlement, shall be referred for final decision at the request of either Party, to a tribunal of three arbitrators: one to be chosen by the Secretary-General of the United Nations, one to be chosen by the Minister for Foreign Affairs and Trade of the Government and the third, who shall be Chairperson of the tribunal, to be chosen by the first two arbitrators.

2. If either party fails to appoint an arbitrator within 60 days of the appointment by the other party, or if these two arbitrators fail to agree upon the third arbitrator within 60 days of their appointment, such third arbitrator shall be chosen by the President of the International Court of Justice at the request of the Secretary-General of the United Nations or the Government.

3. The arbitral tribunal shall determine its own procedure; and any expenses incurred from the arbitration shall be borne by the Parties as assessed by the arbitrators. The arbitral tribunal shall reach its decision by a majority of votes and shall in its final written decision set out its reasoning. Such decision shall be accepted as final by both Parties.

*Article XV Annexes*

1. The Annexes to this Agreement as specified in article II (3), article III (1), article VIII (2), article IX (1) and article IX(4)(c) shall form an integral part of the Agreement.\*\* The exact number of items listed in the Annexes may be subject to modifications as agreed to by the United Nations and the Government in writing.

2. Notwithstanding paragraph 1 of this article, the standards and number of items listed in the Annexes to this Agreement shall be considered minimum standards and

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\* Numbering as in the original.

\*\* Annexes not reproduced herein.

numbers. If the Government wishes to provide higher standards or more items than requested by the United Nations, the Government may do so after consultation with the United Nations.

*Article XVI 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 upon the date of the last signature and shall continue in force for the duration of the Conference and for such a period thereafter as is necessary for all matters relating to any of its provisions to be settled.

*Done* in New York on the 24th day of February, 2014, in duplicate in the English language.

For the United Nations

[Signed] WU HONGBO  
Secretary-General for the Third  
International Conference on Small  
Island Developing States

For the Independent State of Samoa

[Signed] Hnourable TUILAEPA  
LUPESOLIAI NEIOTI AIONO  
SAILELE MALIELEGAOI  
Prime Minister

**(d) Agreement between the United Nations and the Government of the Federal Republic of Somalia concerning the status of the United Nations Assistance Mission in Somalia. Mogadishu, 26 February 2014\***

I. DEFINITIONS

1. For the purpose of the present Agreement the following definitions shall apply:

(a) “UNSOM” means the United Nations Assistance Mission in Somalia, established by the Security Council resolution 2102 (2013) of 1 May 2013;

(b) “Special Representative” means the Special Representative for Somalia appointed by the Secretary-General of the United Nations. Any reference to the Special Representative in this Agreement shall, except in paragraph 24, include any member of UNSOM to whom he or she delegates a specified function or authority. It shall also include, including in paragraph 24, any member of UNSOM whom the Secretary-General may designate as acting Head of Mission of UNSOM following the death or resignation of the Special Representative or in the event of his or her incapacity;

(c) “member of UNSOM” means:

- (i) the Special Representative;
- (ii) officials of the United Nations assigned to serve with UNSOM including those recruited locally;
- (iii) United Nations Volunteers assigned to serve with UNSOM;

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\* Entered into force on 26 February 2014 by signature, in accordance with paragraph 66.

- (iv) other persons assigned to perform missions for UNSOM, including United Nations civilian police advisers and United Nations military advisers;
- (d) “the Government” means the Government of the Federal Republic of Somalia;
- (e) “the territory” means the territory of Somalia;
- (f) “the Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which Somalia is a Party;
- (g) “contractors” means persons, other than members of UNSOM, engaged by the United Nations, including juridical as well as natural persons and their employees and sub-contractors, to perform services for UNSOM or to supply equipment, provisions, supplies, fuel, materials or other goods, including spare parts and means of transport, in support of UNSOM activities. Such contractors shall not be considered third party beneficiaries to this Agreement;
- (h) “vehicles” means vehicles in use by the United Nations and operated by members of UNSOM or contractors in support of UNSOM activities;
- (i) “aircraft” means aircraft in use by the United Nations and operated by members of UNSOM or contractors in support of UNSOM activities;
- (j) “vessels” means vessels in use by the United Nations and operated by members of UNSOM or contractors in support of UNSOM activities.

## II. APPLICATION OF THE PRESENT AGREEMENT

2. Unless specifically provided otherwise, the provisions of the present Agreement and any obligation undertaken by the Government and any privilege, immunity, exemption, facility or concession granted to UNSOM or to any member of UNSOM or to its contractors shall apply in Somalia only.

## III. APPLICATION OF THE CONVENTION

3. UNSOM, its property, funds and assets and its members shall enjoy the privileges and immunities, exemptions and facilities specified in the present Agreement, as well as those provided for in the Convention.

## IV. STATUS OF UNSOM

4. UNSOM and its members shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of the present Agreement. UNSOM and its members shall respect all local laws and regulations. The Special Representative shall take all appropriate measures to ensure the observance of these obligations.

5. The Government undertakes to respect the exclusively international nature of UNSOM.



*United Nations flag, markings and identification*

6. The Government recognizes the right of UNSOM to display the United Nations flag on its headquarters and other premises, on its vehicles, aircraft, vessels and otherwise as decided by the Special Representative.

7. Vehicles, vessels and aircraft of UNSOM shall carry a distinctive United Nations identification, which shall be notified to the Government by the Special Representative.

*Communications*

8. UNSOM shall enjoy the facilities in respect of communications that are provided for in article III of the Convention. Issues with respect to communications which may arise and which are not specifically provided for in the present Agreement shall be dealt with pursuant to the relevant provisions of the Convention.

9. Subject to the provisions of paragraph 8:

(a) UNSOM shall have the right to establish, install and operate United Nations radio stations under its exclusive control to disseminate to the public in Somalia information relating to its mandate and promote understanding among the public of UNSOM's role. Programmes broadcast on such stations shall be under the exclusive editorial control of UNSOM and shall not be subject to any form of censorship. UNSOM will make the broadcast signal of such stations available to the state broadcaster upon request for further dissemination through the state broadcasting system. Such United Nations radio stations shall be operated in accordance with the International Telecommunication Convention and Regulations. The frequencies on which such stations may operate shall be decided upon in cooperation with the Government. If no decision has been reached fifteen (15) working days after the matter has been raised by UNSOM with the Government, the Government shall immediately allocate suitable frequencies for use by such stations. UNSOM shall be exempt from any taxes on and fees for the allocation of frequencies for use by such stations, as well as from any taxes on or fees for their use. However, UNSOM will not claim exemption from fees which are in fact no more than charges for services rendered, it being understood that such charges shall be charged at the most favourable rate.

(b) UNSOM shall have the right to disseminate to the public in Somalia and to the public abroad information relating to its mandate through electronic media, including websites, social media, webcasts, data feeds and online and messaging services. The content of data disseminated through such media shall be under the exclusive editorial control of UNSOM and shall not be subject to any form of censorship. UNSOM shall be exempt from any prohibitions or restrictions regarding the production or dissemination of such data, including any requirement that permits be obtained or issued for such purposes.

(c) UNSOM shall have the right to disseminate to Somalia information relating to its mandate through official printed materials and publications, which UNSOM may produce itself or through private publishing companies in Somalia. The content of such materials and publications shall be under the exclusive editorial control of UNSOM and shall not be subject to any form of censorship. UNSOM shall be exempt from any prohibitions or restrictions regarding the production or the publication or dissemination of such official materials and publications, including any requirement that permits be obtained or issued for such purposes. This exemption shall also apply to private publishing companies in



Somalia which UNSOM may use for the production, publication or dissemination of such materials or publications.

(d) UNSOM shall have the right to install and to operate radio sending, receiving and repeater stations, as well as satellite systems, in order to connect appropriate points within the territory of Somalia with each other and with United Nations offices in other countries and to exchange telephone, voice, facsimile and other electronic data with the United Nations global telecommunications network. Such telecommunication services shall be operated in accordance with the International Telecommunication Convention and Regulations. The frequencies on which such services may operate shall be decided upon in cooperation with the Government if no decision has been reached fifteen (15) working days after the matter has been raised by UNSOM with the Government, the Government shall immediately allocate suitable frequencies to UNSOM for this purpose. UNSOM shall be exempt from any and all taxes on, and from any and all fees for, the allocation of frequencies for this purpose, as well as from any and all taxes on, and from any and all fees for, their use. However, UNSOM will not claim exemption from fees which are in fact no more than charges for services rendered, it being understood that such charges shall be charged at the most favourable rate.

(e) UNSOM shall enjoy, within the territory of Somalia, the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, electronic mail, facsimile or any other means, and the right to establish the necessary facilities for maintaining such communications within and between premises of UNSOM, including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The frequencies on which the radio may operate and the areas of land on which sending, receiving and repeater stations may be erected shall be decided upon in cooperation with the Government and shall be allocated expeditiously. The Government shall, within fifteen (15) working days of being so requested by UNSOM, allocate suitable frequencies to UNSOM for this purpose. UNSOM shall be exempt from any and all taxes on, and from any and all fees for, the allocation of frequencies for this purpose, as well as from all taxes on, and from any and all fees for, their use. However, UNSOM will not claim exemption from fees which are in fact no more than charges for services rendered, it being understood that such charges shall be charged at the most favourable rate. Connections with local telephone and electronic data systems may be made only after consultation and in accordance with arrangements made with the Government. Use of those local systems by UNSOM shall be charged at the most favourable rate.

(f) UNSOM may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of UNSOM. The Government shall be informed of the nature of such arrangements and shall not interfere with or apply censorship to the mail of UNSOM or its members. In the event that postal arrangements applying to private mail of members of UNSOM are extended to transfer of currency or the transport of packages and parcels, the conditions under which such operations are conducted shall be agreed with the Government.

#### *Travel and transport*

10. UNSOM, its members and contractors, together with their property, equipment, provisions, supplies, fuel, materials and other goods, including spare parts, as well

as vehicles, aircraft and vessels, including the vehicles, aircraft and vessels of contractors used exclusively in the performance of services for UNSOM, shall enjoy full freedom of movement without delay throughout Somalia by the most direct route possible for the purpose of executing the tasks defined in UNSOM's mandate and without the need for travel permits or prior authorization or notification, except in the case of movements by air, which will comply with the generally applicable procedural requirements for flight planning and operations within the airspace of Somalia as promulgated, and as specifically notified to UNSOM, by the civil aviation authority of Somalia. The Government shall, where necessary, provide UNSOM with available maps and other information, including maps of and information on the location of minefields and other dangers and impediments, which may be useful in facilitating UNSOM's movements and ensuring the safety and security of its members.

11. Vehicles, vessels and aircraft shall not be subject to registration or licensing by the Government, it being understood that copies of all relevant certificates issued by appropriate authorities in other States in respect of aircraft shall be provided by UNSOM to the civil aviation authority of Somalia and that all vehicles, aircraft and vessels shall carry third party insurance.

12. UNSOM and its members and contractors, as well as vehicles, aircraft and vessels, including vehicles, aircraft and vessels of its contractors used exclusively in the performance of services for UNSOM, may use roads, bridges, canals and other waterways, airfields and airspace, and port facilities without the payment of any form of monetary contributions, dues, tolls, user fees or charges, including airport taxes, landing fees, parking fees, overflight fees, port fees or charges, including wharfage and compulsory pilotage charges. However, UNSOM will not claim exemption from charges which are in fact charges for services rendered, it being understood that such charges shall be charged at the most favourable rates.

#### *Privileges and immunities of UNSOM*

13. UNSOM, as a subsidiary organ of the United Nations, enjoys the status, rights, privileges and immunities, exemptions and facilities of the United Nations pursuant to and in accordance with the Convention. The Government recognizes in particular:

(a) The right of UNSOM, as well as of its contractors, to import, by the most convenient and direct route by land, sea or air, free of duty, taxes, fees and charges and free of prohibitions and restrictions, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, which are for the exclusive and official use of UNSOM or for resale in the commissaries provided for in subparagraph (b). For this purpose, the Government agrees expeditiously to establish, at the request of UNSOM, temporary customs clearance facilities for UNSOM and its contractors at locations in Somalia convenient for UNSOM and its contractors not previously designated as official ports of entry for Somalia;

(b) The right of UNSOM to establish, maintain and operate commissaries at its headquarters and other premises for the benefit of members of UNSOM, but not of locally recruited personnel. Such commissaries may provide goods of a consumable nature and other articles to be specified by the Special Representative, in advance. The Special Representative shall take all necessary measures to prevent abuse of such commissaries

and the sale or resale of such goods to persons other than members of UNSOM. He or she shall give due consideration to observations or requests by the Government concerning the operation of the commissaries;

(c) The right of UNSOM, as well as of its contractors, to clear ex customs and excise warehouse, free of duty, taxes, fees and charges and free of prohibitions and restrictions, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, which are for the exclusive and official use of UNSOM or for resale in the commissaries provided for in subparagraph (b);

(d) The right of UNSOM, as well as of its contractors, to re-export or otherwise dispose of all usable items of property and equipment, including spare parts and means of transport, and all unconsumed provisions, supplies, materials, fuel and other goods which have previously been imported, cleared ex customs and excise warehouse or purchased locally for the exclusive and official use of UNSOM and which are not transferred, or otherwise disposed of, on terms and conditions to be agreed upon, to the competent local authorities of Somalia or to an entity or entities nominated by them.

To the end that such importation, clearances, transfer or exportation may be effected with the least possible delay, a mutually satisfactory procedure, including documentation, shall be agreed between UNSOM and the Government at the earliest possible date.

#### V. FACILITIES FOR UNSOM AND ITS CONTRACTORS

##### *Premises required for conducting the operational and administrative activities of UNSOM*

14. The Government shall provide, without cost to UNSOM, in agreement with the Special Representative and for as long as may be required, such areas for the headquarters and other premises as may be necessary for the conduct of the operational and administrative activities of UNSOM, including the establishment of the necessary facilities for maintaining communications in accordance with paragraph 9. Without prejudice to the fact that all such premises remain the territory of Somalia, they shall be inviolable and subject to the exclusive control and authority of the United Nations. The Government shall guarantee unimpeded access to such United Nations premises.

15. The Government undertakes to assist UNSOM in obtaining and making available, where applicable, water, sewerage, electricity and other facilities free of charge, or, where this is not possible, at the most favourable rate, and free of all fees, duties and taxes, including value added tax. Where such utilities or facilities are not provided free of charge, payment shall be made by UNSOM on terms to be agreed with the competent authority. UNSOM shall be responsible for the maintenance and upkeep of facilities so provided. In the event of interruption or threatened interruption of service, the Government undertakes to give, as far as is within its powers, the same priority to the needs of UNSOM as to essential government services.

16. UNSOM shall have the right, where necessary, to generate, within its premises, electricity for its use and to transmit and distribute such electricity. It shall also have the right, where necessary, to construct water wells and waste water treatment systems within its premises for its own use.

17. Any government official or any other person seeking entry to UNSOM premises shall obtain the permission of the Special Representative.

*Provisions, supplies and services, and sanitary arrangements*

18. The Government agrees to grant promptly, upon presentation by UNSOM or by its contractors of a bill of lading, airway bill, cargo manifest or packing list, all necessary authorizations, permits and licenses required for the import of equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, for the exclusive and official use of UNSOM, including in respect of import by its contractors, free of any prohibitions and restrictions and without the payment of monetary contributions or duties, fees, charges or taxes, including value-added tax. The Government likewise agrees to grant promptly all necessary authorizations, permits and licenses required for the purchase or export of such goods, including in respect of purchase or export by UNSOM's contractors, free of any prohibitions and restrictions and without the payment of monetary contributions, duties, fees, charges or taxes.

19. The Government undertakes to assist UNSOM as far as possible in obtaining equipment, provisions, supplies, fuel, materials and other goods and services from local sources required for its subsistence and operations. In respect of equipment, provisions, supplies, fuel, materials and other goods and services purchased locally by UNSOM or by its contractors for the official and exclusive use of UNSOM, the Government shall make appropriate administrative arrangements for the remission or return of any excise, tax or monetary contribution payable as part of the price. The Government shall exempt UNSOM and its contractors from general sales taxes in respect of all local purchases for the exclusive and official use of UNSOM. In making purchases on the local market, UNSOM shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy.

20. For the proper performance of the services in support of UNSOM provided by its contractors, other than Somali nationals resident in Somalia, the Government agrees to provide such contractors with facilities for their entry into and departure from Somalia, without delay or hindrance, and for their residence in Somalia, as well as for their repatriation in time of crisis. For this purpose, the Government shall promptly issue to such contractors, free of charge and without any restrictions and within forty-eight (48) hours (two (2) business days) of application, all necessary visas, licenses and permits. UNSOM's contractors, other than Somali nationals resident in Somalia, shall be accorded exemption from taxes and monetary contributions in Somalia on services, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, provided to UNSOM, including corporate, income, social security and other similar taxes arising directly from or related directly to the provision of such services or goods.

21. UNSOM and the Government shall cooperate with respect to sanitary services and shall extend to each other their fullest cooperation in matters concerning health, particularly with respect to the control of communicable diseases, in accordance with international conventions.

*Recruitment of local personnel*

22. UNSOM may recruit locally such personnel as it requires. Upon the request of the Special Representative, the Government undertakes to facilitate the recruitment of qualified local staff by UNSOM and to accelerate the process of such recruitment.

*Currency*

23. The Government undertakes to make available to UNSOM, against reimbursement in mutually acceptable currency, local currency required for the use of UNSOM, including the pay of its members, at the rate of exchange most favourable to UNSOM.

## VI. STATUS OF THE MEMBERS OF UNSOM

*Privileges and immunities*

24. The Special Representative, the Deputy Special Representatives of the Secretary-General, the Chief of Staff, the Director of Mission Support and such other members of UNSOM of equivalent ranks as may be notified to the Government by the Special Representative shall have the status specified in Sections 19 and 27 of the Convention and shall be accorded the privileges and immunities, exemptions and facilities there provided.

25. Officials of the United Nations assigned to serve with UNSOM remain officials of the United Nations entitled to the privileges and immunities, exemptions and facilities set out in articles V and VII of the Convention.

26. United Nations Volunteers assigned to serve with UNSOM shall be assimilated to officials of the United Nations assigned to serve with UNSOM and shall accordingly enjoy the privileges and immunities, exemptions and facilities set out in articles V and VII of the Convention.

27. United Nations civilian police advisors, United Nations military advisers and civilian personnel, other than United Nations officials whose names are for that purpose notified to the Government by the Special Representative, 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 set out in that article and in article VII.

28. Locally recruited personnel of UNSOM shall enjoy the immunity concerning official acts, the exemption from taxation and the immunity from national service obligations provided for in Sections 18 (a), (b) and (c) of the Convention.

29. Members of UNSOM, including locally recruited personnel, shall be exempt from taxation on the pay and emoluments received from the United Nations. Members of UNSOM other than locally recruited personnel shall also be exempt from taxation on any income received from outside Somalia, as well as from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

30. Members of UNSOM shall have the right to import free of duty their personal effects in connection with their arrival in Somalia. They shall be subject to the laws and regulations of Somalia governing customs and foreign exchange with respect to personal property not required by them by reason of their presence in Somalia with UNSOM. The Government shall, as far as possible, give priority for the speedy processing of entry and exit formalities for all members of UNSOM upon prior written notification. On departure from Somalia, members of UNSOM may, notwithstanding the above-mentioned exchange regulations, take with them such funds as the Special Representative certifies were received in pay and emoluments from the United Nations and are a reasonable residue thereof. Special arrangements shall be made for the implementation of the present provisions in the interests of the Government and the members of UNSOM.

31. The Special Representative shall cooperate with the Government and shall render all assistance within his or her power in ensuring the observance of the customs and fiscal laws and regulations of Somalia by members of UNSOM, in accordance with the present Agreement.

*Entry, residence and departure*

32. The Special Representative and members of UNSOM shall, whenever so required by the Special Representative, have the right to enter into, reside in and depart from Somalia.

33. The Government undertakes to facilitate the entry into and departure from Somalia, without delay or hindrance, of the Special Representative and members of UNSOM and shall be kept informed of such movement. For the Special Representative and members of UNSOM holding a valid United Nations *laissez-passer* or a United Nations travel certificate, entry into and departure from Somalia shall be granted upon the presentation of the same. For members of UNSOM not holding a valid *laissez-passer* or travel certificate, entry into and departure from Somalia shall be granted upon presentation of a valid national passport and, where visas are required, such members shall be issued with a one-year multiple entry visas, free of charge, upon arrival at the airport or other port of entry. The Special Representative and members of UNSOM shall be exempt from prohibitions, restrictions or procedures that may obstruct or cause delay or hindrance to their entry into Somalia, including immigration inspection and restrictions. They shall also be exempt from payment of any taxes, fees or charges on entering into or departing from Somalia, including airport and departure taxes. The Government shall establish special facilities where possible at airports to facilitate such entry and departure. Members of UNSOM shall also be exempt from any regulations governing the residence of aliens in Somalia, including registration, but shall not be considered as acquiring any right to permanent residence or domicile in Somalia.

*Identification*

34. The Special Representative shall issue to each member of UNSOM, before or as soon as possible after such member's first entry into Somalia, as well as to all locally recruited personnel and to UNSOM's contractors, a numbered identity card showing the bearer's name and photograph. Except as provided for in paragraph 34 of the present Agreement, such identity card shall be the only document required of a member of UNSOM.

35. Members of UNSOM, as well as its locally recruited personnel and contractors, shall be required to present, but not to surrender, their UNSOM identity cards upon the demand of an appropriate official of the Government.

*Uniforms and arms*

36. United Nations Security Officers may wear the United Nations uniform. United Nations civilian police advisers and United Nations military advisers may wear the national military or police uniform of their respective States, with standard United Nations accoutrements. United Nations Security Officers, United Nations civilian police advisers and United Nations military advisers may possess and carry firearms and ammunition and other items of military and policing equipment, including global positioning devices,



while on official duty in accordance with their orders. When doing so, they must wear their respective uniforms except as otherwise provided in paragraph 37.

37. United Nations close protection officers and United Nations Security Officers serving in close protection details may carry firearms and ammunition and other items of military and policing equipment, including global positioning devices, and wear civilian clothes while performing their official functions.

38. UNSOM shall keep the Government informed of the number and the types of firearms carried by United Nations Security Officers and close protection officers and of the names of the officers carrying them.

39. UNSOM shall inform the Government, on a regular basis, the number of United Nations security officers, close protection officers, United Nations civilian police officers and United Nations military advisers.

#### *Permits and licenses*

40. The Government agrees to accept as valid, without tax or fee, a permit or license issued by the Special Representative for the operation by any member of UNSOM, including locally recruited personnel, of any UNSOM vehicle and for the practice of any profession in connection with the functioning of UNSOM, provided that no such permit or license shall be issued to any member of UNSOM who is not already in possession of an appropriate and valid national or international permit or license for the purpose concerned.

41. The Government agrees to accept as valid, and where necessary promptly to validate, free of charge and without any restrictions, licenses and certificates already issued by appropriate authorities in other States in respect of aircraft and vessels, including those operated by contractors exclusively for UNSOM. Without prejudice to the foregoing, the Government further agrees to grant promptly, free of charge and without any restrictions, necessary authorizations, licenses and certificates, where required, for the acquisition, use, operation and maintenance of aircraft and vessels.

42. Without prejudice to the provisions of paragraphs 36 and 37, the Government further agrees to accept as valid, without tax or fee, permits or licenses issued by the Special Representative to members of UNSOM for the carrying or use of firearms or ammunition in connection with the functioning of UNSOM.

#### *Arrest and transfer of custody and mutual assistance*

43. The Special Representative shall take all appropriate measures to ensure the maintenance of discipline and good order among members of UNSOM, including locally recruited personnel. To this end, personnel designated by the Special Representative shall patrol the premises of UNSOM and areas where its members are deployed. Elsewhere, such personnel shall be employed only subject to arrangements with the Government and in liaison with it in so far as such employment is necessary to maintain discipline and order among members of UNSOM.

44. The personnel mentioned in paragraph 43 above may take into custody any person on the premises of UNSOM. Such person shall be delivered immediately to the nearest appropriate official of the Government for the purpose of dealing with any offence or disturbance on such premises.

45. Subject to the provisions of paragraphs 24 and 27, officials of the Government may take into custody any member of UNSOM:

(a) When so requested by the Special Representative; or

(b) When such a member of UNSOM is apprehended in the commission or attempted commission of a criminal offence. Such person shall be delivered immediately, together with any item seized, to the nearest appropriate representative of UNSOM, whereafter the provisions of paragraph 55 shall apply *mutatis mutandis*.

46. When a person is taken into custody under paragraph 44 or paragraph 45 (b), UNSOM or the Government, as the case may be, may make a preliminary interrogation, but may not delay the transfer of custody. Following such transfer, the person concerned shall be made available upon request to the arresting authority for further interrogation.

47. UNSOM and the Government shall assist each other in carrying out all necessary investigations into offences in respect of which either or both have an interest, in the production of witnesses and in the collection and production of evidence, including the seizure of and, if appropriate, the handing over of items connected with an offence. The handing over of any such items may be made subject to their return on the terms specified by the authority delivering them. Each party shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 44 to 46.

#### *Safety and security*

48. The Government shall take all necessary steps within its power to ensure the safety, security and freedom of movement of the United Nations, its personnel, associated personnel and their property and assets.

49. Pursuant to its responsibilities as set out in paragraph 48 above, the Government shall, upon the request of the SRSG:

(a) provide a sufficient number of personnel for the protection of United Nations property and premises and for the removal of any security threat or persons from those premises;

(b) provide appropriate security, including armed escorts, to protect the members of UNSOM during the exercise of their functions.

When making any request under this paragraph, the SRSG shall provide the Government with a description of the property, premises or duties of the personnel to be protected and any other information that might reasonably be required in order for the Government to be able effectively to discharge its responsibilities as set out in this paragraph and paragraph 48 above.

50. The Government shall discharge its responsibilities as set out in paragraphs 48 and 49 above in close coordination and consultation with UNSOM. In order to facilitate such coordination and consultation, the Government shall provide a liaison officer of appropriate senior rank to coordinate security arrangements with a designated security official of the United Nations.

51. The Government shall regularly provide UNSOM with reports on the security situation in the country in so far as that situation might affect the safety and security



of offices, premises and personnel of the United Nations and shall immediately notify UNSOM of existing or potential threats to the offices, premises and personnel of the United Nations.

52. Detailed arrangements regarding the measures that the Government shall take in order to provide for the security of personnel and facilities of the United Nations shall, as necessary, be set out in supplemental arrangements to the present Agreement.

50. Pursuant to its responsibilities as set out in paragraph 48 above, the Government shall ensure that the provisions of the Convention on the Safety of United Nations and Associated Personnel are applied to in respect of UNSOM and its property, assets and members. In particular:<sup>\*</sup>

(a) the Government shall take all appropriate measures to ensure the safety and security of members of UNSOM and its associated personnel. It shall take all appropriate steps to protect members of UNSOM and its associated personnel, their equipment and premises from attack or any action that prevents them from discharging their mandate. This is without prejudice to the fact that all premises of UNSOM are inviolable and subject to the exclusive control and authority of the United Nations;

(b) if members of UNSOM or its associated personnel are captured, detained or held hostage in the course of the performance of their duties and their identification has been established, they shall not be subjected to interrogation and they shall be promptly released and returned to the United Nations or other appropriate authorities. Pending their release, such personnel shall be treated in accordance with universally recognized standards of human rights;

(c) the Government shall establish the following acts as crimes and make them punishable by appropriate penalties, taking into account their grave nature:

- (i) a murder, kidnapping or other attack upon the person or liberty of any member of UNSOM or its associated personnel;
- (ii) a violent attack upon the official premises, the private accommodation or the means of transportation of any member of UNSOM or its associated personnel likely to endanger his or her person or liberty;
- (iii) a threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act;
- (iv) an attempt to commit any such attack; and
- (v) an act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack.

(d) the Government shall establish its jurisdiction over the crimes set out in subparagraph (c) above: (i) when the crime was committed on the territory of Somalia; (ii) when the alleged offender is a national of Somalia; (iii) when the alleged offender, other than a member of UNSOM, is present in Somalia, unless it has extradited such a person to the State on whose territory the crime was committed, or to the State of his or her nationality, or to the State of his or her habitual residence if he or she is a stateless person, or to the State of the nationality of the victim;

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<sup>\*</sup> The numbering of paragraphs corresponds to the original of the Agreement.

(e) the Government shall ensure the prosecution without exception and without delay of persons accused of acts described in subparagraph (c) above who are present within Somalia (if the Government does not extradite them) as well as those persons that are subject to its criminal jurisdiction who are accused of other acts in relation to UNSOM or its members or associated personnel which, if committed in relation to the forces of the Government or against the local civilian population, would have rendered such acts liable to prosecution.

### *Jurisdiction*

54. All members of UNSOM, including locally recruited personnel, shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by or for UNSOM and after the expiration of the other provisions of the present Agreement.

55. Should the Government consider that any member of UNSOM has committed a criminal offence, it shall promptly inform the Special Representative and present to him or her any evidence available to it. Subject to the provisions of paragraph 24, the Special Representative shall conduct any necessary supplementary inquiry and then agree with the Government whether or not criminal proceedings should be instituted. Failing such agreement the question shall be resolved as provided in paragraph 61 of the present Agreement. In the event that criminal proceedings are instituted in accordance with the present Agreement, the courts and authorities of Somalia shall ensure that the member of UNSOM concerned is prosecuted, brought to trial and tried in accordance with international standards of justice, fairness and due process of law, as set out in the International Covenant on Civil and Political Rights (the "Covenant"), to which Somalia is a Party. No sentence of death will be imposed in the event of a guilty verdict.

56. If any civil proceeding is instituted against a member of UNSOM before any court of Somalia, the Special Representative shall be notified immediately and he or she shall certify to the court whether or not the proceeding is related to the official duties of such member.

(a) If the Special Representative certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 59 of the present Agreement shall apply.

(b) If the Special Representative certifies that the proceeding is not related to official duties, the proceeding may continue. In that event, the courts and authorities of Somalia shall grant the member of UNSOM concerned sufficient opportunity to safeguard his or her rights in accordance with due process of law and shall ensure that the suit is conducted in accordance with international standards of justice, fairness and due process of law, as set out in the Covenant. If the Special Representative certifies that a member of UNSOM is unable, because of his or her official duties or authorized absence, to protect his or her interests in the proceeding, the court shall, at the defendant's request, suspend the proceeding until the elimination of the disability, but for no more than ninety (90) days. Property of a member of UNSOM that is certified by the Special Representative to be needed by the defendant for the fulfilment of his or her official duties shall be free from seizure for the satisfaction of a judgement, decision or order. The personal liberty of a member of UNSOM

shall not be restricted in a civil proceeding, whether to enforce a judgement, decision or order, to compel an oath or for any other reason.

#### *Deceased members*

57. The Special Representative or the Secretary-General of the United Nations shall have the right to take charge of and dispose of the body of a member of UNSOM who dies in Somalia, as well as that member's personal property located within Somalia, in accordance with United Nations procedures.

### VII. LIMITATION OF LIABILITY OF THE UNITED NATIONS

58. Third party claims for property loss or damage and for personal injury, illness or death, arising from or directly attributed to UNSOM and which cannot be settled through the internal procedures of the United Nations, shall be settled by the United Nations in the manner provided for in paragraph 60 of the present Agreement, provided that the claim is submitted within six (6) months following the occurrence of the loss, damage or injury or, if the claimant did not know or could not reasonably have known of such loss or injury, within six (6) months from the time he or she had discovered the loss or injury, but in any event not later than one (1) year after the termination of the mandate of the operation. Upon determination of liability as provided in this Agreement, the United Nations shall pay compensation within such financial limitations as have been approved by the General Assembly in its resolution 52/247 of 26 June 1998.

### VIII. SETTLEMENT OF DISPUTES

59. Except as provided in paragraph 61, any dispute or claim of a private law character to which UNSOM or any member thereof is a party and over which the courts of Somalia do not have jurisdiction because of any provision of the present Agreement shall be settled by a standing claims commission to be established for that purpose. One member of the commission shall be appointed by the Secretary-General of the United Nations, one member by the Government and a chairman jointly by the Secretary-General and the Government. If no agreement as to the chairman is reached within thirty (30) days of the appointment of the first member of the commission, the President of the International Court of Justice may, at the request of either the Secretary-General of the United Nations or the Government, appoint the chairman. Any vacancy on the commission shall be filled by the same method prescribed for the original appointment, provided that the thirty-day period there prescribed shall start as soon as there is a vacancy in the chairmanship. The commission shall determine its own procedures, provided that any two members shall constitute a quorum for all purposes (except for a period of thirty days after the creation of a vacancy) and all decisions shall require the approval of any two members. The awards of the commission shall be final. The awards of the commission shall be notified to the parties and, if against a member of UNSOM, the Special Representative or the Secretary-General of the United Nations shall use his or her best endeavours to ensure compliance.

60. Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled in accordance [with] the regulations and rules of the United Nations.

61. All other disputes between UNSOM and the Government concerning the interpretation or application of the present Agreement that are not settled by negotiation shall, unless otherwise agreed by the parties, be submitted to a tribunal of three arbitrators. The provisions relating to the establishment and procedures of the claims commission set out in paragraph 59 shall apply, *mutatis mutandis*, to the establishment and procedures of the tribunal. The decisions of the tribunal shall be final and binding on both parties.

62. All differences between the United Nations and the Government arising out of the interpretation or application of the present arrangements which involve a question of principle concerning the Convention shall be dealt with in accordance with the procedure of section 30 of the Convention.

#### IX. SUPPLEMENTAL ARRANGEMENTS

63. The Special Representative and the Government may conclude supplemental arrangements to the present Agreement.

#### X. LIAISON

64. The Special Representative and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

#### XI. MISCELLANEOUS PROVISIONS

65. Wherever the present Agreement refers to privileges, immunities and rights of UNSOM and to facilities the Government of the Federal Republic of Somalia undertakes to provide to UNSOM, the Government shall have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local authorities.

66. The present Agreement shall enter into force immediately upon signature by or for the Secretary-General of the United Nations and the Government.

67. The present Agreement shall remain in force until the departure of the final element of UNSOM from Somalia, except that:

(a) the provisions of paragraphs 53 (iii), (iv) and (v), 54, 57, 61 and 62 shall remain in force;

(b) the provisions of paragraphs 58 and 59 shall remain in force until all claims made in accordance with the provisions of paragraph 58 have been settled;

(c) the provisions of paragraph 53 (b) shall remain in force until the release or return to the United Nations of any and every member of UNSOM who may have been captured, detained or held hostage in the course of their duties as stipulated in that paragraph;

(d) the provisions of paragraph 53 (e) shall remain in force until the prosecutions mentioned in that paragraph are completed.

68. This Agreement shall apply *mutatis mutandis* to the United Nations Support Office for AMISOM (UNSOA), its property, funds and assets and its officials and experts on mission that are deployed in Somalia.

69. Without prejudice to existing agreements regarding their legal status and operations in Somalia, the provisions of the present Agreement shall apply to offices, funds and programmes of the United Nations, their property, funds and assets and their officials and experts on mission that are deployed in Somalia and perform functions in furtherance of the mandate of UNSOM.

70. Without prejudice to existing agreements regarding their legal status and operations in Somalia, the provisions of the present Agreement may, as appropriate, be extended to specific specialized agencies or related organizations of the United Nations, their property, funds and assets and their officials and experts on mission that are employed in Somalia and perform functions in relation to UNSOM, provided that this is done with the written consent of the Special Representative, the specialized agency or related organization concerned and the Government.

*In witness whereof*, the undersigned, being the duly authorized plenipotentiary of the Government and the duly appointed representative of the United Nations, have, on behalf of the Parties, signed the present Agreement.

*Done* at Mogadishu, on 26th day of February 2014, in two original copies in the English language.

For the United Nations

[Signed] Mr. NICHOLAS KAY  
Special Representative of the  
Secretary-General for Somalia

For the Federal Government of Somalia

[Signed] H.E. ABDIRAHMAN DUALE BEYLE  
Minister of Foreign Affairs and  
International Cooperation

- (e) **Exchange of letters constituting an agreement between the United Nations and the Government of the Federal Republic of Germany concerning the organization of the High-level Symposium and a series of side events, to be held in Berlin from 19 to 21 March 2014, in preparation of the 2014 Development Cooperation Forum focusing on “Accountable and effective development cooperation in a post-2015 era”. New York, 17 March 2014\***

## I

17 March 2014

Excellency,

I have the honour to refer to the arrangements concerning the High-level Symposium and a series of side events in preparation of the 2014 Development Cooperation Forum (DCF) focusing on “Accountable and effective development cooperation in a post-2015 era” (hereinafter referred to as “the Symposium”).

The Symposium is co-organized by the United Nations, represented by the Department of Economic and Social Affairs (hereinafter referred to as “the United Nations”) and the Government of the Federal Republic of Germany (hereinafter referred to as “the Government”) and will be held in Café Moskau, Berlin, Germany from 20 to 21 March 2014, with a series of side-events on 19 March 2014.

The Symposium is within the scope of General Assembly Resolution 61/16 on the strengthening of the Economic and Social Council.

With the present letter, I wish to obtain your Government’s acceptance of the following:

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

(a) up to 160 representatives from governments, UN system organizations and other multilateral institutions, civil society, academia, parliaments, local governments and the private sector;

(b) the President of the United Nations Economic and Social Council (ECOSOC);

(c) 6 officials and 1 individual contractor from the United Nations; and

(d) other participants invited as observers by the Government and the United Nations.

2. The total number of participants will be up to 200. The list of participants will be determined by the United Nations together with the Government prior to the holding of the Symposium.

3. The Symposium will be conducted in English, French and Spanish.

4. The United Nations will be responsible for:

(a) the provision of substantive support before and during the Symposium, including the preparation of the appropriate documentation and the report of the Symposium in consultation with the Government;

(b) the sending of invitations to participants, as specified in sub-paragraphs 1(a), 1(b), 1(c) and 1(d);

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\* Entered into force on 17 March 2014 by the exchange of the said letters.

(c) the payment of terminal expenses and daily subsistence allowance in accordance with the prevailing United Nations rates for up to 46 funded participants from among the participants as specified in sub-paragraph 1(a), the President of ECOSOC as specified in sub-paragraph 1(b) and 6 officials and 1 individual contractor from the United Nations as specified in sub-paragraph 1(c) as agreed between the Government and the United Nations; and

(d) the issuance of round trip air tickets for up to 6 officials and 1 individual contractor from the United Nations as specified in sub-paragraph 1(c).

5. The Government will provide a contribution of up to 85,914.80 US\$ (eighty-five thousand nine hundred fourteen dollars and eighty cents), inclusive of the United Nations standard programme support costs, to finance the terminal expenses and daily subsistence allowance in accordance with prevailing United Nations rates for participants as specified in sub-paragraph 4(c), and air tickets for participants as specified in sub-paragraph 4(d). The aforesaid contribution shall be administered in accordance with the United Nations Financial Regulations and Rules.

6. Furthermore, the Government will be responsible for and provide at its cost the following:

(a) the issuance of round trip air tickets for up to 46 participants from among the participants as specified in sub-paragraph 1(a) and the President of ECOSOC as specified in sub-paragraph 1(b), as agreed between the Government and the United Nations;

(b) local staff to assist with the planning and any necessary administrative and technical support during the meeting, including for (i) set-up of Symposium rooms (technical and audio components, nameplates, seating arrangements etc.); (ii) reproduction of meeting materials before and during the Symposium; (iii) set-up for a Press Conference; and (iv) registration of participants, issuance of badges and other related secretarial and conference services;

(c) Symposium premises and facilities as well as interpretation in English, French and Spanish and audio recording of all Symposium proceedings, including one large conference room; three small break-out rooms, one multifunctional room and one room for the closing reception;

(d) office space for use by the secretariat of the United Nations and the President of ECOSOC (2 separate rooms with computers, printers, internet access, email, international telephone lines, photocopying equipment and stationery);

(e) hospitality during the Symposium (including coffee breaks and sit-down luncheons);

(f) hotel accommodation for all international participants specified in sub-paragraph 4 (c);

(g) hotel reservation arrangements for participants attending at their own expense (details on specific deadlines are communicated with the 'logistical note');

(h) security measures for the venue for the duration of the Symposium; and

(i) transportation arrangements between the airport and the hotel for mutually agreed high-level participants.

7. The costs of air fares, terminal expenses, daily subsistence allowance, accommodation and local transportation for those not covered in sub-paragraphs 4(c), 4(d), 6(a), 6(f) and 6(i) will be the responsibility of the participants or their respective organizations.

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

(a) 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 is a party shall be applicable in respect of the Symposium. In particular, representatives of States participating in the Symposium shall enjoy the privileges and immunities provided 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 participating in or performing functions in connection with the Symposium shall enjoy privileges and immunities provided under articles V and VII of the Convention. The Government shall apply to the Officials of the Specialized Agencies of the United Nations, 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 Conventions, all participants and persons performing functions in connection with the Symposium shall enjoy such additional privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connection with the Symposium;

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

(d) All participants and all persons performing functions in connection with the Symposium shall have the right of unimpeded entry into and exit from Germany in accordance with procedures established under relevant domestic and EU legislation. The United Nations shall advise all participants that they may be required to apply for a visa. Any such visa applications shall be processed free of charge and as speedily as possible. To ensure that visas are issued in time, participants should file their applications no later than four weeks before the Symposium is due to commence;

(e) For serious emergencies, the Government shall ensure immediate transportation and admission to a hospital, and the necessary transport shall be constantly available on call. The cost of any hospitalization shall be solely borne by the patient.

9. The Government shall, at its own expense, provide such police protection as may be required to ensure the safety of the participants and the effective functioning of the Symposium with appropriate security and free from interference of any kind. While such arrangements shall be under the direct supervision and control of a senior officer provided by the Government, this officer shall work in close co-operation with a designated senior official of the United Nations.

10. It is further understood that the Government shall be responsible for dealing with any action, claim or other demand against the United Nations or its officials arising out of:

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



(b) injury to persons or damage to or loss of property caused by or incurred in using any transport services that are provided for the Symposium by or under the control of the Government;

(c) the employment for the Symposium of personnel provided or arranged for by the Government;

and the Government shall indemnify and hold harmless the United Nations and its officials in respect of any such action, claim or other demand except where the Government and the United Nations agree that such demand, loss or injury is caused by the gross negligence or willful misconduct of the United Nations or its officials.

11. Any dispute 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 negotiation or any other agreed mode of settlement shall be submitted 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 by the Government and the third who shall be the 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 arbitrator 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 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.

12. If the Government of the Federal Republic of Germany agrees to the proposals contained in paragraphs 1 to 11 above, this letter and your Excellency's letter in reply thereto expressing your Government's agreement shall constitute an Agreement between the United Nations and the Government of the Federal Republic of Germany regarding the hosting of the High-level Symposium in preparation of the 2014 Development Cooperation Forum (DCF), focusing on "Accountable and effective development cooperation in a post-2015 era" which shall be concluded in the English and German languages, both texts being equally authentic. This Agreement shall enter into force on the date of your Note in reply and shall remain in force for the duration of the Symposium from 20 to 21 March 2014 and the side events on 19 March 2014, and for such additional period as is necessary for its preparation, completion of its work, and for the resolution of any matters arising out of the Agreement.

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

[Signed] WU HONGBO  
Under-Secretary-General  
Secretary-General for the  
International Conference on  
Small Island Developing States

## II

New York, March 17th, 2014

Excellency, Dear Under Secretary General Wu Hongbo,

I have the honor to confirm receipt of your Note No. DESA-14/00305 of March 17, 2014 proposing on behalf of the United Nations the conclusion of an Arrangement between the United Nations and the Government of the Federal Republic of Germany concerning the High-level Symposium and a series of side events in preparation of the 2014 Development Cooperation Forum (DCF) focusing on “Accountable and effective development cooperation in a post-2015 era”.

I have the honor to inform you that my Government agrees to the proposals contained in your Note. Your Note and this Note in reply thereto shall thus constitute an Arrangement between the United Nations and the Government of the Federal Republic of Germany, which shall enter into force on the date of this Note.

Please accept, Excellency, the assurances of my highest consideration and best personal regards.

[Signed] HARALD BRAUN

**(f) Exchange of letters constituting an agreement between the United Nations and the Government of Austria for the hosting of the United Nations Global Training-of-Trainers Course on Protection of Civilians and Child Protection, to be held in Stagtschlaining, Austria, from 5 to 16 May 2014.**

**New York, 23 April 2014 and 29 April 2014\***

## I

23 April 2014

Excellency, *cher* Martin,

I have the honour to refer to General Assembly resolutions 46/48 of 9 December 1991, 48/42 of 10 December 1993 and 49/37 of 9 February 1995, concerning peacekeeping training requirements.

These resolutions provide, *inter alia*, that training of peacekeeping personnel is primarily the responsibility of the Member States; that an established focal point for peacekeeping training in the United Nations Department of Peacekeeping Operations (DPKO) should act as a coordinator between the United Nations and national/regional training facilities, and that these institutions should be used for the development of various peacekeeping training programmes.

In response to these resolutions, the United Nations, represented by the Department of Peacekeeping Operations (hereinafter referred to as the “United Nations”) is very

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\* Entered into force on 29 April 2014 by the exchange of the said letters, in accordance with their provisions.

grateful to the Republic of Austria (hereinafter the “Government”) for the offer to host a United Nations Global Training-of-Trainers Course on Protection of Civilians and Child Protection (hereinafter the “Course”). In this regard, the United Nations wishes to accept the Government’s offer to organise the Course, which will be held from 5 to 16 May 2014 at the Austrian Study Centre for Peace and Conflict Resolution (ASPR) located in the Peace Castle in Stadtschlaining, Austria.

Following our previous correspondence and discussions, and in order to proceed with the planning and organization of this Course, the United Nations wishes to obtain your Government’s acceptance of the following:

1. The Course will be attended by the following participants invited by the United Nations:

- (a) Up to 28 representatives of Member States who will participate as students;
- (b) Up to two representatives from the host Member State who will participate as students;
- (c) Up to four United Nations Officials as instructors and facilitators;
- (d) Up to one United Nations Official to support the training event;
- (e) Up to one international consultant;
- (f) The total number of participants will be up to 36.

2. The Course will be conducted in English.

3. The logistic arrangements for the Course will be shared as follows:

- (a) The United Nations will be responsible for:
  - i. Preparing the course programme, appointing instructors and presenters, selecting international students, conducting the course, and preparing the final report;
  - ii. Arranging the travel for all international participants;
  - iii. Providing soft copies of the United Nations training material and course certificates;
  - iv. Covering the cost associated with the activities mentioned in sub-paragraph 3(a), and 3(b) ii for participants listed in 1(c), (d), and (e).
- (b) The Government will be responsible for:
  - i. Arranging the provision of one plenary conference room, three working group rooms, one secretariat office, one coffee break area, and one plenary dining room;
  - ii. Arranging the provision of meals and accommodation for all the participants;
  - iii. Arranging the provision of internet, including wireless access, telephone access, reproduction of course materials, office equipment and installations, course facility set up, stationary, and office supplies;
  - iv. Arranging the provision of one heavy duty photocopier, three computers, two projectors with screens, one whiteboard, six flipcharts, one public address system, and one telephone;

- v. Providing opening and closing ceremonies, cultural and social programmes, local transportation, first aid, course picture, and reception at the point of entry;
- vi. Providing United Nations and Host Country flags, personal identification tags for participants, country name for desks, and signs for the conference room and course offices;
- vii. Appointing one liaison officer, one administrative staff, and clerk, covering the cost associated with the activities mentioned in sub-paragraph 3(b) with the exception of 3(b)ii, where costs will be only covered for the participants listed in 1(a) and 1(b).

(c) Invitations to participants will be sent by the United Nations and will indicate that the Course is being co-sponsored by the Government and the United Nations. The selection of nominees, with the exception of the participants from the host Member State, which will be decided upon jointly, will be solely for the United Nations.

4. I wish to propose that the following terms will apply to the Course:

(a) The Agreement between the Republic of Austria and the United Nations Regarding the Seat of the United Nations in Vienna signed in Vienna on 29 November 1995 applies *mutatis mutandis* to the participants of the Course. All participants of the Course who are neither representatives of States or of intergovernmental organizations, nor officials of the United Nations are considered as experts on mission;

(b) Without prejudice to subparagraph 4(a) above, the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946 ("the Convention"), to which the Government is a party, will be applicable in respect of the Course, in particular, articles IV, V, VI and VII. Officials of the Specialized Agencies of the United Nations participating in the Course will 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;

(c) The entry into and exit from the Republic of Austria will be dealt with in accordance with the Agreement between the Republic of Austria and the United Nations regarding the Seat of the United Nations in Vienna. To facilitate any visa provision a detailed list of all international participants will be made available to the Government no later than 25 April 2014 containing the name, first name, date of birth, nationality, function in the home country, living address, number of passport, travel dates, name and address of the authority the visa was requested.

5. The Government will furnish such police protection as may be required to ensure the effective functioning of the Course in an atmosphere of security and tranquillity free from interference of any kind. While such police services will be under the direct supervision and control of a senior officer provided by the Government, this officer will work in close co-operation with a designated senior official of the United Nations.

6. Any dispute concerning the interpretation or implementation of this arrangement, except for a dispute subject to Section 30 of the Convention or to any other applicable agreement, will be resolved by negotiations or other agreed mode of settlement.

I further propose that upon receipt of your Government's confirmation in writing of the above, this exchange of letters will constitute an arrangement between the United Nations and the Government of Austria regarding the hosting of the Course, which will become effective on the date of your reply and will remain effective for the duration of the Course and for such additional period as is necessary for its preparation and for the completion of its work, and for the resolution of any matters arising out of the arrangement.

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

[Signed] HERVÉ LADSOUS  
Under-Secretary-General for  
Peacekeeping Operations

II

New York, 29th April 2014

Excellency,

I have the honour to refer to your letter dated 23rd April 2014 regarding the planning and organization of a "United Nations Global Training-of-Trainers Course on Protection of Civilians and Child Protection" which is going to be held from 5 to 16 May 2014 at the Austrian Study Center for Peace and Conflict Resolution (ASPR) in Stadtschlaining.

I [woul]d like to confirm that the Government of the Republic of Austria accepts the arrangements for the course contained therein.

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

[Signed] MARTIN SAJDIK  
Ambassador  
Permanent Representative

### 3. Other agreements

(a) Exchange of letters constituting an agreement between the Organization for the Prohibition of Chemical Weapons, the United Nations and the Government of the Syrian Arab Republic concerning the multinational maritime transport operation for the removal and transport of Syrian chemical agents. The Hague, 5 January 2014, New York, 5 January 2014, and Damascus, 6 January 2014<sup>\*</sup>

#### I

5 January 2014

Excellency,

We have the honour to refer to decision EC-M-34/DEC.1, adopted on 15 November 2013, by which the Executive Council of the Organization for the Prohibition of Chemical Weapons (hereinafter, the “OPCW”) set forth the detailed requirements for the destruction of Syrian chemical weapons, including for the removal of such chemical weapons from the territory of the Syrian Arab Republic.

In furtherance of the implementation of that decision and United Nations Security Council resolution 2118 (2013), the Governments of the Kingdom of Denmark and the Kingdom of Norway (hereinafter, “Denmark and Norway”) have offered to carry out a joint multinational operation for the maritime transport of the chemical agents to be identified by the OPCW for removal from the territory of the Syrian Arab Republic for destruction elsewhere.

Having regard to the role of the OPCW and the United Nations in facilitating and coordinating international assistance for the timely implementation of the elimination of Syrian chemical weapons in the safest and most secure manner, the OPCW and the United Nations hereby seek your Government’s confirmation of the following understandings.

1. Personnel and assets (which hereinafter include all vessels, vehicles, aircraft, equipment, supplies, fuel, and any other goods and materials, including spare parts) of Denmark and Norway, as well as the nationals and assets of other States Parties to the Chemical Weapons Convention assisting Denmark and Norway (hereinafter, “personnel and assets of the multinational maritime transport operation”) shall have unhindered entry to and exit from, as well as freedom within and above, Syrian territorial waters and relevant port facilities on Syrian territory for the sole purpose of carrying out the multinational maritime transport operation in a timely, safe and secure manner.

2. In particular, the Government of the Syrian Arab Republic shall exempt the personnel and assets of the multinational maritime transport operation from passport and visa regulations and any other immigration restrictions, as well as from payment of any fees or charges on entering into or departing from the Syrian Arab Republic. The personnel and assets of the multinational maritime transport operation shall also be exempt from any applicable permit, licensing and registration requirements and from the payment of any form of monetary contributions, dues, tolls, user fees, including parking and storage fees or port fees or charges, including wharfage charges. It is, however, understood that

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<sup>\*</sup> Entered into force on 7 January 2014, in accordance with the provisions of the said letters.

the personnel and assets of the multinational maritime transport operation would not be exempt from charges that are in fact charges for services rendered, it being understood that such charges shall be charged at the most favourable rates.

3. Without prejudice to any other privileges and immunities that they may otherwise enjoy under international law and relevant treaties, Denmark and Norway, and the personnel and assets of the multinational maritime transport operation including civil vessels used for non-commercial purposes, shall, irrespective of the vessels' ownership, be considered as used only on government non-commercial service and shall enjoy State immunity from the jurisdiction of any State other than the flag State. In particular, Denmark and Norway have the right to invoke full protections pursuant to the 1926 International Convention for the Unification of Certain Rules Concerning the Immunity of State-Owned Ships and its 1934 Additional Protocol, to which Denmark, Norway and the Syrian Arab Republic are parties. To the extent that they are parties to the United Nations Convention on the Law of the Sea, and notwithstanding that the Syrian Arab Republic is not a party thereto, the three Governments shall enjoy the rights and obligations provided for in that Convention including its articles 30, 31, 32, 96 and 236, and other applicable instruments.

4. Without prejudice to the Government of the Syrian Arab Republic's responsibility for the safety and security of the personnel and assets of the multinational maritime transport operation, within the territory of the Syrian Arab Republic and its territorial waters, the Government of the Syrian Arab Republic recognizes that Denmark and Norway, within their inherent right of self-defence, have the right to take appropriate action to protect the personnel and assets of the multinational maritime transport operation.

We look forward to receiving your written confirmation that the Government of the Syrian Arab Republic accepts and will ensure respect for the foregoing understandings.

We propose that our letter and your response thereto constitute an Agreement between the United Nations, the OPCW and the Syrian Arab Republic, that shall enter into force upon entry of the first element of the personnel and assets of the multinational maritime transport operation in the Syrian territorial waters. This Agreement shall terminate when the final element of the personnel and assets of the multinational maritime transport operation has departed from the Syrian territorial waters and, in any event, not before all chemical agents identified by the OPCW for removal have been removed from the territory of the Syrian Arab Republic. Denmark and Norway as well as the personnel and assets of the multinational maritime transport operation are intended to be third party beneficiaries of such agreement which shall be without prejudice to the tripartite Agreement concerning the Status of the Joint OPCW–United Nations Mission for the Elimination of Syrian Chemical Weapons to be concluded between the OPCW, the United Nations and the Government of the Syrian Arab Republic.

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

For the United Nations:

[Signed] BAN KI-MOON  
Secretary-General

For the Organization for the Prohibition  
of Chemical Weapons:

[Signed] AHMET ÜZÜMCÜ  
Director-General

## II

Date: 06/01/2014

Ref: 4

To: His Excellency Ban Ki-moon, Secretary-General of the United Nations

His Excellency Mr. Ahmet Üzümcü, Director General, Organization for the Prohibition of Chemical Weapons (OPCW).

Following up the positive commitment of the Government of the Syrian Arab Republic with regard to implementing the decision of the Executive Council of the OPCW EC-M-34/DEC.1 of 27 September 2013 and the UN Security Council Resolution S/RES/2118 (2013),

I have the honour to refer to your letter dated 5 January 2014, attached with the United Nations (OPCW-UN) Joint Mission letter Ref.OPCW-UN-/OCOS/2014/L002 dated 6 January 2014,

I would like to announce the acceptance of the Government of the Syrian Arab Republic to the contents of the letter and would like you to consider this reply as an acceptance of its terms for all the parties involved in the maritime transport operation. The Syrian Government undertakes to implement the contents of the letter.

Please accept the assurances of my highest consideration.

[Signed] DR. FAISAL MIQDAD,  
Deputy Minister of Foreign Affairs  
and Expatriates  
Head of the National Committee

**(b) Supplementary Arrangement pursuant to Article XIV of the Agreement concerning the relationship between the United Nations and the Organization for the Prohibition of Chemical Weapons.**

**The Hague, 2 May 2014, and New York, 5 May 2014\***

## I

The Hague, 2 May 2014

L/ODG/191089/14

Excellency,

I refer to my letter to Your Excellency, dated 25 April 2014, in which I requested the continued support and cooperation of the United Nations, pursuant to paragraphs 1 and 2(f) of article II of the Agreement Concerning the Relationship between the United Nations and the Organization for the Prohibition of Chemical Weapons ("OPCW"), in relation to the fact-finding mission that will soon travel to the Syrian Arab Republic in order to establish the facts surrounding recent allegations into the use of chlorine in several parts

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\* Entered into force on 5 May 2014, in accordance with its provisions.



of the Syrian Arab Republic (“OPCW fact-finding mission”). Specifically, I requested the United Nations to provide security and logistical support and to assist with liaising and coordinating with the representatives of the opposition for ensuring safe access and movement of OPCW personnel within the areas to be visited for purposes of establishing the facts of the situation. Your Excellency’s agreement to provide the requested support is appreciated.

Having regard to the above and the imminent dispatch of the OPCW fact-finding mission, I propose that the following terms govern the modalities for the cooperation between the United Nations and the OPCW in relation to the OPCW fact-finding mission (“Arrangement”).

### *Purpose*

1. The Arrangement is intended to establish the modalities for cooperation between the United Nations and the OPCW in relation to the OPCW fact-finding mission.

2. In carrying out the OPCW fact-finding mission, each Organization’s procedures, internal rules, regulations, policies, administrative procedures and practices shall apply, as appropriate, to its own personnel. OPCW’s procedures, internal rules, regulations, policies, administrative procedures and practices shall apply, as appropriate, to determining the OPCW fact-finding mission’s team composition, operations, equipment and taking, transporting and analyzing samples.

3. The OPCW shall ensure the host and transit arrangements with the Syrian Arab Republic and other States Parties concerned, including for access, status, privileges and immunities consistent with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (the “Chemical Weapons Convention”) and to the extent applicable, the 1946 Convention on the Privileges and Immunities to the United Nations.

4. In accordance with the Memorandum of Understanding between the United Nations and the OPCW Regarding Coordination of Security Arrangements, the OPCW shall provide to the United Nations, on a timely basis, such information as the location, date, time and nature of the fact-finding activities, the number of OPCW personnel involved as well as any attendant risks of which the OPCW may be aware and will comply with the safety and security instructions of the United Nations Designated Official for Security (“UNDOS”).

5. The Secretary-General shall, in consultation, as appropriate, with the Director-General:

(a) provide safety and security support and advice to the OPCW during the OPCW fact-finding mission without derogating from the OPCW’s responsibility for taking adequate measures to safeguard its personnel and for protecting its property against sabotage, damage or thefts of equipment and supplies;

(b) provide any logistical support, as required;

(c) assist with liaising and coordinating with the Syrian Arab Republic and, in particular, with opposition representatives on the security, logistical and operational aspects of the OPCW fact-finding mission, as may be required, for the safe access and movement of OPCW personnel, any accompanying United Nations personnel, and their equipment and

samples within the areas to be visited in the Syrian Arab Republic, including liaising with the opposition representatives for the purposes of making available persons for interviews.

### *Implementation*

6. Any collaborative activity and undertaking as outlined in the Arrangement, shall be evaluated on a case-by-case basis and shall be provided subject to the circumstances of a particular request and the availability of sufficient resources for that purpose, as well as the programme of work, priority activities, internal rules, regulations, policies, administrative procedures and practices of each Organization.

7. The functional units in the secretariats of each Organization that will be responsible for the coordination and practical implementation of activities under the Arrangement on behalf of the Secretary-General and the Director-General, respectively, shall be designated and communicated by each Party to the other Party.

### *Financial Aspects*

8. The OPCW shall be responsible on a reimbursable basis for the costs incurred by the OPCW fact-finding mission, including any costs incurred by the United Nations. The Secretary-General and the Director-General, or their designated representatives, shall agree upon the costs and modalities for reimbursement.

9. Each Organization shall be subject to its own Financial Regulations and Rules.

### *Liability*

10. Except insofar as provided in the Arrangement, and subject to paragraph 11 below, each Organization shall be solely responsible for the manner in which it carries out its part of the collaborative activities under the Arrangement and/or any subsequent arrangements. Thus, neither Organization shall be liable for any loss, accident, damage or injury suffered or caused by the other Organization, or by that other Organization's staff, consultants or other contractors, in connection with, or as a result of the collaborative activities under the Arrangement and/or any subsequent arrangements.

11. The OPCW will ensure that OPCW personnel and other persons, other than UN personnel, involved in the OPCW fact-finding mission complete and sign General Releases from Liability, prior to availing of any United Nations-provided ground or air transportation and will ensure that its personnel and any other persons are made aware that neither the United Nations, nor any of its officials, experts on missions or contractors shall be liable for any loss, damage, injury or death that may be sustained by OPCW personnel and other persons during or as a result of the provision of air and/or ground transportation by the United Nations.

### *Protection of Confidentiality*

12. Nothing in the Arrangement shall be so construed as to require the Parties to furnish any material, data and information whose disclosure could in each Party's judgement require it to violate any obligation(s) under its constituent instrument or policy on confidentiality.

13. Any release to the other Party of classified material, data and information shall be for official use only and shall be subject to the applicable rules and procedures of the releasing Party governing the protection, control and release of such classified information.

*Duration, Amendments and Dispute Settlement*

14. The Arrangement shall become effective upon the OPCW receiving the United Nations' written confirmation of the acceptance of provisions herein, if there is more than one date of signature, the latest date shall be the date from which the Arrangement shall become effective. Any Party may terminate the Arrangement at any time, provided reasonable written notice of termination is given.

15. The Arrangement may be amended at any time by mutual written agreement between the Parties. Any notice of termination or proposals for amendment shall be made in writing and shall be between the Secretary-General and the Director-General.

16. Any dispute concerning the interpretation or implementation of the Arrangement shall be settled amicably.

I would propose that this letter containing the Arrangement and Your Excellency's reply shall constitute a Supplementary Arrangement pursuant to article XIV of the Agreement Concerning the Relationship between the United Nations and the OPCW.

I look forward to receiving Your Excellency's confirmation of the acceptance by the United Nations of the foregoing proposal.

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

Warm regards,

[Signed] AHMET ÜZÜMCÜ

II

5 May 2014

Excellency,

I refer to your letters of 2 May and 25 April 2014 to the Secretary-General requesting the continued support and cooperation of the United Nations, pursuant to paragraphs 1 and 2(f) of Article II of the Agreement concerning the Relationship between the United Nations and the Organization for the Prohibition of Chemical Weapons (OPCW), in relation to the fact-finding mission that will soon travel to the Syrian Arab Republic in order to establish the facts surrounding recent allegations into the use of chlorine in several parts of the Syrian Arab Republic (OPCW fact-finding mission). Specifically, you have requested the United Nations to provide security and logistical support and to assist with liaising and coordinating with the representatives of the opposition for ensuring the access and movement of OPCW personnel within the areas to be visited for purposes of establishing the facts of the situation.

I am pleased to inform you that the Secretary-General has decided to provide the requested support. I am also pleased to advise you of our acceptance of the terms proposed

in your letter regarding the modalities for the cooperation between the United Nations and the OPCW in relation to the OPCW fact-finding mission (Arrangement).

Finally, I wish to confirm that your letter of 2 May 2014 and this letter constitute a Supplementary Arrangement pursuant to Article XIV of the Agreement concerning the Relationship between the United Nations and the OPCW.

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

[Signed] SUSANA MALCORRA  
Chef de Cabinet

#### 4. United Nations High Commissioner for Refugees

##### (a) Headquarters Cooperation Agreement between the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Government of Niger. Geneva, 8 May 2014\*

###### PREAMBLE

*Whereas* the United Nations High Commissioner for Refugees was created by United Nations General Assembly resolution 319 (IV) on 3 December 1949;

*Whereas* the Statute of the [Office of the] United Nations High Commissioner for Refugees, adopted by the General Assembly in its resolution 428 (V) of 14 December 1950 provides, *inter alia*, that the High Commissioner, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the Statute and of seeking permanent solutions for the problem of refugees by assisting Governments and, subject to the approval of the Governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities;

*Whereas* the Office of the United Nations High Commissioner for Refugees, a subsidiary organ set up by the General Assembly pursuant to Article 22 of the United Nations Charter, is an integral part of the United Nations whose status, privileges and immunities are governed by the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946;

*Whereas* the Statute of the Office of the United Nations High Commissioner for Refugees provides in its article 16 that the High Commissioner shall consult the Governments of the countries of residence of refugees as to the need for appointing representatives therein and that, in any country recognizing such need, there may be appointed a representative approved by the Government of that country;

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\* Entered into force on 8 May 2014 by signature, in accordance with the provisions of article XVII (Original in French).

*Whereas* the Office of the United Nations High Commissioner for Refugees and the Government of Niger wish to establish the terms and conditions under which the Office, within its mandate, shall be represented in the country;

Now therefore, the Office of the United Nations High Commissioner for Refugees and the Government of the Republic of Niger, in a spirit of friendly cooperation, have entered into this Agreement:

### *Article I Definitions*

For the purposes of this Agreement, the following definitions shall apply:

(a) “UNHCR” means the Office of the United Nations High Commissioner for Refugees;

(b) “High Commissioner” means the United Nations High Commissioner for Refugees or the officials to whom the High Commissioner has delegated authority to act on his behalf;

(c) “Government” means the Government of the Republic of Niger;

(d) “Host country” or “country” means the Republic of Niger;

(e) “Parties” means UNHCR and the Government;

(f) “General Convention” means the United Nations Convention on Privileges and Immunities adopted by the United Nations General Assembly on 13 February 1946;

(g) “UNHCR office” means all the offices and premises, facilities and services occupied or maintained by UNHCR in the country;

(h) “UNHCR Representative” means the UNHCR official in charge of the UNHCR office in the country;

(i) “UNHCR officials” means all members of the staff of UNHCR Employed under the Staff Regulations and Rules of the United Nations, with the exception of persons who are recruited locally and assigned to hourly rates as provided for in General Assembly resolution 76 (I);

(j) “Experts on mission” means persons, other than UNHCR officials or persons performing services on behalf of UNHCR, undertaking missions for UNHCR;

(k) “Persons performing services on behalf of UNHCR” means natural and juridical persons and their employees, other than nationals of the host country, retained by UNHCR to execute or assist in the carrying out of its programmes;

(l) “UNHCR personnel” means UNHCR officials, experts on mission and persons performing services on behalf of UNHCR.

### *Article II Purpose of this Agreement*

This Agreement embodies the basic conditions under which UNHCR shall, within its mandate, cooperate with the Government, open an office or offices in the country, and carry out its international protection and humanitarian assistance functions in favour of refugees and other persons of its concern in the host country.

*Article III Cooperation between the Government and UNHCR*

1. Cooperation between the Government and UNHCR in the field of International protection of, and humanitarian assistance to, refugees and other persons of concern to UNHCR, including in particular stateless persons, returning refugees, internally displaced persons (IDPs) and returning IDPs, shall be carried out on the basis of the Statute of UNHCR, of other relevant decisions and resolutions concerning UNHCR adopted by United Nations organs and of article 35 of the Convention relating to the Status of Refugees of 1951, article 2 of the Protocol relating to the Status of Refugees of 1967 and article VIII of the OAU Convention of 1969 Governing the Specific Aspects of Refugee Problems in Africa.

2. The UNHCR office shall maintain consultations and cooperation with the Government with respect to the preparation and review of projects for refugees and other persons of concern.

3. For any UNHCR funded projects to be implemented by the Government, the terms and conditions, including the commitment of the Government and the High Commissioner with respect to the furnishing of funds, supplies, equipment and services, or other assistance for refugees, shall be set forth in project agreements to be signed by the Government and UNHCR.

4. The Government shall at all times grant UNHCR personnel unimpeded access to refugees and other persons of concern to UNHCR and to the sites of UNHCR projects, in order to monitor all phases of their implementation.

*Article IV UNHCR office*

1. The Government welcomes that UNHCR establishes and maintains an office or offices in the country for providing international protection and humanitarian assistance to refugees and other persons of concern to UNHCR.

2. UNHCR may designate the UNHCR office in the country to serve as a regional/area office.

3. The Government shall assure UNHCR that its office in the country, and the UNHCR personnel posted there, will be treated no less favourably by the Government than those of other United Nations agencies, funds and programmes present in the country.

4. The UNHCR office will exercise functions as assigned by the High Commissioner in relation to his mandate for refugees and other persons of his concern, including the establishment and maintenance of relations between UNHCR and other approved governmental or non-governmental organizations functioning in the country.

*Article V UNHCR personnel*

1. UNHCR may assign to the office in the country such officials or other personnel as UNHCR deems necessary for carrying out its international protection and humanitarian assistance functions.

2. The categories of officials and the names of the officials included in these categories, and of other personnel as assigned to the office in the country, shall from time to time be made known to the Government.

3. UNHCR officials, experts on mission, and persons performing services on behalf of UNHCR shall be provided by the Government with an identity card certifying their status under this Agreement.

4. UNHCR may designate officials to visit the country for purposes of consulting and co-operating with the corresponding officials of the Government or other parties involved in refugee work in connection with:

(a) The review, preparation, monitoring and evaluation of international protection and humanitarian assistance programmes;

(b) The shipment, receipt, distribution or use of the supplies and equipment and other materials furnished by UNHCR;

(c) Seeking permanent solutions for the problem of refugees; and

(d) Any other matters relating to the application of this Agreement.

*Article VI Facilities for implementation of UNHCR humanitarian programmes*

1. The Government, in agreement with UNHCR, shall take any measure which may be necessary to exempt UNHCR officials, experts on mission, and persons performing services on behalf of UNHCR from regulations or other legal provisions which may interfere with operations and projects carried out under this Agreement and shall grant them such other facilities as may be necessary for the speedy and efficient execution of UNHCR humanitarian programmes for refugees and other persons of concern to UNHCR in the country; such measures shall include the provision of communication facilities in accordance with article IX of this Agreement; the granting of air traffic rights and the exemption from aircraft landing fees and royalties of freight for emergency relief cargo flights, transportation of refugees and other persons of concern to UNHCR and/or UNHCR personnel.

2. The Government, in agreement with UNHCR, shall help UNHCR officials to find appropriate premises for use as offices.

3. The Government shall ensure that the UNHCR office is at all times supplied with the necessary public services and that such public services are supplied on equitable terms.

4. The Government shall take all necessary measures to ensure the protection and security of UNHCR and associated personnel. In particular, the Government shall take all necessary measures to protect UNHCR and associated personnel, their equipment and their premises from any actions or interference which could prevent them from carrying out their duties. This article shall apply without prejudice to the fact that UNHCR premises are inviolable and subject to the exclusive authority and control of UNHCR.

5. The Government shall facilitate the location of suitable housing accommodation for UNHCR personnel recruited internationally.

*Article VII Privileges and immunities*

1. The Government shall apply to UNHCR, to its property, funds and assets, and to its officials and its experts on mission, the relevant provisions of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which Niger became a Party on 25 August 1961; the Government shall also accept to grant UNHCR and



its personnel the additional privileges and immunities that may become necessary in order for UNHCR to carry out its duties of international protection and humanitarian assistance.

2. Without prejudice to paragraph 1 of this article, the Government shall in particular extend to UNHCR and its personnel the privileges, immunities, rights and facilities set forth in articles VIII to X of this Agreement.

*Article VIII UNHCR office, property, funds and assets*

1. UNHCR, its property, funds and assets, wherever located and by whomsoever held, shall be immune from every form of legal process, except insofar as in any particular case it has expressly waived its immunity; it being understood that this waiver shall not extend to any measure of execution.

2. The premises of UNHCR shall be inviolable. The property, funds and assets of UNHCR, 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 UNHCR, and in general all documents belonging to it or held by it, shall be inviolable.

4. The funds, assets, income and other property of UNHCR shall be exempt from:

(a) Any form of direct taxation, provided that UNHCR will not claim exemption from charges for public utility services;

(b) Customs duties and prohibitions and restrictions on articles imported or exported by UNHCR for its official use, provided that articles imported under such exemption will not be sold in the country, except under conditions agreed upon with the Government;

(c) Customs duties and prohibitions and restrictions in respect of the import and export of its publications.

5. While UNHCR will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable or immovable property that form part of the price to be paid (such as value added tax), nevertheless, when UNHCR is making purchases for official use of property on which such duties and taxes are chargeable, the Government will grant exemption therefrom.

6. Any materials imported, exported or purchased in the country by UNHCR, and by national or international bodies duly accredited by UNHCR to act on its behalf in connection with humanitarian assistance to refugees, shall be exempt from all customs duties, prohibitions and restrictions, as well as from direct and indirect taxation.

7. UNHCR shall not be subject to any financial controls, regulations or moratoriums and may freely:

(a) Acquire from authorized commercial agencies, hold and use negotiable currencies, maintain foreign currency accounts, and acquire through authorized institutions, hold and use funds, securities and gold;

(b) Bring funds, securities, foreign currencies and gold into the host country from any other country, use them within the host country or transfer them to other countries.

8. UNHCR shall enjoy the most favourable rate of exchange.



*Article IX Communication facilities*

1. UNHCR shall enjoy, in respect of its official communications, treatment not less favourable than that accorded by the Government to any other Government, including its diplomatic missions, or to other intergovernmental and international organizations, in matters of priorities, tariffs and charges on mail, cablegrams, telephotos, telephone, telegraph, telex and other communications, as well as rates for information to the press and radio.

2. The Government shall secure the inviolability of the official communications and correspondence of UNHCR and shall not apply any censorship to its communications and correspondence. Such inviolability, without limitation by reason of this enumeration, shall extend to publications, photographs, slides, films and sound recordings.

3. UNHCR shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags which shall have the same privileges and immunities as diplomatic couriers and bags.

4. The Government shall ensure that UNHCR is exempted from all taxes and duties and enabled to effectively operate its radio and other telecommunications equipment, including satellite communications systems, on networks using the frequencies allocated by or co-ordinated with the competent national authorities under the applicable International Telecommunication Union regulations and norms currently in force.

*Article X UNHCR officials*

1. The UNHCR Representative and Deputy Representative, and other senior officials, shall enjoy, while in the country, in respect of themselves, their spouses and dependent relatives, the privileges and immunities, exemptions and facilities normally accorded to diplomatic envoys. For this purpose, the Ministry of Foreign Affairs shall include their names in the Diplomatic List. However, without prejudice to UNHCR's privileges and immunities, UNHCR must take measures to ensure that perpetrators of breaches of criminal law do not remain unpunished and must inform the Government of the Republic of Niger thereof.

2. UNHCR officials, while in the country, shall enjoy the following facilities, privileges and immunities:

(a) Immunity from personal arrest or detention in respect of acts performed by them in the exercise of their functions;

(b) Immunity from legal process in respect of acts performed by them in their official capacity (including words spoken or written by them), such immunity to continue even after termination of employment with UNHCR;

(c) Immunity from inspection and seizure of their official baggage;

(d) Exemption from any military service obligations or any other obligatory service;

(e) Exemption, with respect to themselves, their spouses, their relatives dependent on them and other members of their households, from immigration restrictions and alien registration;

(f) Access to the labour market with respect to their spouses and their relatives dependent on them forming part of their household;

(g) Exemption from taxation in respect of salaries and all other remuneration paid to them by UNHCR;

(h) Exemption from any form of taxation on income derived by them from sources out-side the country;

(i) Prompt clearance and issuance, without cost, of visas, licences or permits, if required, and free movement within, to or from the country to the extent necessary for the carrying out of UNHCR's international protection and humanitarian assistance programmes;

(j) Freedom to hold or maintain within the host country, foreign exchange, foreign currency accounts and movable property and the right, upon termination of service with UNHCR, to take out of the host country their funds for the lawful possession of which they can show good cause;

(k) The same protection and repatriation facilities with respect to themselves, their spouses, family members dependent on them and other members of their households as are accorded in time of international crisis to diplomatic envoys;

(l) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on import, including two motor vehicles per household within six months following their arrival in Niger:

- i. Their furniture and personal effects, including means of transport;
- ii. Reasonable quantities of certain articles for personal use or consumption and not for gift or sale;

3. UNHCR officials who are nationals of, or permanent residents in, the host country shall enjoy those privileges and immunities provided for in the above-mentioned General Convention.

#### *Article XI Locally recruited personnel assigned to hourly rates*

1. Persons recruited locally and assigned to hourly rates to perform services for UNHCR shall enjoy immunity from legal process in respect of words spoken and written and any act performed by them in their official capacity.

2. The terms and conditions of employment for locally recruited personnel shall be in accordance with the relevant United Nations resolutions, regulations and rules.

#### *Article XII Experts on mission*

1. Experts performing missions for UNHCR shall be accorded such facilities, privileges and immunities as are necessary for the independent exercise of their functions. In particular they shall be accorded:

- (a) Immunity from personal arrest or detention;
- (b) Immunity from legal process in respect of words spoken or written and acts done by them in the course of the performance of their mission;
- (c) This immunity shall continue to be accorded even after they have ceased to be on missions for UNHCR;
- (d) Inviolability of all papers and documents;

(e) For the purposes of their official communications, the right to use codes and to receive papers and correspondence by courier or in sealed bags;

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

(g) The same immunities and facilities, including immunity from inspection and seizure of their personal baggage, as are accorded to diplomatic envoys.

*Article XIII Persons performing services on behalf of UNHCR*

1. Except as the Parties may otherwise agree, the Government shall grant to all persons performing services on behalf of UNHCR, other than nationals of the host country employed locally, the privileges and immunities specified in article V, paragraph 18 of the General Convention. In addition they shall be granted:

(a) Facilities for the prompt processing and issuance, without cost, of visas, licences or permits necessary for the effective exercise of their functions;

(b) Freedom of movement within, to or from the country, to the extent necessary for the implementation of the UNHCR humanitarian programmes.

*Article XIV Crimes against UNHCR personnel*

1. The Government shall take all necessary measures to bring to justice the perpetrators, co-perpetrators and accomplices involved in the following acts, and to inform UNHCR thereof; those acts are:

(a) Murder, kidnapping or other attack upon the person or liberty of any member of the UNHCR personnel;

(b) A violent attack upon the official premises, the private accommodation or the means of transportation of any member of UNHCR personnel, likely to endanger his or her personal liberty;

(c) Any threat of such attack with the objective of coercing a natural or juridical person to commit or refrain from committing any act;

(d) Any attempt to commit such attack;

(e) Participating as an accomplice in any such attack, or in an attempt to commit such attack, or intentionally organizing or ordering others to commit such attack.

2. The Government shall establish its jurisdiction over the crimes set out in paragraph 1 above when the crime was committed in its territory and the alleged offender, other than a member of UNHCR personnel, is present in its territory, unless it has extradited such person to the State of his or her nationality, or, in the case of a stateless person, the State of his or her habitual residence, or to the State of nationality of the victim.

3. The Government shall ensure that a person accused of one of the crimes set out in paragraph 1, as well as any person subject to its criminal jurisdiction accused of other acts against UNHCR or its personnel which, had they been committed in relation to the government forces or against the local civilian population, would have been subject to criminal prosecution, is handed over to its competent authorities for the institution of criminal proceedings in accordance with its domestic legal procedure.

*Article XV Waiver of immunity*

Privileges and immunities are granted to UNHCR personnel in the interests of the United Nations and UNHCR and not for the personal benefit of the individuals concerned. The Secretary General of the United Nations may waive the immunity of any UNHCR personnel where, in his opinion, that immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations and UNHCR.

*Article XVI Settlement of disputes*

Any disputes between UNHCR and the Government arising out of or relating to this Agreement shall be settled amicably by negotiation or other agreed mode of settlement, failing which such dispute shall be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the chairperson. If, within 30 days of the request for arbitration, either Party has not appointed an arbitrator or if, within 15 days of the appointment of the 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. All decisions of the arbitrators shall require a vote of two of them. 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.

*Article XVII Final provisions*

1. This Agreement shall enter into force on the date of its signature by both Parties and shall continue to be in force until terminated under paragraph 5 of this article.
2. This Agreement shall be interpreted in light of its primary purpose, which is to enable UNHCR to carry out its international mandate for refugees fully and efficiently and to attain its humanitarian objectives in the country.
3. Any relevant matter for which no provision is made in this Agreement shall be settled by the Parties in keeping with 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.
4. Consultations with a view to amending this Agreement may be held at the request of the Government or UNHCR. Amendments shall be made by joint written agreement;
5. This Agreement shall cease to be in force six months after either of the Contracting Parties gives notice in writing to the other of its decision to terminate the Agreement, except as regards the normal cessation of the activities of UNHCR in the country or the disposal of its property in the country.

*In witness whereof* the undersigned, being duly appointed representatives of the United Nations High Commissioner for Refugees and the Government respectively, have signed this Agreement on behalf of the Parties.

*Done* at Niamey on 8 May 2014.

For the Office of the United Nations  
High Commissioner for Refugees:

[Signed] KARL STEINACKER  
Representative of UNHCR in the  
Republic of Niger

[Official seal]

For the Government of the Republic of  
Niger:

[Signed] MOHAMED BAZOUM  
General Secretary, Ministry of  
Foreign Affairs, Cooperation, African  
Integration and Nigériens Abroad

[Official seal]

**(b) Agreement between the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Government of the Republic of Malta relating to the establishment of UNHCR's Liaison Office to the European Asylum Support Office (EASO). Geneva, 20 June 2014\***

*Whereas* on 25 November 2009 the Office of the United Nations High Commissioner for Refugees and the Government of the Republic of Malta established the terms and conditions under which the Office, within its mandate, shall co-operate with the Government, open and/or maintain an office or offices in the country, and carry out its international protection and humanitarian assistance functions in favour of refugees and other persons of its concern in the host country;

*Whereas* the Office of the United Nations High Commissioner for Refugees and the Government of the Republic of Malta now wish to establish the terms and conditions under which the Office, within its mandate, shall be represented through a Liaison Office at the European Asylum Support Office located in the country;

*Now therefore*, the Office of the United Nations High Commissioner for Refugees and the Government of the Republic of Malta, in spirit of friendly cooperation, have entered into this Agreement,

*Article I Purpose of this Agreement*

1. This Agreement embodies the basic conditions under which the Office of the United Nations High Commissioner for Refugees (UNHCR) shall establish and maintain a Liaison Office to the European Asylum Support Office (EASO) in Malta.

2. In recognition of their close cooperation and in pursuit of their shared humanitarian goals, it is understood by the Parties to the Agreement between the Government of the Republic of Malta and UNHCR, dated 25 November 2009 (Country Agreement) that the Country Agreement shall apply *mutatis mutandis* to the Liaison Office and its Personnel.

3. It is understood that the Liaison Office shall be considered as a UNHCR Office within the meaning of articles I (g) and IV of the Country Agreement, that the individuals assigned to perform tasks at or on behalf of the Liaison Office shall be considered as

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\* Entered into force on 20 June 2014 by signature, in accordance with the provisions of article II.

UNHCR Personnel within the meaning of articles I (l) and V, and that the Head of the Liaison Office shall be considered as a Head of a UNHCR Office within the meaning of article X (l) of the Country Agreement. Activities carried out by or on behalf of the Liaison Office shall be considered as within the international protection and humanitarian assistance mandate prescribed in articles II and IV.3 of the Country Agreement.

4. It is understood that the facilities, rights, privileges and immunities as conferred upon UNHCR and its Personnel, and as confirmed in the Country Agreement shall equally apply to the Liaison Office and UNHCR Personnel assigned to it.

#### *Article II General provisions*

1. This Agreement shall enter into force on the date of its signature by both Parties and shall continue to be in force until terminated under paragraph 5 of this Article.

2. This Agreement shall be interpreted in light of its primary purpose, which is to enable UNHCR to carry out its international mandate for refugees fully and efficiently and to attain its humanitarian objectives in the country.

3. Any relevant matter for which no provision is made in this Agreement shall be settled by the Parties in keeping with 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.

4. Consultations with a view to amending this Agreement may be held at the request of the Government or UNHCR. Amendments shall be made by joint written agreement.

5. This Agreement shall cease to be in force either six months after either of the contracting Parties gives notice in writing to the other of its decision to terminate the Agreement, or with the normal cessation of the activities of UNHCR in the country and the disposal of its property in the country, whichever occurs first.

*In witness whereof* the undersigned, being duly appointed representatives of the United Nations High Commissioner for Refugees and the Government of the Republic of Malta, respectively, have on behalf of the Parties signed this Agreement.

*Done* at Geneva this 20th day of June 2014

For the Office of the United Nations  
High Commissioner for Refugees

[Signed]

For the Government of the Republic of  
Malta

[Signed]

## 5. United Nations Population Fund

Exchange of letters constituting an agreement between the Government of the Lao People's Democratic Republic ("the Government") and the United Nations Population Fund (UNFPA) on the application *mutatis mutandis* of the Basic Assistance Agreement between the Government and the United Nations Development Programme signed on 10 October 1988, to the activities and personnel of UNFPA in the Lao People's Democratic Republic.  
New York, 21 January 2014, and Vientiane, 4 April 2014\*

### I

New York, 21 January 2014

Excellency,

I have the honour to refer to the presence of the United Nations Population Fund ("UNFPA"), a subsidiary organ of the United Nations established by the General Assembly pursuant to resolution 3019 (XXVII) of 18 December 1972, in the Lao People's Democratic Republic. UNFPA is cooperating with the Government of the Lao People's Democratic Republic with respect to the formulation, adoption and implementation of its population policies and development strategies.

I have the further honour to refer to the Agreement between the United Nations Development Programme ("UNDP") and the Lao People's Democratic Republic concluded on 10 October 1988 (the "UNDP basic agreement"), which sets out the basic conditions under which UNDP and its Executing Agencies shall assist the Government of the Lao People's Democratic Republic in carrying out its development activities.

In this connection, I have the honour to propose that the UNDP basic agreement shall apply *mutatis mutandis* to the activities and personnel of UNFPA in the Lao People's Democratic Republic.

I further propose that upon receipt of your acceptance of the above proposal in writing, this exchange of letters shall constitute an Agreement between the Government of the Lao People's Democratic Republic and UNFPA on the matter, as of the date of your reply.

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

[Signed] DR. BABATUNDE OSOTIMEHIN  
Under-Secretary General

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\* Entered into force on 4 April 2014 by exchange of the said letters, in accordance with their provisions.

## II

Vientiane, 4 April 2014

Excellency,

I have the honour to refer to your letter dated 21 January 2014, which provides as follows:

[See letter I, above]

I wish to confirm that I am in agreement with your proposal. On that basis, I have the honour to confirm that your letter dated 21 January 2014 and my reply conveyed herein, should, therefore, be regarded as constituting an Agreement between the Government of the Lao People's Democratic Republic and UNFPA on the matter, as of the date of this reply.

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

[Signed] THONGLOUN SISOULITH

## 6. United Nations University

### **Agreement between the United Nations University and the Portuguese Republic on the establishment, operation and locations of the United Nations University, Operating Unit on Policy-Driven Electronic Governance in Guimarães, Portugal. Lisbon, 23 May 2014\***

*Whereas* the United Nations University (hereinafter referred to as “UNU” or “the University”) was established as a subsidiary organ of the United Nations by General Assembly resolution 2951 (XXVII) of 11 December 1972;

*Whereas* the Council of the University decided at its 61st session in Rome, Italy on 12–13 May 2014 to establish the United Nations University Operating Unit on Policy-Driven Electronic Governance as a research and training programme of the University, in Guimarães, Portugal;

*Whereas* the Operating Unit on Policy-Driven Electronic Governance is an integral part of the University in accordance with its Charter;

*Whereas* the University and the Portuguese Republic have concluded an Agreement concerning the Operating Unit on Policy-Driven Electronic Governance on 23 May 2014 (hereinafter referred to as the “Host Country Agreement”);

*Whereas* the University and the Portuguese Republic desire to give effect to the establishment, location and operation of the Operating Unit on Policy-Driven Electronic Governance (also to be known as “UNU-EGOV” and hereinafter referred to as “the Operating Unit”);

*The United Nations University and the Portuguese Republic* (hereinafter referred to collectively as “the Parties”),

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\* Entered into force on 30 September 2015, in accordance with article 13.



*Have agreed as follows:*

*Article 1 Purposes and activities*

1. The central purpose of the Operating Unit shall be to support the United Nations system and member states of the United Nations in transforming the mechanisms of governance and building effective governance capabilities through strategic applications of Information and Communication Technologies (hereinafter referred to as “ICT”) to contribute to inclusive social development, inclusive economic development, environmental sustainability, and peace and security.

2. Specifically, the Operating Unit shall:

- (a) carry out policy-relevant research;
- (b) translate research findings into relevant policy instruments;
- (c) build capacity in localizing and applying such instruments within and among governments, the United Nations system, academic and other relevant organizations;
- (d) build and maintain research and policy networks to share the lessons learnt, foster mutual learning, and bridge research and policy worlds; and
- (e) monitor, evaluate and disseminate the outcomes and impact of its research, development, capacity-building and network-building activities.

3. Pursuant to the foregoing, the Operating Unit shall:

- (a) conduct electronic governance-related multi-disciplinary research and policy-oriented studies;
- (b) ensure that its research, policy advice, capacity building, network building, monitoring, evaluation and dissemination activities are relevant to the current needs and priorities facing the United Nations system and member states of the United Nations;
- (c) promote close collaboration with and among governments, civil society, private sector, the United Nations system, academic and other relevant organizations;
- (d) award fellowships for research, development and advanced training in electronic governance, including but not limited to researchers, government officials, policy and decision makers, technology strategists and community leaders;
- (e) carry out specific electronic governance projects involving research, development, training and advisory and consultancy services, as may be financed by national or international funding sources;
- (f) organize conferences, workshops, schools, expert group meetings, seminars, panels and other relevant events;
- (g) co-operate within the framework of its purposes, with the research and training centres and programmes, and activities of the University; and
- (h) do and perform all other acts that may be considered necessary, suitable and proper for the attainment of any or all of its purposes.

*Article 2 Location and legal status*

The Operating Unit shall be located at the University of Minho, Guimarães, Portugal. The Operating Unit shall have, within the territory of the Portuguese Republic, the legal

status necessary for the realization of its purposes and activities, pursuant to article 2 of the Host Country Agreement.

### *Article 3 Contributions*

1. The Portuguese Republic shall make available and raise core funding for the Operating Unit of US\$5.0 million, to be paid in instalments of US\$1.0 million per annum during the period 2014–2018. The initial operating contribution in the sum of US\$1.0 million shall be paid to the University on or before 30th June 2014. All subsequent operating contributions shall be paid annually on or before 1st April of the respective year throughout the period of validity of this Agreement.

2. The Portuguese Republic shall endeavour to raise US\$1.0 million, within a period of five years, in capital contributions earmarked for the Operating Unit which is meant to ensure its long-term viability. The said capital contributions shall be placed in the University's Endowment Fund. If the said capital contributions are not realized during the said period, the Operating Unit shall cease to operate.

3. The operating and capital contributions for the Operating Unit shall be complemented by in-kind contributions provided by the University of Minho comprising premises, including security, maintenance, equipment and running costs, personnel, infrastructure and accommodation for students. The estimated value of such contributions shall not be less than US\$500,000 per year.

4. Project funding for the Operating Unit shall include grants raised from, *inter alia*, governments and institutions, international institutions, regional organizations, government development agencies, industries and public or private foundations. The Operating Unit and the Portuguese Republic shall cooperate in raising such additional income to supplement amounts received under this Agreement and to support the programme of the Operating Unit.

5. If the contributions referred to in this Article are reduced or unavailable for budgetary reasons, it is understood that such reduction or unavailability may affect the implementation of the activities of the Operating Unit.

6. All contributions to the Operating Unit shall be administered by the University in accordance with the Financial Regulations and Rules, and administrative issuances of the United Nations, applicable to the University.

7. As it is the intention of the Parties to see the transition of the Operating Unit into a fully-fledged UNU institute, it is understood that the required minimum annual operating contribution to be made available and raised by the Portuguese Republic shall be no less than US\$2.0 million per annum. In addition, a further capital contribution of US\$1.0 million would be required to be paid into the UNU Endowment Fund earmarked for the Institute.

8. In the event that the Operating Unit ceases to operate, the capital contributions paid into the UNU Endowment Fund and earmarked for the Institute shall be disposed of by mutual agreement between the Parties.

*Article 4 Eligibility to compete for research funding*

The Operating Unit shall be eligible, as with other universities in the Portuguese Republic, to apply for support from competitive research funding programmes.

*Article 5 Premises and facilities*

1. The Portuguese Republic shall, through the University of Minho, make available to the University permanent premises for the occupation and use of the Operating Unit free of charge on the Campus de Couros of the University of Minho, as of 1 June 2014, as described in the following table:

| <i>Location</i>   | <i>Structure</i>                             | <i>Total Floor Area (square metres)</i>   |
|---|--|---|
| Campus de Couros<br>Universidade do Minho<br>4810-430 Guimarães<br>Portugal | Building: PostGraduate<br>Center (1st Floor) | 200 m <sup>2</sup> (eight (8) offices), including free access to lecture/meeting rooms available within the building as well as to all common infrastructures |

The extent of the premises shall be as delineated in Annex 1 hereto. [Images omitted].

2. The Portuguese Republic, shall through the University of Minho, and at its expense, provide for the security service, maintenance and running costs of the premises of the Operating Unit. It shall also provide, in the same manner, all moveable furnishings, fitting and equipment for the premises and shall be responsible for their repair and maintenance. A list of the requirements and items corresponding to the equipping of the premises shall be agreed upon by the Working Group set up in accordance with article 12, paragraph 2 below.

3. Matters related to the major maintenance of the premises shall be discussed and agreed upon by the Working Group set up in accordance with article 12, paragraph 2 below.

4. A list of the personnel to be provided by the University of Minho to the Operating Unit, as well as the terms and conditions of the accommodation for students to be also provided by the same University according to article 3, paragraph 3 above, shall be agreed upon by the Working Group set up in accordance with article 12, paragraph 2 below.

5. The right of occupation and use of the premises shall vest exclusively in the University for as long as the Operating Unit continues its operations in the Portuguese Republic.

6. The occupation and use of the premises shall be in accordance with the provisions of this Agreement and the Host Country Agreement.

7. The University shall not be liable for any loss or damage to the furnishings, fittings and equipment, or for personal injuries to third parties or property damage occurring to the facilities except that the University shall be liable for injury or damage resulting from gross negligence or wilful misconduct by the personnel or officials of the Operating Unit.

8. The University shall take reasonable preventive measures to protect the life and property of third parties using the premises.

*Article 6 Protection of intellectual property rights*

The protection of intellectual property rights shall be consistent with international agreements binding on the Portuguese Republic.

*Article 7 Review*

1. An independent review and evaluation of the work of the Operating Unit shall be undertaken by the Rector every three years. The first review shall take place three years from the commencement of activities of the Operating Unit.

2. The results of such review and evaluation shall be submitted by the Rector to the Council of the University for consideration and appropriate action.

3. A copy of the review and evaluation report shall be made available to the Portuguese Republic within three months from the date of its completion.

4. The Portuguese Republic may submit its comments on the report to the Council of the University and the Council shall take such comments into account in its consideration of the report.

*Article 8 Notice*

1. All notices and communications to the Portuguese Republic concerning this Agreement shall be addressed to the Ministry for Foreign Affairs of the Portuguese Republic.

2. All notices and communications to the University concerning this Agreement shall be addressed to the United Nations University, Tokyo, Japan.

*Article 9 Amendment*

1. Either Party may request in writing to the other Party a revision, amendment or modification of all or any part of this Agreement. Any revision, amendment or modification shall be mutually agreed upon by the Parties and shall be set forth in writing and shall form part of this Agreement. Such revision, amendment or modification shall enter into force on such date as may be determined by the Parties.

2. Any revision, amendment or modification shall be without prejudice to the rights and obligations arising from or based on this Agreement before or up to the entry into force of such revision, amendment or modification.

*Article 10 Settlement of disputes*

Any differences or disputes between the Parties arising out of the interpretation or implementation of this Agreement shall be settled in accordance with article 17 of the Host Country Agreement.

*Article 11 Supplemental agreements*

The Portuguese Republic and the University may enter into such supplemental agreements as may be necessary.

*Article 12 General provisions*

1. This Agreement shall be read together with the Host Country Agreement and neither shall have the effect of limiting the provisions of the other.
2. A Working Group will be set up in Guimarães to facilitate the establishment of the Operating Unit and will commence work on a date to be agreed upon by the Parties.
3. This Agreement shall be without prejudice to the United Nations regulations, rules and directives applicable to the University.

*Article 13 Entry into force, duration and termination*

1. This Agreement and any amendments thereto, shall enter into force when the Parties have notified each other by exchange of letters that the respective formal procedures have been completed. Notwithstanding the retroactivity of the Agreement to the date of its signature, the Agreement shall be implemented through the adoption of the necessary acts as of the said date.
2. This Agreement shall cease to be in force:
  - (a) by mutual consent of the Portuguese Republic and the University in writing which shall state the effective date of termination; or
  - (b) if the mandate for the creation of the Operating Unit is terminated or if it is removed from the territory of the Portuguese Republic, on the understanding that the relevant provisions in connection with the orderly termination of the operations of the Operating Unit in the Portuguese Republic and the disposal of its property therein shall remain applicable as long as necessary.
3. The termination of this Agreement shall not affect the implementation of any ongoing activities or programmes, which have been agreed upon before the date of termination of this Agreement.

*In witness whereof*, the representatives, being duly authorized thereto, have signed this Agreement, in duplicate in the English and Portuguese languages, both texts being equally authentic, in Lisbon, Portugal on 23 May 2014.

For the United Nations University

For the Portuguese Republic

[Signed] DAVID M. MALONE  
Rector

[Signed] LUÍS MIGUEL POIARES PESSOA MADURO  
Minister in the Cabinet of the Prime Minister  
and for Regional Development

## 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<sup>\*</sup>

During 2014, Qatar and Samoa acceded 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>   |
|---------------------|---|---|
| Qatar <sup>**</sup> | 10 January 2014                                   | 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 |
| Samoa               | 17 December 2014                                  | ILO   |

As at 31 December 2014, there were 126 States parties to the Convention.<sup>\*\*\*</sup>

### 2. International Labour Organization

On 25 February 2014, an agreement for extension of the “Supplementary Understanding and its Minutes of the Meeting dated 28th February, 2007”<sup>1</sup> 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.<sup>2</sup>

<sup>\*</sup> United Nations, *Treaty Series*, vol. 33, p. 261.

<sup>\*\*</sup> See also Chapter I.

<sup>\*\*\*</sup> For the list of the States parties to the Convention, 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>.

<sup>1</sup> International Labour Office, 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 at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_gb\\_298\\_5\\_1\\_en.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_gb_298_5_1_en.pdf) (accessed on 15 January 2018).

<sup>2</sup> The Supplementary Understanding is available at [http://www.ilo.org/dyn/legprot/en/f?p=2200:10002:10633554624592::NO:10002:P10002\\_COUNTRY\\_ID:103159:NO](http://www.ilo.org/dyn/legprot/en/f?p=2200:10002:10633554624592::NO:10002:P10002_COUNTRY_ID:103159:NO) (accessed on 15 January 2018).

### 3. Food and Agriculture Organization

#### (a) Agreements regarding the establishment of Food and Agriculture Organization (FAO) Representations and Offices

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF UZBEKISTAN AND THE FOOD AND AGRICULTURE ORGANIZATION FOR THE UNITED NATIONS (FAO) FOR THE ESTABLISHMENT OF THE FAO REPRESENTATION IN THE REPUBLIC OF UZBEKISTAN. TASHKENT, 5 JUNE 2014<sup>\*</sup>

The Government of the Republic of Uzbekistan (hereafter referred to as the “Government”) and the Food and Agriculture Organization of the United Nations (hereafter referred to as “FAO”), hereinafter referred to as the “Parties”;

*Intending* to create the necessary conditions for the accomplishment of FAO’s objectives and goals in the Republic of Uzbekistan;

*Desiring* to conclude an Agreement in order to set terms and conditions for the establishment of the FAO Representation in the Republic of Uzbekistan;

have agreed as follows:

#### *Article I Goals and objectives of the FAO Representation*

The main goals and objectives of the FAO Representation in the Republic of Uzbekistan are, in line with FAO Strategic Objectives and Regional Priorities, to assist the country in:

- improving the nutrition quality and living standards of the population;
- increasing the efficiency of agricultural and food products production;
- enhancing education and governance in agriculture;
- conserving natural resources and adopting advanced methods of agricultural production.

#### *Article II Legal Status of the FAO Representation*

1. The FAO Representation shall possess juridical personality and legal capacity:

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

2. The Government recognizes the right of FAO to convene meetings in the Republic of Uzbekistan, organized in concurrence with the Ministry of Foreign Affairs of the Republic of Uzbekistan. At meetings convened by FAO, the Government shall take all

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<sup>\*</sup> In 2014, FAO concluded two other similar agreements, namely the Agreement between the Government of the Republic of Moldova and the Food and Agriculture Organization of the United Nations (FAO) for the establishment of an FAO Representation in the Republic of Moldova (concluded on 7 April 2014), and the Agreement between the Council of Ministers of the Republic of Albania and the Food and Agriculture Organization of the United Nations (FAO) for the establishment of an FAO Representation in the Republic of Albania (concluded on 1 December 2014). Supplementary agreements confirming the legal status and the privileges and immunities of FAO were also concluded in 2014 with the Republic of Turkey, the Kingdom of Spain, and the Republic of Ghana. These five agreements are not reproduced herein.

proper steps to ensure that no impediment is placed in the way of full freedom of discussion and decision.

*Article III* *FAO presence in the Republic of Uzbekistan*

1. The Sub-Regional Coordinator for Central Asia, residing in Turkey, shall serve as FAO Representative to the Republic of Uzbekistan, and FAO will assign to his/her office, other staff as necessary to perform his/her functions, including an Assistant FAO Representative. The FAO Representative would visit the Republic of Uzbekistan approximately four times a year to liaise with authorities in the Republic of Uzbekistan and supervise FAO activities.

2. When a new Sub-Regional Coordinator for Central Asia is appointed, FAO shall submit, at least a month before, his/her name, curriculum vitae and other relevant related data to the Government for information.

3. FAO shall provide to the Government relevant information on all expatriate staff which it proposes to assign to the FAO Representation in a timely manner. FAO shall notify the Government of the names of the staff, their family members and changes in the status of such persons.

4. The Government shall grant free of charge to FAO, and FAO shall accept, as from the entry into force and during the life of this Agreement, the use and occupancy of premises and the use of installations, office furniture and other facilities suitable for the operations of the FAO Representation, as indicated in Annex,\* which forms an integral part of this Agreement.

5. The Government shall facilitate transit and, in accordance with the section 9 of article III of the Convention on the Privileges and Immunities of the Specialized Agencies (21 November 1947) shall grant exemption from customs duties and from prohibitions and restrictions on imports and exports in respect of articles or any items imported by FAO for the proper functioning of the FAO Representation.

6. In a spirit of close cooperation with FAO, the Government shall take all necessary measures to facilitate the entry into the territory of the Republic of Uzbekistan, the sojourn and the departure from this territory of all FAO personnel as well as of other persons invited to the FAO Representation in the Republic of Uzbekistan on official business, as long as the travel is carried out in connection with FAO activities.

7. The FAO Representative shall be responsible for all aspects of the FAO's activities in the Republic of Uzbekistan, within the limits of the authority that is delegated to him/her, and ensure liaison with other offices of FAO, including headquarters, the Regional Office for Europe and Central Asia and the Subregional Office for Central Asia.

8. For the effective performance of his/her functions, the FAO Representative shall cooperate, in accordance with the established procedures in the Republic of Uzbekistan, with Government bodies concerned with agriculture, fishery and forestry sectors, as well as other sectors of the national economy related to these domains.

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\* Not reproduced herein.



9. The FAO Representation and its personnel, that are not nationals of the Republic of Uzbekistan, are accredited in accordance with the established procedures in the Republic of Uzbekistan, under the Ministry of Foreign Affairs of the Republic of Uzbekistan.

#### *Article IV Property and assets*

1. The Government shall apply to FAO's property, funds and assets, the provisions of article III of the Convention on the Privileges and Immunities of the Specialized Agencies (21 November 1947).

2. Any goods and articles acquired in or imported to the Republic of Uzbekistan by the FAO Representation under exemptions provided in the paragraph 1 of this Article may be disposed of in the Republic of Uzbekistan subject to terms agreed with the Government.

#### *Article V Communications*

Regarding facilities in respect of communications, the Government shall apply to FAO the provisions of article IV of the Convention on the Privileges and Immunities of the Specialized Agencies (21 November 1947).

#### *Article VI FAO Representative*

In addition to the privileges and immunities specified in Article VII of this Agreement, the Government shall grant to the FAO Representative, privileges and immunities not less favorable than those accorded to members of the diplomatic staff of the diplomatic missions of comparable rank accredited in the Republic of Uzbekistan. For this purpose, his/her name shall be incorporated in the diplomatic list. His/her spouse and dependents shall enjoy the privileges and immunities given to the spouses and dependants of the members of the staff of the diplomatic missions accredited in the Republic of Uzbekistan.

#### *Article VII FAO Officials*

1. The Government shall apply to FAO Officials, the provisions of article VI of the Convention on the Privileges and Immunities of the Specialized Agencies (21 November 1947). Internationally recruited FAO Officials, that are not nationals of the Republic of Uzbekistan, will have the right to import a motor vehicle free of customs and excise duties, including value-added tax, in accordance with existing regulations of the Republic of Uzbekistan applicable to members of diplomatic missions of comparable ranks.

2. The Government will provide identification cards to FAO Officials to certify that they are entitled to the privileges, immunities, and exemptions provided for in this Agreement.

#### *Article VIII Experts on mission*

Experts performing missions for FAO, including persons performing services on behalf of FAO shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their mission. In particular, they shall be accorded the provisions of paragraph 2 of annex II of the Convention on the Privileges and Immunities of the Specialized Agencies (21 November 1947).

### *Article IX Laissez passer*

1. The Government shall recognize United Nations *laissez-passers* issued to FAO Officials as a valid travel document equivalent to a passport. Applications for visas from the holders of United Nations *laissez-passer* shall be dealt with as speedily as possible.

2. Similar facilities to those specified in paragraph 1 of this Article shall be accorded to experts on mission and other persons who, though not being holders of United Nations *laissez-passer*, have a certificate that they are travelling on FAO business.

### *Article X General Provisions*

1. The privileges, immunities, exemptions and facilities accorded in this Agreement are granted in the interests of FAO, and not for the personal benefit of the persons concerned. The FAO Director-General shall have the duty to waive the immunity of any person enjoying privileges and immunities under this Agreement in any case where, in his opinion, such immunity may be waived without prejudice to the overriding interests of FAO.

2. FAO shall cooperate at all times with the Government to facilitate the proper administration of justice and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities accorded under the Agreement.

3. Assistance under this Agreement being provided for the benefit of the Republic of Uzbekistan, 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 FAO, their officials or other persons performing services for FAO, and shall hold them harmless in respect of claims or liabilities arising from operations under this Agreement. This provision shall not apply where the Parties are agreed that a claim or liability arises from the gross negligence or willful misconduct of above-mentioned individuals.

4. All persons enjoying privileges and immunities in accordance with this Agreement shall, without prejudice to their privileges and immunities, respect the legislation of the Republic of Uzbekistan.

### *Article XI Supplemental Agreements*

The Government and FAO may enter into such Supplemental Agreements as may be necessary within the scope of this Agreement.

### *Article XII Settlement of disputes*

Any dispute between FAO and the Government concerning the interpretation or application of this Agreement or any Supplemental Agreements, or any question affecting the FAO Representation or the relationship between FAO and the Government which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to arbitration of three arbitrators: one to be chosen by the FAO Director-General, one to be chosen by the Government and the third, who shall be Chairman of the arbitration, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third, such third arbitrator shall be chosen by the President of the International Court of Justice of the United Nations.

*Article XIII Final Provisions*

1. This Agreement shall enter into force upon signature and shall continue in force until terminated under paragraph 3 of this Article.

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. Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party.

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 shall survive the termination of this Agreement to the extent necessary to permit orderly withdrawal of personnel, funds and property of FAO under this Agreement.

*In witness whereof* the undersigned, duly appointed representative of the Government of the Republic of Uzbekistan and of the Food and Agriculture Organization of the United Nations, respectively, have, on behalf of the Parties, signed the present Agreement in two copies in Russian and English languages, both equally authentic, at Tashkent this 5th day of June 2014.

For the Food and Agriculture  
Organization of the United Nations:

[Signed]

For the Government of the Republic of  
Uzbekistan:

[Signed]

**(b) Agreements for hosting meetings of FAO Bodies**

Agreements concerning international conferences and meetings of FAO bodies outside FAO Headquarters, containing provisions on privileges and immunities of FAO and participants based on the standard Memorandum of Responsibilities,<sup>\*</sup> were concluded in 2014 with the Governments of the following countries: Belgium, Cameroon, Chile, Côte d'Ivoire, Croatia, Guatemala, Greece, Indonesia, Japan, Lebanon, Malta, Mauritania, Morocco, the Netherlands, Norway, Peru, Russia, the United Arab Emirates and the United States of America.

**(c) Agreements for hosting and/or sharing premises with other intergovernmental organizations**

On 14 August 2014, FAO and the International Fund for Agricultural Development (IFAD) concluded an agreement for the provision by FAO of premises, administrative and logistic support to IFAD in Sierra Leone. The agreement contains provisions on privileges and immunities of FAO, IFAD, and their staff members.

<sup>\*</sup> See United Nations Juridical Yearbook 1972, United Nations Publications, Sales No. E.74.V.1, page 32.

#### 4. United Nations Educational, Scientific and Cultural Organization

**Agreement between the Kingdom of Spain and the United Nations Educational, Scientific and Cultural Organization (UNESCO) regarding the establishment of the “International Centre on Mediterranean Biosphere Reserves, Two Coastlines United by their Culture and Nature” as a category 2 centre under the auspices of UNESCO. Barcelona, 4 April 2014\***

The Kingdom of Spain and the United Nations Educational, Scientific and Cultural Organization, hereinafter referred to as the “Parties”,

Having regard to the resolution whereby the UNESCO General Conference seeks to favour international cooperation through the establishment of an International Centre on Mediterranean Biosphere Reserves, Two Coastlines United by their Culture and Nature, Spain;

Considering that the Director-General has been authorized by the UNESCO General Conference to conclude with the Kingdom of Spain an agreement in conformity with the draft which was submitted to the UNESCO General Conference;

Desirous of defining the terms and conditions governing the contribution that shall be granted to the said Centre in this Agreement;

*Have agreed as follows:*

##### *Article 1 Definitions*

1. In this Agreement, “UNESCO” refers to the United Nations Educational, Scientific and Cultural Organization.
2. “Spain” refers to the Kingdom of Spain.
3. “Centre” means International Centre on Mediterranean Biosphere Reserves, Two Coastlines United by their Culture and Nature located within the premises of the Abertis Foundation, Castellet I la Gomel, Kingdom of Spain, in accordance with the Protocol signed by Abertis Foundation and the Autonomous Authority for National Parks under the Spanish Ministry of Agriculture, Food and Environment on July 11th 2011.

##### *Article 2 Establishment*

Spain shall agree to take, in the course of the year 2014, any measures that are necessary for the establishment of the Centre under the auspices of UNESCO, as provided for under this Agreement, herein after referred to as the “International Centre on Mediterranean Biosphere Reserves, Two Coastlines United by their Culture and Nature”.

##### *Article 3 Purpose of the Agreement*

The purpose of this Agreement is to define the terms and conditions governing co-operation between UNESCO and Spain, as well as the rights and obligations of the Parties stemming therefrom.

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\* Entered into force on 17 February 2015 in accordance with article 14.

*Article 4 Legal Status*

4.1 The Centre shall be independent of UNESCO.

4.2 The Centre shall have, on the territory of Spain, the functional autonomy necessary for the implementation of its activities as well as the legal capacity to:

- contract;
- institute legal proceedings; and,
- acquire and dispose of movable and immovable property.

*Article 5 Constitutive Act*

The Constitutive Act of the Centre must include provisions concerning:

a) the legal status granted to the Centre, within the national legal system of Spain, the legal capacity necessary to exercise its functions and to receive funds, to obtain payments for services rendered, and to acquire and dispose of property necessary for its functioning;

b) a governing structure for the Centre allowing UNESCO representation within its governing body.

*Article 6 Functions/Objectives*

The primary objectives of the Centre shall be to:

1. Collect, structure, synthesize and disseminate the experience acquired by biosphere reserves in the Mediterranean area, especially the Spanish ones, but also from other reserves in coastal countries and in the World Network of Biosphere Reserves.

2. Stimulate exchanges between Mediterranean biosphere reserves and facilitate their relationship with other networks. Create tools for exchanging previously acquired knowledge through dissemination, informative and training activities and demonstrations, following in the footsteps of the work of the World Network of Biosphere Reserves.

3. Help in the training of managers, scientific teams and researchers interested in biosphere reserve management.

The Centre shall undertake the following activities:

Support developing countries in the following areas:

1. those that will be helpful to developing countries in achieving sustainable development and economic growth;

2. those that will contribute to the fulfilment of international agenda and initiatives, such as Millennium Development Goals;

3. those that will promote a multidisciplinary and integrated approach to integrated nature protection and sustainable development; and,

4. other ones related to AECID (Spanish Agency for International Development Cooperation) projects of Spain and/or international development projects.

The Centre should cover the following functions:

a) determine and apply procedures to collect the most significant knowledge on biosphere reserves and other relevant networks of protected areas at both the national and international levels;

b) process collected knowledge so that it can be presented in different ways and can be used to elaborate different communication material;

c) produce and disseminate appropriate material for different beneficiaries and for the media used;

d) hold meetings and events which consider: the exchange of experiences, the systematization of knowledge, supporting the decision-making related to biosphere reserves, and the establishment of agreements in order to develop cooperation projects, mainly in the Mediterranean realm;

e) reinforce, through intellectual creation, a global dimension of the MAB Programme and of biosphere reserves, highlighting their links to the Rio+20 United Nations Conference on Sustainable Development resolutions, The Future we Want”, and to the United Nations Millennium Development Goals; and,

f) prepare publications on successful case studies and best practice guidelines to support the implementation of the sustainable management of biosphere reserves.

#### *Article 7 Governing Board*

1. The Centre’s activities shall be guided and coordinated by a Governing Board, renewed every three years and whose members do not exceed nine in number, which shall be composed of:

a) one representative of the Government of Spain, belonging to the Autonomous Authority for National Parks (OAPN);

b) the director of the Centre or his/her substitute (as a non-voting member);

c) one representative of the Abertis Foundation;

d) representatives of Member States, which have sent to the Centre notification for membership and have expressed interest in being represented on the Board;

e) one representative of the Director-General of UNESCO;

f) one representative of the Scientific Board of the Spanish MAB Committee (as a nonvoting member)

Other representatives from OAPN, the Abertis Foundation and the Spanish MAB Committee may participate in the Governing Board as observers without voting rights.

2. The Governing Board shall:

a) approve the medium and long-term programmes of the Centre;

b) approve the annual work plan and budget of the Centre, including the staffing and personnel table;

c) examine the annual reports submitted by the Director of the Centre, including a biennial self-assessment of the Centre’s contribution to UNESCO’s programme objectives, to be presented to UNESCO;

d) adopt the rules and regulations as well as determine the financial, administrative and personnel management procedures, for the Centre in accordance with the laws of the Kingdom of Spain;

e) monitor compliance with relevant laws and regulations; and,

f) decide on the participation of regional intergovernmental organizations and international organizations in the work of the Centre and the question of their membership.

3. The Governing Board shall meet in ordinary session at regular intervals, at least once every calendar year; it shall meet in extraordinary session if convened by its Chairperson, either on his or her own initiative or at the request of the UNESCO Director-General or the majority of the members of the Governing Board.

4. The Governing Board shall adopt its own rules of procedure. For its first meeting, the procedure shall be established by the Parties.

#### *Article 8 UNESCO's Contributions*

1. UNESCO may provide assistance, as needed, in the form of technical assistance for the programme activities of the Centre, in accordance with the strategic goals and objectives of UNESCO by:

a) providing the assistance of its experts in the specialized fields of the Centre;

b) engaging in temporary staff exchanges, whereby the staff concerned will remain on the payroll of the dispatching organizations; and,

c) seconding members of its staff temporarily, as may be decided by the Director-General and on an exceptional basis, if justified by the implementation of a joint activity/project within a strategic programme priority area.

2. In the cases listed in paragraph 1 of this Article, such assistance shall not be undertaken except within the provisions of UNESCO's programme and budget, and UNESCO will provide Member States with accounts relating to the use of its staff and associated costs.

#### *Article 9 Contributions by the Government*

1. The Government of Spain shall provide all the resources, either financial or in-kind, required for the administration and proper functioning of the Centre through the Abertis Foundation under the Protocol of Collaboration signed between OAPN and the Abertis Foundation on 11 July 2011 (Ref. 1018-110851-00). Spain shall take appropriate measures in accordance with the laws and regulations of Spain, which may be required for the Centre to receive adequate funds.

2. The Centre's resources shall derive from the sums allotted by the Abertis Foundation, either financial or in-kind, required for the administration and proper functioning of the Centre, namely:

a) provide the Centre with appropriate office space, equipment and facilities;

b) entirely assume the maintenance of the premises as well as cover the cost of communications and utilities;

c) organize and cover the expenses of holding sessions of the Governing Board;

- d) make available to the Centre the administrative staff necessary for its functions, which shall include the implementation of research, studies, training and publication activities, complementing the contributions from other sources; and,
- e) finance the activities of the Centre and the renewal review assessment

#### *Article 10 Participation*

1. The Centre shall encourage the participation of Member States and Associate Members of UNESCO which, by their common interest in the objectives of the Centre, desire to cooperate with the Centre.

2. Member States and Associate Members of UNESCO wishing to participate in the Centre's activities, as provided for under this Agreement, shall send to the Centre notification to this effect. The Director shall inform the Parties to the Agreement and other Member States of the receipt of such notifications.

#### *Article 11 Responsibility*

As the Centre is legally separate from UNESCO, the latter shall not be legally responsible for the acts or omissions of the Centre, and shall not be subject to any legal process, and bear no liabilities of any kind, be they financial or otherwise, with the exception of the provisions expressly laid down in this Agreement.

#### *Article 12 Evaluation*

1. UNESCO may, at any time, carry out an evaluation of the activities of the Centre in order to ascertain:

- a) whether the Centre makes a significant contribution to the strategic goals of UNESCO; and,
- b) whether the activities effectively pursued by the Centre are in conformity with those set out in this Agreement.

2. UNESCO undertakes to submit to Spain, at the earliest opportunity, a report on any evaluation conducted.

3. Following the results of an evaluation, referred to in paragraph 2 of this Article, each of the contracting Parties shall have the option of requesting a revision of its contents or of denouncing the Agreement as envisaged in Articles 16 and 17.

#### *Article 13 Use of UNESCO Name and Logo*

1. The Centre may mention its affiliation with UNESCO. It may, therefore, use after its title the mention "under the auspices of UNESCO".

2. The Centre is authorized to use the UNESCO logo or a version thereof on its letter-headed paper and documents, including electronic documents and web pages, in accordance with the conditions established by the governing bodies of UNESCO.

#### *Article 14 Entry into Force*

This Agreement shall enter into force following its signature by the contracting parties and when they have informed each other, in writing, that all the formalities required



to that effect by the domestic law of Spain and by UNESCO's internal regulations have been completed. The date of receipt of the last notification shall be deemed to be the date of entry into force of this Agreement.

#### *Article 15 Duration*

This Agreement is concluded for a period of 4 years as from its entry into force, and shall be extended for further 4-year periods, subject to the results of the renewal review assessment and unless otherwise expressly denounced by either Party as provided for in Article 16.

#### *Article 16 Denunciation*

1. Each of the Contracting Parties shall be entitled to denounce this Agreement unilaterally.
2. The denunciation shall take effect within 30 days following receipt of the notification sent by one of the Contracting Parties to the other.

#### *Article 17 Revision*

This Agreement may be revised by consent between Spain and UNESCO.

#### *Article 18 Settlement of Disputes*

1. Any dispute between the Parties concerning the interpretation or application of this Agreement, if not settled by negotiation or any other appropriate method agreed to by the Parties, shall be submitted for final decision to an arbitration tribunal composed of three members, one of whom shall be appointed by a representative of Spain, another by the UNESCO Director-General and a third, who shall preside over the tribunal, shall be chosen by the first two. If the two arbitrators cannot agree on the choice of a third, the appointment shall be made by the President of the International Court of Justice.

The Tribunal's decision shall be final.

*In witness whereof*, the undersigned have signed this Agreement,

*Done* in Barcelona, on the 5th of April of 2014 in two original copies, in the Spanish and English languages, and all texts are equally authentic.

For The Kingdom of Spain:

For the United Nations  
Educational, Scientific and  
Cultural Organization:

[Signed] JUAN MANUEL DE BARANDICA Y LUXÀN  
Ambassador, Permanent Delegate of Spain to  
UNESCO

[Signed] IRINA BOKOVA  
Director General of UNESCO

#### AGREEMENTS RELATING TO CONFERENCES, SEMINARS AND OTHER MEETINGS

For the purpose of holding international conferences on the territory of its member States, the United Nations Educational, Scientific and Cultural Organization (UNESCO) entered into several agreements containing the following provisions concerning the legal status of the Organization:

##### *Privileges and immunities*

The Government of [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 [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 [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 [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 [State] may also claim from UNESCO compensation for any damage to persons of property caused by the fault of staff members or agents of the Organization.

## 5. International Fund for Agricultural Development

### **Agreement between the Republic of India and the International Fund for Agricultural Development (IFAD) on the establishment of the IFAD's Country Office, signed on 27 March 2014 and 3 April 2014\***

*Whereas* the International Fund for Agricultural Development (IFAD), a Specialised Agency of the United Nations Organisation, wishes to establish a Country Office in the Republic of India to support its operation, including supervision of projects, consolidate its cooperation and linkages; be close to its partners and programmes; and manage knowledge.

*Whereas* the Government of the Republic of India agrees to permit the establishment of such an office.

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\* In 2014, IFAD concluded three other similar agreements, namely *Accord entre la République du Niger et le Fonds International de Développement Agricole relative à l'établissement d'un bureau de pays* (5 March 2014), *Accord de siège entre le Fonds International de Développement Agricole (FIDA) et le Gouvernement du Burkina Faso* (7 April 2014), and General Agreement between the Ministry of Foreign Affairs, Government of Nepal and the International Fund for Agricultural Development concerning the establishment of IFAD's Country Office in Kathmandu, Nepal (29 August 2014). These three agreements are not reproduced herein.

*Whereas* the Republic of India acceded on 10 February 1949 to the Convention on the Privileges and Immunities of the Specialised Agencies, 1947.

*Whereas* the Republic of India ratified on 28 March 1977 the Agreement Establishing IFAD.

*Now therefore*, the Government of the Republic of India and IFAD hereby agree as follows:

### *Article I Definitions*

For the purpose of this Agreement:

- (a) "Government" means the Government of the Republic of India;
- (b) "the Fund" or "IFAD" means the International Fund for Agricultural Development;
- (c) "Office" means the International Fund for Agricultural Development's Country Office located in the Republic of India;
- (d) "IFAD officials" means the Country Representative and all other officials as specified by IFAD in accordance with article VI, section 18 of the Convention on the Privileges and Immunities of the Specialized Agencies, 1947.

### *Article II Juridical personality of the Fund*

1. The Government recognizes the juridical personality of the Fund, and in particular its capacity:
  - (i) to contract;
  - (ii) to acquire and dispose of movable and immovable property; and
  - (iii) to be a party to judicial proceedings.
2. The Government shall permit the Fund to purchase or rent premises to serve as its Office.
3. The Office shall be authorised to display the emblem of the Fund on its premises and vehicles.

### *Article III Inviolability of the Office*

1. The property and assets of the Office, 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.
2. The archives of the Office, and in general all documents belonging to it or held by it, shall be inviolable, wherever located.
3. The Office and its property and assets, 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 Fund has expressly waived its immunity. No waiver of immunity shall extend to any measure of execution.
4. The Office should not allow its premises to serve as a refuge for any person wanted for a criminal offence or in respect of whom a warrant, conviction or expulsion order has been issued by the competent authorities of the Republic of India.

5. The authorities, officials and agents of the Republic of India shall not enter the Office in an official capacity unless at the request or with the authorisation of the Office, granted by the Country Representative or his or her delegate. In the event of *force majeure*, fire or any other calamity requiring urgent measures of protection, the consent of the Country Representative or his or her representative shall be considered to have been given. However, if requested by the Country Representative, any person who has entered the Office with his or her presumed consent shall leave the Office immediately.

6. The competent authorities of the Republic of India shall, to the extent possible, take all necessary measures to protect the Office against any intrusion or damage, to ensure that their tranquillity is not disturbed and to preserve their dignity.

#### *Article IV Public services*

1. The Government undertakes to assist the Office as far as possible in obtaining and making available where applicable the necessary public services on equitable terms. The Office shall bear the costs of these services.

2. In the case of interruption or threatened interruption of any such services, the competent authorities shall consider the Office's need for such services as important as that of any other international organisation and shall therefore take the necessary measures to ensure that the Office's activities are not impaired by such a situation.

#### *Article V Communications*

The Office's communications shall enjoy protection under the conditions and limitations defined in section 11 and 12 of the Convention on the Privileges and Immunities of the Specialised Agencies.

#### *Article VI Tax exemption*

1. The Office, its assets, income and other property shall be:

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

(b) exempt from custom duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Country Office for its official use; it is understood, however, that articles imported under such exemption will not be sold in India except under conditions agreed to with the Government of the Republic of India;

2. While the IFAD's Country Office 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 if the IFAD's Country Office in India makes important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the Republic of India agrees to, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

*Article VII Financial facilities*

1. In connection with its official activities the Office may freely:

(a) acquire currencies and funds, hold them, use them, and have accounts in the Republic of India in Indian rupee (INR) or any other currency and convert any currency held by it into any other currency.

2. The Office shall enjoy the same exchange facilities as other international organisations represented in the Republic of India.

*Article VIII Social security*

Since IFAD's officials are covered by the Fund's social security scheme or a similar scheme, the Office shall not be required to contribute to any social security scheme in the Republic of India, and the Government shall not require any member of the Office covered by the Fund's scheme to join such a scheme.

*Article IX Entry, travel and sojourn*

1. The Government shall recognize and accept the United Nations *laissez-passer* issued to officials of IFAD as valid travel documents.

2. Applications for visas, where required, from officials of IFAD holding United Nations *laissez-passer*, when accompanied by a certificate that they are travelling on the business of IFAD, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

3. Similar facilities to those specified in paragraph 2 shall be accorded to experts and other persons who, though not the holders of United Nations *laissez-passer*, have a certificate that they are travelling in the business of IFAD.

4. The Government shall facilitate the entry into or departure from the Republic of India, when travelling to or from the Office, of persons exercising official functions at the Office or invited by it.

5. The Government undertakes to authorise the following persons and their dependants to enter into the Republic of India and sojourn in the country throughout the duration of their assignment or missions to the Office:

- (a) the Country Representative and other IFAD's officials;
- (b) all other persons invited by the Office.

6. In accordance with section 25 2.(II) of the Convention, no order to leave the country shall be issued against the persons referred to in paragraph 5 above, other than the approval of the Minister of Foreign Affairs, and such approval shall be given only after consultation of the President of IFAD; and, if expulsion proceedings are taken against an official, the President of IFAD shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

### *Article X Identity cards*

1. The Country Representative shall communicate to the Government a list of the IFAD's officials (including spouses and other dependants) and inform it of any changes in this list.

2. Upon notification of their appointment, the Government shall issue to all persons referred to in paragraph 1 a card bearing the photograph of its holder which attests that such person is a member of the Office. This card shall be recognised by the competent authorities as an attestation of the person's identity and status as a member of the Office.

### *Article XI Privileges and Immunities of IFAD's officials*

1. Without prejudice to the provisions applicable to the Organisation under the Convention on the Privileges and Immunities of the Specialised Agencies, IFAD's officials shall enjoy the following privileges and immunities in the Republic of India:

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

(b) exemption from income taxation on salaries and emoluments paid by IFAD;

(c) immunity, together with their spouses and other dependents, for immigration restrictions and alien registration;

(d) exemption, together with their spouses and other dependents, from national service obligations and any other compulsory service;

(e) right to import free of duty their furniture and effects within six (6) months after first taking up their functions in the Republic of India;

(f) admission, upon their arrival or subsequently, of a motor vehicle, subject to existing regulations. Sale of such vehicles will also be governed by applicable Indian laws;

(g) the same repatriation facilities in time of international crisis as officials of comparable rank of diplomatic mission, together with their spouses and relatives dependent on them;

(h) the same exchange facilities as those accorded to officials of comparable rank of diplomatic missions accredited to the Government.

2. In addition to the immunities and privileges specified in Article XI-1, the executive head of the International Fund for Agricultural Development, including any official acting on his behalf during his absence from duty, shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

### *Article XII General provisions*

1. The Government shall make every effort to ensure that the Office and the IFAD's officials enjoy treatment not less favourable than that granted to other intergovernmental, international and regional organisations represented in the Republic of India.

2. The privileges and immunities provided for in this Agreement are not designed to secure personal advantage for their beneficiaries; they are designed exclusively to ensure

that the Office may operate freely in all circumstances, and to safeguard the complete independence of the persons to whom they are granted.

3. Without prejudice to the privileges and immunities granted under this Agreement, the Office and all persons who enjoy these privileges and immunities have the duty to respect the laws and regulations of the Republic of India. They also have the duty not to interfere in the internal affairs of the Republic of India.

4. The President of IFAD has the right to waive this immunity when he considers that it would impede the course of justice and can be waived without prejudice to the interests of the Office.

5. The President of IFAD shall take all measures necessary to prevent any abuse of the privileges and immunities granted under this Agreement; to this end, the Fund shall issue such regulations, applicable to the IFAD's officials and others concerned, as may be deemed necessary and appropriate.

6. Should the Government consider that there has been an abuse of a privilege or immunity granted under this Agreement, consultations shall take place, at its request, between the Country Representative and the competent authorities with view to determining whether such an abuse took place. Should such consultations not produce a result which is satisfactory to the Government and the Country Representative, the matter shall be settled in accordance with the procedure described in article XIII.

7. Nothing in this Agreement shall be construed as limiting the right of the Government to take such measures as are necessary to safeguard the security of the Republic of India.

8. Should the Government find it necessary to apply paragraph 7 of this Article, it shall enter into contact with the Country Representative as soon as circumstances permit with a view to determining by mutual agreement the measures required to protect the interests of the Fund.

9. The provisions of this Agreement are applicable to all persons covered by the Agreement, regardless of whether the Government maintains diplomatic relations with the State of which such persons are nationals, or whether such State grants similar privileges and immunities to the diplomatic officials and nationals of the Republic of India.

10. The Government shall be responsible for dealing with any claims which may be brought by third parties against the Fund or against its officials or consultants or other persons performing services on behalf of the Fund and shall hold the Fund and the above-mentioned persons harmless in case of any claims or liabilities, except where it is established that such claims or liabilities arise from the gross negligence or wilful misconduct of such persons.

11. Whenever this Agreement imposes obligations on the competent authorities, the Government shall be ultimately responsible for ensuring the fulfilment of such obligations.

#### *Article XIII Interpretation and settlement of disputes*

1. If any provision of this Agreement is inconsistent with a provision of the Convention or of the Agreement Establishing IFAD, the provision of the Convention or of the Agreement Establishing IFAD shall govern.

2. This Agreement shall be interpreted in the light of its principal objective, which is to enable the Office to carry out its activities fully and efficiently.

3. Where an allegation is substantiated, the party in breach shall undertake in writing to remedy the breach and notify the other party in writing the measures taken or proposed to be taken to remedy the breach and prevent further breaches.

4. Any dispute between the Government and the Office concerning the interpretation or application of this Agreement, or of any supplementary arrangement, which is not settled by negotiation shall, unless the parties agree otherwise, be referred for final decision to a tribunal of three (3) arbitrators, one to be named by the Government, one to be named by the President of the Fund, and the third, who shall chair the tribunal, to be chosen by mutual agreement by the other two arbitrators.

5. Should the first two arbitrators fail to agree on the choice of the third within six months following their appointment, the third arbitrator shall be named by the President of the International Court of Justice, unless he or she is a national of the Republic of India, in which case the third arbitrator shall be named by the Vice-President of the International Court of Justice.

6. The decisions of the tribunal of arbitrators shall be fully binding.

#### *Article XIV Entry into force and revision*

1. The provision of this Agreement shall come into force upon signature by both parties.

2. This Agreement will remain in force while the Office remains established in the Republic of India and may be terminated by either party upon giving six (6) months period notice of its intention to terminate the Agreement.

3. The obligations assumed by the Government and the Office under this Agreement shall survive its termination to the extent necessary to permit orderly withdrawal of the property, funds and assets of the Fund and the officials and other persons performing services on behalf of the Fund.

4. This Agreement may only be amended by mutual agreement of the Parties in writing.

*In witness whereof* the undersigned duly authorised representatives of the Government and the Fund respectively have, on behalf of both parties, signed the present Agreement in English in two original copies.

For the Government of the Republic of  
India

[Signed]

ARVIND MAYARAM

Secretary, Department of Economic  
Affairs, Ministry of Finance

Date: 27.3.2014

For the International Fund for  
Agricultural Development

[Signed]

KANAYO F. NWANZE

President of the International Fund for  
Agricultural Development

Date: 03.04.2014



## 6. United Nations Industrial Development Organization

The United Nations Industrial Development Organization (UNIDO) concluded various agreements which came into force in 2014 that contained provisions relating to the legal status, privileges and immunities of UNIDO.

**(a) Contribution agreement between the United Nations Industrial Development Organization and the European Union regarding the implementation of a project entitled “West Africa Quality System—Support for the implementation of the quality policy of ECOWAS”, Abuja and Vienna on 11 and 27 August 2014\***

*Article 1 Purpose*

1(2) The Organization will be awarded the contribution on the terms and conditions set out in this Agreement, which complies with the provisions of the Financial and Administrative Framework Agreement\*\* and which consists of these special conditions (“Special Conditions”) and their annexes.\*\*\*

ANNEX II GENERAL CONDITIONS APPLICABLE TO EUROPEAN UNION CONTRIBUTION AGREEMENTS WITH INTERNATIONAL ORGANIZATIONS

*Article 3 Liability*

3.1 The Organization shall have sole responsibility for complying with all legal obligations incumbent on it.

3.2 The Contracting Authority may not under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Organization while the Action is being carried out, or as a consequence of the Action. Therefore, the Contracting Authority may not accept any claim for compensation or increases in payment in connection with such damage or injury.

3.3 Subject to the rules governing the Organization’s privileges and immunities, the Organization shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them in respect of or arising out of the Action. The Organization shall discharge the Contracting Authority of all liability associated with any claim or action brought as a result of an infringement by the Organization or the Organization’s employees or individuals for whom those employees are responsible for rules or regulations, or as a result of violation of a third party’s rights.

*Article 13 Settlement of Disputes*

13.1 The Parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or fulfilment of this Agreement, including its existence,

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\* Entered into force on 27 August 2014.

\*\* Not entirely reproduced herein.

\*\*\* Not reproduced herein.

validity or termination. In default of amicable settlement, any Party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of conclusion of this Agreement.

13.2 The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

13.3 Nothing in this Agreement shall be interpreted as a waiver of any privileges and immunities accorded to any Party hereto by its constituent documents or international law.

**(b) Financial procedures agreement between the United Nations Industrial Development Organization and the International Bank for Reconstruction and Development, as Trustee of the Special Climate Change Fund, signed on 23 September 2014\***

*Article XIII Dispute Resolution*

Section 13.1 This Agreement has been developed and finalized in a spirit of mutual cooperation and assistance. If any dispute arising out of or relating to this Agreement cannot be settled by agreement of the Trustee and UNIDO, the Trustee and UNIDO, in consultation with the CEO, will inform the SCCF Council and may seek the SCCF Council's advice with respect to a resolution.

**(c) Letter of agreement between the United Nations Industrial Development Organization and the Government of the Lao People's Democratic Republic regarding the implementation of a project entitled "Strengthening national quality infrastructure and industrial statistics in the Lao People's Democratic Republic", signed in Vienna on 9 and 27 October 2014\*\***

11. *Privileges and Immunities.* The Government shall apply to the Agency, including its organs, property, funds and assets, and to its officials, including the Agency's Representative in Lao People's Democratic Republic, and his or her staff in the country, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies accessed by the Lao People's Democratic Republic on 9 August 1960. In addition, the Government agrees to apply *mutatis mutandis* to the Agency and, in particular, to the activities detailed in Annex III hereto,\*\*\* the provisions of the Agreement concerning assistance by the United Nations Development Programme to the Government of the Lao People's Democratic Republic Government of 10 October 1988. Nothing in this LOA shall be deemed a waiver of any privileges and immunities of the Agency.

\* Entered into force on 23 September 2014.

\*\* Entered into force on 27 October 2014.

\*\*\* Not reproduced herein.

**(d) Administrative agreement between the United Nations Industrial Development Organization and the Norwegian Ministry of Foreign Affairs regarding the implementation of a project in Sudan entitled “Building institutional capacities for the sustainable management of the marine fishery in the Red Sea State”, signed Khartoum and Vienna on 8 and 10 December 2014\***

*Project Document*

*H. Legal Context*

The present project is governed by the provisions of the Standard Basic Cooperation Agreement between the Government of the Republic of Sudan and UNIDO, signed on 8 March 1988.

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\* Entered into force on 10 December 2014.



**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 2014, the number of Member States of the United Nations was 193.

##### 2. Peace and Security

###### (a) Peacekeeping missions and operations<sup>1</sup>

###### (i) *Peacekeeping missions and operations established in 2014*

###### Central African Republic<sup>2</sup>

On 3 March 2014, the Secretary-General, in a report submitted pursuant to Security Council resolution 2127 (2013), recommended that the Council, acting under Chapter VII of the Charter of the United Nations, authorize the deployment of a multi-dimensional United Nations peacekeeping operation, with the protection of civilians as its utmost priority.<sup>3</sup> On 10 April 2014, the Security Council, by its resolution 2149 (2014), established the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) for an initial period until 30 April 2015 and requested the Secretary-General to subsume the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) in the new mission from the date of adoption of that resolution.<sup>4</sup>

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<sup>1</sup> The missions and operations are listed in chronological order as per their date of establishment.

<sup>2</sup> See subsection (e)(i)(a) on action of Member States authorized by the Security Council and subsection (f)(xi) on sanctions concerning the Central African Republic.

<sup>3</sup> S/2014/142. See also the Secretary-General's remarks to the Security Council on the situation in the Central African Republic on 20 February 2014, <http://www.un.org/sg/statements/index.asp?nid=7471>.

<sup>4</sup> For more information on MINUSCA see <https://minusca.unmissions.org>. See also the reports of the Secretary-General on the situation in the Central African Republic (S/2014/562 and S/2014/857). For more information on BINUCA, see subsection (b)(iv)(b) below.

Acting under Chapter VII of the Charter of the United Nations, the Security Council authorized MINUSCA to take all necessary means to carry out its mandate, within its capabilities and its areas of deployment. It decided that MINUSCA should initially comprise up to 10,000 military personnel. The Security Council further decided that the mandate of MINUSCA should initially focus on: the protection of civilians; support for the implementation of the transition process, including efforts in favour of the extension of State authority and preservation of territorial integrity; the facilitation of the immediate, full, safe and unhindered delivery of humanitarian assistance; the protection of the United Nations; the protection and promotion of human rights; support for national international justice and the rule of law; and Disarmament, Demobilization, Reintegration (DDR) and Repatriation (DDRR).

The Security Council also requested the Secretary-General, in consultation with the African Union, to deploy a transition team to set up MINUSCA and prepare the seamless transition of authority from the International Support Mission to the Central African Republic (MISCA) to MINUSCA by 15 September 2014, as well as to appoint a Special Representative for the Central African Republic and Head of Mission of MINUSCA, who shall assume overall authority on the ground for the coordination of all activities of the United Nations system in the Central African Republic.<sup>5</sup> In the period preceding this transfer of authority, MINUSCA implemented the mandated tasks through its civilian component, while MISCA continued to implement its tasks as mandated by Security Council resolution 2127 (2013).

(ii) *Changes in the mandate and/or extensions of time limits of ongoing peacekeeping operations or missions in 2014*

a. Cyprus

The United Nations Peacekeeping Force in Cyprus (UNFICYP) was established by Security Council resolution 186 (1964) of 4 March 1964.<sup>6</sup> The Security Council decided to extend the mandate of UNFICYP by resolutions 2135 (2014) of 30 January 2014 and 2168 (2014) of 30 July 2014, until 31 July 2014 and 31 January 2015, respectively.

b. Syrian Arab Republic and Israel

The United Nations Disengagement Observer Force (UNDOF) was established by Security Council resolution 350 (1974) of 31 March 1974.<sup>7</sup> The Security Council renewed the mandate of UNDOF by resolutions 2163 (2014) of 25 June 2014 and 2192 (2014) of 18 December 2014 until 31 December 2014 and 30 June 2015, respectively.

<sup>5</sup> For more information on MISCA, see subsection (e)(i)(a).

<sup>6</sup> For more information on UNFICYP, see <https://unficyp.unmissions.org>.

<sup>7</sup> For more information on UNDOF, see <https://undof.unmissions.org> and the reports of the Secretary-General on the United Nations Disengagement Observer Force (UNDOF) for the period from 4 December 2013 to 10 March 2014 (S/2014/199), for the period from 11 March to 28 May 2014 (S/2014/401), for the period from 29 May to 3 September 2014 (S/2014/665), and for the period from 4 September to 19 November 2014 (S/2014/859).



### c. Lebanon

The United Nations Interim Force in Lebanon (UNIFIL) was established by Security Council resolutions 425 (1978) and 426 (1978) of 19 March 1978.<sup>8</sup> Following a request by the Lebanese Foreign Minister, presented in a letter dated 25 July 2014 addressed to the Secretary-General, the Secretary-General recommended to the Security Council to consider the renewal of UNIFIL for a further period of one year.<sup>9</sup> By resolution 2172 (2014) of 26 August 2014, the Security Council renewed the mandate of UNIFIL until 31 August 2015.

### d. 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.<sup>10</sup> By resolution 2152 (2014) of 29 April 2014, the Security Council decided to extend the mandate of MINURSO until 30 April 2015.

### e. Democratic Republic of the Congo<sup>11</sup>

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).<sup>12</sup>

Acting under Chapter VII of the Charter of the United Nations, the Security Council, by its resolution 2147 (2014) of 28 March 2014, extended the mandate of MONUSCO until 31 March 2015 and decided that the renewed mandate would also include, on an exceptional basis and without creating a prejudice to the agreed principles of peacekeeping, MONUSCO's "Intervention Brigade" under direct command of the MONUSCO Force Commander, with the responsibility of neutralizing armed groups as set out in

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<sup>8</sup> For more information on UNIFIL, see <https://unifil.unmissions.org>. See also the nineteenth semi-annual report of the Secretary-General to the Security Council on the implementation of Security Council resolution 1559 (2004) (S/2014/296), and twentieth semi-annual report of the Secretary-General to the Security Council on the implementation of Security Council resolution 1559 (2004) (S/2014/720), and the reports of the Secretary-General on the implementation of Security Council resolution 1701 (2006) (S/2014/438 and S/2014/784).

<sup>9</sup> Letter dated 31 July 2013 from the Secretary-General addressed to the President of the Security Council (S/2014/554).

<sup>10</sup> For more information on MINURSO, see <https://minurso.unmissions.org>. See also the report of the Secretary-General on the situation concerning Western Sahara (S/2014/258).

<sup>11</sup> See subsection (f)(iii) on sanctions concerning the Democratic Republic of the Congo.

<sup>12</sup> See Security Council resolution 1925 (2010) of 28 May 2010. For more information on MONUSCO see <https://monusco.unmissions.org>. See also the reports of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (S/2014/157, S/2014/450, S/2014/698 and S/2014/956); 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/2014/697); and the report of the Secretary-General on the strategic review of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo submitted pursuant to paragraph 39 of Security Council resolution 2147 (2014) (S/2014/957).

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 the eastern part of the Democratic Republic of the Congo (DRC). The Security Council also decided that the Intervention Brigade would have a clear exit strategy and that the Council would consider the continued presence of the Intervention Brigade in light of its performance and whether DRC had made sufficient progress in implementing its commitments under the Peace, Security and Cooperation (PSC) Framework and in establishing a national security sector reform road map for the creation of a Congolese “Rapid Reaction Force”.

The Security Council further authorized MONUSCO, through its military component, in pursuit of the objectives described in paragraph 3 of resolution 2147 (2014), 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.

#### f. Liberia<sup>13</sup>

The United Nations Mission in Liberia (UNMIL) was established by Security Council resolution 1509 (2003) of 19 September 2003.<sup>14</sup> Acting under Chapter VII of the Charter of the United Nations, the Security Council decided by resolution 2176 (2014) of 15 September 2014 and by resolution 2190 (2014) of 15 December 2014 to extend the mandate of UNMIL until 31 December 2014 and 30 September 2015, respectively.

Taking note of the report of the Secretary-General of 15 August 2014 and the recommendations contained therein on the adjustments to the mandate and reconfiguration of UNMIL,<sup>15</sup> his letter dated 28 August and his update to the Council on 12 November 2014,<sup>16</sup> the Council decided, by resolution 2190 (2014), that the mandate of UNMIL should be the following, in priority order: (*a*) protection of civilians; (*b*) humanitarian assistance support; (*c*) reform of justice and security institutions; (*d*) electoral support; (*e*) human rights promotion and protection; and (*f*) protection of United Nations personnel.

In the same resolution, the Security Council further decided that UNMIL's authorized strength should remain at up to 4,811 military and 1,795 police personnel. It recalled its endorsement, in its resolution 2066 (2012) of 17 September 2012, of the Secretary-General's recommendation to decrease UNMIL's military strength in three phases between August 2012 and July 2015 and affirmed its intention to resume the phased drawdown once it had been determined that Liberia had made significant progress in combatting the Ebola outbreak, which represented a threat to the peace and stability of Liberia.

<sup>13</sup> See subsection (*f*)(ii) below on sanctions as concerning Liberia.

<sup>14</sup> For more information on UNMIL, see <http://unmil.unmissions.org>. See also the twenty-seventh progress report of the Secretary-General on the United Nations Mission in Liberia (S/2014/123) and the twenty-eighth progress report of the Secretary-General on the United Nations Mission in Liberia (S/2014/598).

<sup>15</sup> S/2014/598.

<sup>16</sup> S/2014/644.

### g. Côte d'Ivoire<sup>17</sup>

The United Nations Operation in Côte d'Ivoire (UNOCI) was established by Security Council resolution 1528 (2004) of 27 February 2004.<sup>18</sup> By resolution 2162 (2014) of 25 July 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNOCI until 30 June 2015.

The Security Council requested UNOCI to focus and continue to streamline its activities, across its military, police and civilian components in order to achieve progress on the tasks outlined in paragraph 19 of resolution 2162 (2014) and fully reflect the downsizing of the military component and narrowing of the mandate decided in resolution 2112 (2013) and resolution 2162 (2014) on the structure of the mission.

In the same resolution, the Security Council welcomed the proposal by the Secretary-General as set out in his report of 15 May 2014,<sup>19</sup> to establish, in the context of inter-mission cooperation arrangements between UNMIL and UNOCI,<sup>20</sup> for an initial period of one year and within the authorized military strength of UNOCI, a quick reaction force to implement UNOCI's mandate as defined in paragraph 19 of resolution 2162 (2014) and to support UNMIL as defined in paragraph 33 of resolution 2162 (2014) while recognizing that this unit will remain primarily a UNOCI asset. Acting under Chapter VII of the Charter of the United Nations, the Security Council authorized the Secretary-General to deploy this unit to Liberia, subject to the consent of the troop-contributing countries concerned and the Government of Liberia, in the event of a serious deterioration of the security situation on the ground in order to temporarily reinforce UNMIL with the sole purpose of implementing its mandate, and stressed that this unit should prioritize implementation of UNOCI's mandate in Côte d'Ivoire.

### h. Haiti

The United Nations Stabilization Mission in Haiti (MINUSTAH) was established by Security Council resolution 1542 (2004) of 30 April 2004.<sup>21</sup> By resolution 2180 (2014) of 14 October 2014, 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 resolutions<sup>22</sup> until 15 October 2015, with the intention of further renewal.

<sup>17</sup> See subsection (e)(ii)(b) on action of Member States authorized by the Security Council and subsection (f)(iv) below on sanctions as concerning Côte d'Ivoire.

<sup>18</sup> For more information on UNOCI, see <https://onuci.unmissions.org>. See also the thirty-fourth report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (S/2014/342) and the thirty-fifth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (S/2014/892).

<sup>19</sup> S/2014/342.

<sup>20</sup> See subsection (a)(ii)(f) on UNMIL.

<sup>21</sup> For more information on MINUSTAH, see <https://minustah.unmissions.org>. See also the reports of the Secretary-General on the United Nations Stabilization Mission in Haiti (S/2014/162 and S/2014/617).

<sup>22</sup> See resolutions 1542 (2004), 1608 (2005), 1702 (2006), 1743 (2007), 1780 (2007), 1840 (2008), 1892 (2009), 1908 (2010), 1927 (2010), 1944 (2010), 2012 (2011), 2070 (2012) and 2119 (2013).

### **i. Republic of the Sudan (Darfur)**<sup>23</sup>

The African Union-United Nations Hybrid Operation in Darfur (UNAMID) was established and authorized by Security Council resolution 1769 (2007) of 31 July 2007.<sup>24</sup>

By resolution 2148 (2014) of 3 April 2014, the Security Council endorsed the Secretary-General's report on the review of UNAMID and its recommendations.<sup>25</sup> By resolution 2173 (2014) of 27 August 2014, the Security Council decided to extend the mandate of UNAMID, as set out in resolution 1769 (2007), for 10 months until 30 June 2015, in order to align the renewal cycle with the decision of the African Union Peace and the Security Council of 9 July 2014.

In resolution 2173 (2014), the Security Council noted that certain elements of UNAMID's mandate and tasks, as authorized in resolution 1769 (2007), which decided that the mandate of UNAMID should be as set out in paragraphs 54 and 55 of the report of the Secretary-General and the Chairperson of the African Union Commission of 5 June 2007,<sup>26</sup> are no longer relevant, namely those enumerated in paragraphs 54 (*h*), 55 (*a*) (*v*), 55 (*b*) (*ii-iii*), and 55 (*b*) (*v*) of that report.

### **j. Republic of the Sudan and Republic of South Sudan (Abyei)**

The United Nations Interim Security Force for Abyei (UNISFA) was established by Security Council resolution 1990 (2011) of 27 June 2011.<sup>27</sup> The Security Council decided to extend the mandate of UNISFA, as set out in paragraph 2 of resolution 1990 (2011) and modified by resolution 2024 (2011) and paragraph 1 of resolution 2075 (2012), by resolutions 2156 (2014) of 29 May 2014 and resolution 2179 (2014) of 14 October 2014, until 15 October 2014 and 28 February 2015, respectively.<sup>28</sup>

Acting under Chapter VII of the Charter of the United Nations, the Council, in both resolutions 2156 (2014) and 2179 (2014), also decided to extend the mandate of UNISFA, as set out in paragraph 3 of resolution 1990 (2011), and 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.

### **k. 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.<sup>29</sup> By resolu-

<sup>23</sup> See subsection (f)(v) on sanctions concerning the Republic of the Sudan.

<sup>24</sup> For more information on UNAMID, see <http://unamid.unmissions.org>. See also the reports of the Secretary-General on UNAMID (S/2014/26, S/2014/279 and S/2014/852), and the special report of the Secretary-General on the review of the African Union-United Nations Hybrid Operation in Darfur (S/2014/138).

<sup>25</sup> S/2014/138.

<sup>26</sup> S/2007/307/Rev.1.

<sup>27</sup> For more information on UNISFA, see <https://unisfa.unmissions.org>.

<sup>28</sup> See also the reports of the Secretary-General on the situation in Abyei (S/2014/126, S/2014/336, S/2014/518, S/2014/709 and S/2014/862).

<sup>29</sup> For more information on UNMISS, see <http://unmiss.unmissions.org>. See the reports of the Secretary-General on South Sudan (S/2014/158, S/2014/537, S/2014/708 and S/2014/821).

tion 2155 (2014) of 27 May 2014 and resolution 2187 (2014) of 25 November 2014, the Security Council, while acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNMISS, as set out in paragraph 3 of resolution 1996 (2011), through 30 November 2014 and 30 May 2015, respectively.

Also acting under Chapter VII of the Charter of the United Nations, the Security Council, by resolution 2155 (2014), endorsed the cessation-of-hostilities agreement accepted and signed by the Republic of South Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) (in Opposition) on 23 January 2014, further endorsed the Agreement to Resolve the Crisis in South Sudan signed on 9 May 2014 by the Republic of South Sudan and the SPLM/A (in Opposition), called for immediate and full implementation of the agreements by both parties, and expressed its readiness to consider all appropriate measures against those who take action that undermines the peace, stability, and security of South Sudan, including those who prevent the implementation of these agreements.

By the same resolution, the Security Council decided that UNMISS would consist of a military component of up to 12,500 troops of all ranks and of a police component, including appropriate Formed Police Units, of up to 1,323 personnel; and that the civilian component would be reduced accordingly to tasks outlined in paragraph 4 of the resolution. The Security Council further decided that UNMISS should, within the authorized troop ceiling of 12,500, include a component consisting *inter alia* of three battalions, with additional responsibility for protecting the Monitoring and Verification Mechanism (MVM) of the Intergovernmental Authority on Development (IGAD) as set out in paragraph 4 (*d*), as well as implementing the mission's overall mandate as set out in paragraphs 4 (*a*), 4 (*b*) and 4 (*c*) of the resolution, consistent with paragraph 5.

By the same resolution 2155 (2014), the Security Council also re-prioritized the mandate of UNMISS. The Council decided that the mandate of UNMISS should be as follows, and authorized UNMISS to use all necessary means to perform the following tasks: (*a*) protection of civilians; (*b*) monitoring and investigating human rights; (*c*) creating the conditions for delivery of humanitarian assistance; (*d*) supporting the implementation of the Cessation of Hostilities Agreement. This mandate was underscored in resolution 2187 (2014).

### I. Mali

The United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) was established by Security Council resolution 2100 (2013) of 25 April 2013.<sup>30</sup> By resolution 2164 (2014) of 25 June 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of MINUSMA until 30 June 2015.<sup>31</sup>

By the same resolution, also acting under Chapter VII of the Charter of the United Nations, the Security Council re-authorized MINUSMA to take all necessary

<sup>30</sup> For more information on MINUSMA, see <https://minusma.unmissions.org>. See also the report of the Security Council mission to Mali, 1 to 3 February 2014 (S/2014/173).

<sup>31</sup> See also the reports of the Secretary-General on the situation in Mali (S/2014/1, S/2014/229, S/2014/403 and S/2014/692), and the Security Council Working Group on Children and Armed Conflict's conclusions on children and armed conflict in Mali (S/AC.51/2014/2).

means to carry out its mandate, within its capabilities and its areas of deployment. The Security Council also decided to amend the mandate of MINUSMA to focus on the following priority tasks: (a) security, stabilization and protection of civilians; (b) support to national and political dialogue and reconciliation; and (c) support to the re-establishment of State authority throughout the country in line with the Ouagadougou Preliminary Agreement and the ceasefire agreement of 23 May 2014,<sup>32</sup> the rebuilding of the Malian security sector, the promotion and protection of human rights and the support for humanitarian assistance. The Security Council further decided that the mandate of MINUSMA should include the following additional tasks: (a) protection of United Nations personnel; and (b) support for cultural preservation.

(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.<sup>33</sup> UNTSO continued to operate in 2014.

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 respectively, in order to supervise, in the State of Jammu and Kashmir, the ceasefire between India and Pakistan. Following the hostilities between India and Pakistan at the end of 1971 and a subsequent ceasefire agreement of 17 December of 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.<sup>34</sup> UNMOGIP continued to operate in 2014.

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 peaceful and normal life for all inhabitants of Kosovo and advance regional stability in the western Balkans.<sup>35</sup> UNMIK continued to operate in 2014.

(iv) *Peacekeeping missions or operations concluded in 2014*

No peacekeeping missions or operations were concluded in 2014.

<sup>32</sup> Letter dated 3 July 2014 from the Secretary-General addressed to the President of the Security Council (S/2014/469).

<sup>33</sup> For more information on UNTSO, see <http://untso.unmissions.org>.

<sup>34</sup> For more information on UNMOGIP, see <https://unmogip.unmissions.org>.

<sup>35</sup> For more information on UNMIK, see <http://www.unmikonline.org/pages/default.aspx> and <http://www.un.org/en/peacekeeping/missions/unmik/>. See also the reports of the Secretary-General on UNMIK (S/2014/69, S/2014/305, S/2014/558 and S/2014/773 and Corr.1).

## (b) Political and peacebuilding missions

### (i) *Political and peacebuilding missions established in 2014*

#### Burundi

On 28 January 2014, the Minister of Foreign Affairs and International Cooperation of Burundi made a statement to the Security Council, requesting *inter alia* the establishment, immediately after the closing of United Nations Office in Burundi (BNUB), of a team of electoral observers to be deployed before, during and after elections scheduled in Burundi in 2015.<sup>36</sup> Taking note of this request, the Security Council, by resolution 2137 (2014) of 13 February 2014, requested the Secretary-General to establish the United Nations Electoral Observation Mission in Burundi (MENUB).<sup>37</sup>

### (ii) *Changes in the mandate and/or extensions of the time limits of ongoing political and peacebuilding missions in 2014*

#### a. Afghanistan<sup>38</sup>

The United Nations Assistance Mission in Afghanistan (UNAMA) was established by Security Council resolution 1401 (2002) of 28 March 2002.<sup>39</sup> On 17 March 2014, the Security Council decided by resolution 2145 (2014) to extend the mandate of UNAMA until 17 March 2015.

In the same resolution, the 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, Bonn and Tokyo Conferences and the Lisbon and Chicago Summits.<sup>40</sup> The Council requested UNAMA in an increasingly enabling function, to assist the Government of Afghanistan on its way towards ensuring full Afghan leadership and ownership, as defined by the Kabul process.<sup>41</sup> The Council further decided that UNAMA and the Special Representative of the Secretary-General, within their mandate and guided by the principle of reinforcing Afghan sovereignty, leadership and ownership, would continue to lead and coordinate the international civilian efforts with a particular focus on, *inter alia*: (a) promoting, as co-chair of the Joint Coordination and Monitoring

<sup>36</sup> S/PV.7104.

<sup>37</sup> For more information on MENUB, see <https://menub.unmissions.org/en>. See also the exchange of letters between the Secretary-General and the President of the Security Council (S/2014/799 and S/2014/800).

<sup>38</sup> See subsection (e)(ii)(a) on actions of Member States concerning Afghanistan authorized by the Security Council.

<sup>39</sup> For more information on 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/68/789–S/2014/163, A/68/910–S/2014/410, A/69/540–S/2014/656 and A/69/647–S/2014/876).

<sup>40</sup> 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).

<sup>41</sup> See report of the Secretary-General on the situation in Afghanistan and its implications for international peace and security (S/2014/163).



Board (JCMB), more coherent support by the international community to the Afghan Government's development and governance priorities; (b) supporting, at the request of the Afghan authorities, the organization of future Afghan elections, including the 2014 presidential and provincial council elections and the 2015 parliamentary elections; (c) promoting, through an appropriate UNAMA presence, the implementation of the Kabul Process; and (d) supporting the efforts of the Afghan Government in fulfilling its commitments to improve governance and the rule of law.

#### **b. Iraq**

The United Nations Assistance Mission for Iraq (UNAMI) was established by Security Council resolution 1500 (2003) of 14 August 2003.<sup>42</sup> By resolution 2169 (2014) of 30 July 2014, the Security Council decided to extend the mandate of UNAMI until 31 July 2015. 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, should continue their mandate as stipulated in resolution 2107 (2013).

#### **c. Guinea-Bissau<sup>43</sup>**

The United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGIBIS) was established by Security Council resolution 1876 (2009) of 26 June 2009.<sup>44</sup> By resolution 2157 (2014) of 29 May 2014 and resolution 2186 (2014) of 25 November 2014, the Security Council decided to extend the mandate of UNIOGIBIS until 30 November 2014 and until 28 February 2015, respectively.<sup>45</sup>

#### **d. Central African Region**

The United Nations Regional Office for Central Africa (UNOCA), located in Libreville, Gabon, was established by an exchange of letters in August 2010 between the Secretary-General and the Security Council. UNOCA began its operations on 2 March 2011. By letter dated 10 February 2014 from the Secretary-General addressed to the President of the Security Council, the Secretary-General recommended to extend the mandate of UNOCA for an additional 18 months until 31 August 2015.<sup>46</sup> The Secretary-General also indicated that UNOCA would continue to pursue its mandate, which included the implementation of the United Nations regional strategy to address the threat posed by Lord's

<sup>42</sup> For more information on the activities of UNAMI, see <http://www.uniraq.org>. See also the Second report of the Secretary-General submitted pursuant to paragraph 6 of resolution 2110 (2013) (S/2014/190), the Second report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 2107 (2013) (S/2014/191), the First report of the Secretary-General submitted pursuant to paragraph 6 of resolution 2169 (2014) (S/2014/774), and the Fourth report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 2107 (2013) (S/2014/776).

<sup>43</sup> See subsection (f)(x) on sanctions concerning Guinea-Bissau.

<sup>44</sup> For more information on UNIOGIBIS, see <http://uniogbis.unmissions.org/en> and the report of the Secretary-General on developments in Guinea-Bissau and the activities of UNIOGIBIS (S/2014/333).

<sup>45</sup> See also the reports of the Secretary-General on the restoration of constitutional order in Guinea-Bissau (S/2014/105, S/2014/332, and S/2014/603).

<sup>46</sup> S/2014/103.



Resistance Army (LRA) in close collaboration with national, regional and international partners, and the carrying out of good offices and special assignments in countries of the subregion, including in the areas of conflict prevention and peacebuilding. By letter dated 13 February 2014 from the President of the Security Council to the Secretary-General, the Security Council took note of the proposal of the Secretary-General.<sup>47</sup>

#### e. Libya<sup>48</sup>

The United Nations Support Mission in Libya (UNSMIL) was established by Security Council resolution 2009 (2011) of 16 September 2011.<sup>49</sup> By resolution 2144 (2014) of 14 March 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNSMIL until 13 March 2015 under the leadership of a Special Representative of the Secretary-General.

In the same resolution, the Security Council decided further that the mandate of UNSMIL as an integrated special political mission, in full accordance with the principles of national ownership, should be to support Libyan government efforts to, *inter alia*: (a) ensure the transition to democracy; (b) promote the rule of law and monitor and protect human rights; (c) control unsecured arms and related materiel in Libya and counter their proliferation; and (d) build governance capacity.

#### f. Somalia<sup>50</sup>

The United Nations Assistance Mission in Somalia (UNSOM) was established by Security Council resolution 2102 (2013) of 2 May 2013 under the leadership of a Special Representative of the Secretary-General.<sup>51</sup> By resolution 2158 (2014) of 29 May 2014, the Security Council decided to extend the mandate of UNSOM for a period of 12 months.

### (iii) *Other ongoing political and peacebuilding missions in 2014*

#### a. Middle East

The Office of the United Nations Special Coordinator for the Middle East Peace Process (UNSCO), established by the Secretary-General on 1 October 1999,<sup>52</sup> continued to operate throughout 2014.<sup>53</sup>

<sup>47</sup> S/2014/104.

<sup>48</sup> See subsection (f)(viii) on sanctions concerning Libya.

<sup>49</sup> For more information on UNSMIL, see <https://unsmil.unmissions.org>, and the reports of the Secretary-General on UNSMIL (S/2014/131 and S/2014/653).

<sup>50</sup> See subsection (b)(ii)(f) on UNSOM, and subsection (f)(i) on sanctions concerning Somalia. See also the reports of the Secretary-General on Somalia (S/2014/140, S/2014/330 and S/2014/699) and the report of the Secretary-General on the situation with respect to piracy and armed robbery at the sea of the coast of Somalia (S/2014/740).

<sup>51</sup> For more information on UNSOM, see <https://unsom.unmissions.org>.

<sup>52</sup> Exchange of letters between the Secretary-General and the Security Council (S/1999/983 and S/1999/984).

<sup>53</sup> For more information on UNSCO, see <http://www.unsco.org>.

## **b. Lebanon**

The Office of the United Nations Special Coordinator for Lebanon (UNSCOL) was established in 2000 as the Personal Representative of the Secretary-General for Southern Lebanon.<sup>54</sup> The mandate was expanded to include coordination of United Nations political activities for the whole of Lebanon and the title changed to Personal Representative for Lebanon in 2005,<sup>55</sup> to Special Coordinator for Lebanon in 2007,<sup>56</sup> respectively. UNSCOL continued to operate throughout 2014.<sup>57</sup>

## **c. West Africa**

The United Nations Office for West Africa (UNOWA), originally established by the Secretary-General in 2002,<sup>58</sup> with subsequent extensions of its mandate in 2004,<sup>59</sup> 2007,<sup>60</sup> and 2010,<sup>61</sup> and 2013<sup>62</sup> continued to operate throughout 2014.<sup>63</sup>

## **d. Central Asia**

The United Nations Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA) was established on 10 December 2007 by a letter dated 7 May 2007 from the Secretary-General to the President of the Security Council.<sup>64</sup> UNRCCA continued to function throughout 2014.<sup>65</sup>

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<sup>54</sup> S/2000/718.

<sup>55</sup> Letter dated 17 November 2005 from the Secretary-General to the President of the Security Council (S/2005/726).

<sup>56</sup> Letter dated 8 February 2007 from the Secretary-General to the President of the Security Council (S/2007/85).

<sup>57</sup> For more information on the activities of the Office of the United Nations Special Coordinator for Lebanon (UNSCOL), see <http://unscol.unmissions.org>.

<sup>58</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 26 November 2001 (S/2001/1128) and 29 November 2001 (S/2001/1129).

<sup>59</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 4 October 2004 (S/2004/797) and 25 October 2004 (S/2004/858).

<sup>60</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 28 November 2007 (S/2007/753) and 21 December 2007 (S/2007/754).

<sup>61</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 14 December 2010 (S/2010/660) and 20 December 2010 (S/2010/661).

<sup>62</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 19 December 2013 (S/2013/753) and 23 December 2013 (S/2013/759).

<sup>63</sup> For more information on UNOWA, see <http://unowa.unmissions.org>. See also the reports of the Secretary-General on the activities of the UNOWA (S/2014/442 and S/2014/945).

<sup>64</sup> S/2007/279.

<sup>65</sup> For more information on UNRCCA, see <http://unrcca.unmissions.org>.

### e. Somalia<sup>66</sup>

The United Nations Support Office for the African Union Mission in Somalia (United Nations Support Office for the AMISOM) was established as a field support operation led by the United Nations Department of Field Support by Security Council resolution 1863 (2009) of 16 January 2009.<sup>67</sup> Its mandate is to deliver a logistics capacity support package to AMISOM (African Union Mission in Somalia) critical in achieving its operational effectiveness and in preparation for a possible United Nations peacekeeping operation. UNSOA continued to operate in 2014.

### f. African Union

The United Nations Office to the African Union (UNOAU) was established by the General Assembly in resolution 64/288 of 24 June 2010, *inter alia* to enhance the partnership between the United Nations and the African Union. UNOAU continued to function throughout 2015.<sup>68</sup>

## (iv) *Political and peacebuilding missions concluded in 2014*

### a. Burundi

The United Nations Office in Burundi (BNUB) was established by Security Council resolution 1959 (2010) of 16 December 2010.<sup>69</sup> By resolution 2137 (2014) of 13 February 2014, the Security Council decided to extend the mandate of BNUB until 31 December 2014, requesting it, consistent with paragraphs 3 (a) to (d) of the resolution 1959 (2010) and 2 (a) and (b) of the resolution 2027 (2011), to focus on and support the Government of Burundi in the areas (a) to (e) of paragraph 1 of resolution 2090 (2013).

On 28 January 2014, the Minister of Foreign Affairs and International Cooperation of Burundi made a statement to the Security Council, requesting *inter alia* the closing of BNUB pursuant to resolution 2090 (2013) before the end of 2014.<sup>70</sup> In resolution 2137 (2014), the Security Council requested the Secretary-General to prepare BNUB's transition and the transfer of appropriate responsibilities to the United Nations Country Team by 31 December 2014.

On 31 December 2014, BNUB completed its Security Council mandate and transferred its responsibilities to the United Nations Country Team consisting of agencies, funds and programmes, based on the United Nations Development Assistance Framework (UNDAF).

### b. 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

<sup>66</sup> See subsection (e)(ii)(d) on action of Member States authorized by the Security Council, and subsection (f)(i) on sanctions concerning Somalia.

<sup>67</sup> For more information on UNSOA, see <http://unsoa.unmissions.org>.

<sup>68</sup> For more information on UNOAU, see <https://unoau.unmissions.org>.

<sup>69</sup> For more information on BNUB, see: <http://bnub.unmissions.org>. See also the reports of the Secretary-General on the United Nations Office in Burundi (S/2014/36 and S/2014/550).

<sup>70</sup> S/PV.7104.

Peacebuilding Office in the Central African Republic (BONUCA),<sup>71</sup> which had been established by the Secretary-General on 15 February 2000. On 28 January 2014, the Security Council, by its resolution 2134 (2014), decided to extend the mandate BINUCA until 31 January 2015.

In its resolution 2149 (2014) of 10 April 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, requested the Secretary-General to subsume the presence of BINUCA into the newly established United Nations Multinational Integrated Stabilization Mission in the Central African Republic (MINUSCA) as of the date of the adoption of the resolution and to ensure a seamless transition from BINUCA to MINUSCA.<sup>72</sup> The Security Council also requested the Secretary-General to transfer the Guard Unit, in line with its original mandate approved by the letter of the President of the Security Council dated 29 October 2013,<sup>73</sup> from BINUCA to MINUSCA from the date of adoption of the resolution until 15 September 2014, and decided that as of the date of the adoption of the resolution until 15 September 2014, the mandate of the Guard Unit as approved in that letter should remain unchanged.

### 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.<sup>74</sup> On 26 March 2013, the Security Council decided by resolution 2097 (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 election in 2012, and in line with the recommendations of the report of the Secretary General,<sup>75</sup> UNIPSIL should be fully drawn down by March 2014. In a statement of the President of the Security Council on 26 March 2014, the Council reiterated that UNIPSIL would complete its mandate on 31 March 2014, and recognized the important contribution of UNIPSIL in promoting peace, stability and development in Sierra Leone.<sup>76</sup> With the completion of its mandate, UNIPSIL transferred its responsibilities to the United Nations Country Team consisting of 19 agencies, funds and programmes, based on the United Nations Development Assistance Framework (UNDAF).

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<sup>71</sup> 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).

<sup>72</sup> See subsection (a)(i) on MINUSCA.

<sup>73</sup> S/2013/636 and S/2013/637.

<sup>74</sup> For more information on 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).

<sup>75</sup> S/2013/118.

<sup>76</sup> S/PRST/2014/6.

## (c) Other bodies

(i) *Cameroon-Nigeria Mixed Commission*

The Cameroon-Nigeria Mixed Commission was established by the Secretary-General, pursuant to a Joint Communiqué of the Presidents of Nigeria and Cameroon adopted in Geneva on 15 November 2002, to facilitate the implementation of the 10 October 2002 ruling of the International Court of Justice on the Cameroon-Nigeria boundary dispute.<sup>77</sup> 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 2014.<sup>78</sup>

(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-United Nations 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. 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 was 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.<sup>79</sup>

The OPCW-United Nations Joint Mission was mandated to oversee the timely elimination of the chemical weapons programme of the Syrian Arab Republic in the safest and most secure manner possible. The Joint Mission formally completed its mandate and closed its operations on 30 September 2014.<sup>80</sup>

(iii) *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

<sup>77</sup> *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*, Judgment, I.C.J. Reports 2002, p. 303.

<sup>78</sup> For more information on the Commission's work in 2014, see the exchange of letters between the Secretary-General and the President of the Security Council (S/2014/6 and S/2014/7; S/2014/893 and S/2014/894).

<sup>79</sup> S/2013/591.

<sup>80</sup> For an overview of the activities of the OPCW-UN Joint Mission see also the fourth to thirteenth reports of the Director General of the OPCW to the United Nations Security Council (S/2014/52, S/2014/133, S/2014/220, S/2014/300, S/2014/368, S/2014/444, S/2014/533, S/2014/622, and S/2014/706).

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.

On 22 January 2014, the Secretary-General appointed three high-level experts as members of the International Commission of Inquiry.<sup>81</sup> The Commission began its work in April 2014. It filed a preliminary report in June 2014, and a final report in December 2014.<sup>82</sup>

#### (iv) *United Nations Mission for Ebola Emergency Response*

The United Nations Mission for Ebola Emergency Response (UNMEER) was established on 19 September 2014 following the adoption of Security Council resolution 2177 (2014) of 18 September 2014, and the adoption, without a vote, of General Assembly resolution 69/1 of 19 September 2014 as a temporary measure to meet immediate needs related to the unprecedented fight against Ebola. The Mission deployed financial, logistical and human resources to Guinea, Liberia and Sierra Leone.<sup>83</sup>

In resolution 2177 (2014),<sup>84</sup> determining that the unprecedented extent of the Ebola outbreak in Africa constitutes a threat to international peace and security, the Security Council encouraged the governments of Liberia, Sierra Leone and Guinea to accelerate the establishment of national mechanisms to provide for the rapid diagnosis and isolation of suspected cases of infection, treatment measures, effective medical services for responders, credible and transparent public education campaigns, and strengthened preventive and preparedness measures to detect, mitigate and respond to Ebola exposure, as well as to coordinate the rapid delivery and utilization of international assistance. The Council also called on Member States, including of the region, to lift general travel and border restrictions, imposed as a result of the Ebola outbreak.

By the same resolution, the Security Council urged Member States to implement relevant Temporary Recommendations issued under the International Health Regulations (2005) regarding the 2014 Ebola Outbreak in West Africa, and to lead the organization, coordination and implementation of national preparedness and response activities, including, where and when relevant, in collaboration with international development and humanitarian partners. The Council requested the Secretary-General to help ensure that all relevant United Nations System entities, including the World Health Organization (WHO) and the United Nations Humanitarian Air Service (UNHAS) accelerate their response to the Ebola outbreak.

In resolution 69/1 of 19 September 2014, the General Assembly welcomed the intention of the Secretary-General to establish the United Nations Mission for Ebola Emergency

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<sup>81</sup> S/2014/43 and S/2014/591.

<sup>82</sup> S/2014/928.

<sup>83</sup> See also the letter dated 29 August 2014 to the Secretary-General from the Presidents of Liberia, Sierra Leone and Guinea (S/2014/669).

<sup>84</sup> See also S/PRST/2014/24.

Response.<sup>85</sup> The General Assembly requested the Secretary-General to take such measures as may be necessary for the prompt execution of his intention and to submit a detailed report thereon for consideration by the General Assembly at its sixty-ninth session. The General Assembly also called upon all Member States, relevant United Nations bodies and the United Nations system to provide their full support to UNMEER.

(v) *United Nations Headquarters Board of Inquiry—Gaza strip and southern Israel*

The United Nations Headquarters Board of Inquiry—Gaza strip and southern Israel was established by the Secretary-General following incidents affecting or involving United Nations personnel, premises and operations that occurred between 8 July and 26 August 2014 in the Gaza strip and southern Israel. The Board was convened on 10 November 2014. It conducted a field visit from 26 November to 13 December 2014.

**(d) Missions of the Security Council**

(i) *Mali*

In a letter dated 18 May 2012, the President of the Security Council informed the Secretary-General of the Council's decision to send a mission to Mali from 31 January to 3 February 2014, outlining in an annex to the letter the mission's terms of reference.<sup>86</sup>

In accordance with its terms of reference,<sup>87</sup> the mission to Mali, *inter alia*, welcomed the full restoration of democratic governance and constitutional order in Mali, following the successful conduct, with the support of MINUSMA,<sup>88</sup> of peaceful and transparent presidential and legislative elections in 2013, and consulted with the newly-appointed and elected authorities. The mission also reiterated the urgent call of the Security Council for an inclusive and credible negotiation process open to all communities of the north of Mali, with the goal of securing a durable political resolution to the crisis and long-term peace and stability throughout the country, respecting the sovereignty, unity and territorial integrity of the Malian State, as called for in the Ouagadougou Preliminary Agreement of 18 June 2013.

(ii) *Europe and Africa*

In a letter dated 18 May 2012, the President of the Security Council informed the Secretary-General of the Council's decision to send a mission to Europe and Africa from

<sup>85</sup> See A/69/389-S/2014/679.

<sup>86</sup> Letter dated 31 January 2014 from the President of the Security Council addressed to the Secretary-General (S/2014/71).

<sup>87</sup> *Ibid.*, annex.

<sup>88</sup> For more information on MINUSMA, see subsection (a)(ii)(l).



8 to 14 August 2014, outlining in an annex to the letter the mission's terms of reference.<sup>89</sup> The mission planned to visit Belgium, the Netherlands, South Sudan, Somalia and Kenya.

The mission to Belgium, *inter alia*, commemorated the centenary of the First World War and drew lessons from the First World War to assist the Security Council in discharging its mandate in maintaining international peace and security.

The mission to the Netherlands, *inter alia*, underlined the commitment of the Security Council to the international courts and tribunals located in The Hague in the light of the common objective of settling international disputes peacefully and establishing accountability for serious international crimes.

The mission to South Sudan, *inter alia*, conveyed its deep alarm regarding the deteriorating political, security and humanitarian crisis in South Sudan resulting from the internal Sudan People's Liberation Movement political dispute and the subsequent violence caused by the country's political and military leaders, and condemned actions that perpetuated the crisis. The mission further demanded that all armed groups immediately ceased all forms of violence, including sexual violence, renounce force as a means of resolving political grievances, complied with the cessation-of-hostilities agreement of 23 January 2014 and allowed full access for the monitoring and verification teams of the Intergovernmental Authority on Development (IGAD). The mission also reaffirmed the support of the Security Council to UNMISS and received a briefing on the implementation of Council resolution 2155 (2014), in particular as regards the reconfiguration of UNMISS in response to a more focused peacekeeping mandate.<sup>90</sup>

The mission to Somalia, *inter alia*, recalled the commitment of the Security Council to the sovereignty, territorial integrity and political unity of Somalia, and underlined the support of the Security Council to the peace and reconciliation process in Somalia. The mission further emphasized the support of the Council to (UNSOM) and expressed its gratitude to the African Union Mission in Somalia (AMISOM), and received updates on the implementation of their respective mandates.<sup>91</sup>

The mission to Kenya, *inter alia*, engaged on matters of mutual interest with the Government of Kenya.

## (e) Action of Member States authorized by the Security Council

### (i) Authorizations by the Security Council in 2014

#### a. Central African Republic

The European Union Military Operation in the Central African Republic (EUFOR RCA) was authorized by the Security Council in resolution 2134 (2014) of 28 January 2014, as referenced in the letter dated 21 January 2014 from the High

<sup>89</sup> Letter dated 8 August 2014 from the President of the Security Council addressed to the Secretary-General (S/2014/579).

<sup>90</sup> See subsection (a)(ii)(k) on UNMISS.

<sup>91</sup> See subsection (a)(ii)(f) on UNSOM and subsection (b)(iii)(a) on AMISOM.



Representative of the European Union.<sup>92</sup> Acting under Chapter VII of the Charter of the United Nations, the Council authorized the European Union operation to take all necessary measures within the limits of its capacities and areas of deployment from its initial deployment and for a period of six months from the declaration of its full operational capacity.

By resolution 2127 (2013) of 5 December 2013, the Security Council had authorized the deployment of the African-led International Support Mission in the Central African Republic (MISCA) for an initial period of 12 months with effect from 5 December 2013, with a view to contributing, in particular, to the protection of civilians, the restoration of security and public order, the stabilization of the country and the restoration of State authority.<sup>93</sup> Resolution 2127 (2013) also authorized French forces in the Central African Republic to take all necessary measures to support MISCA. Security Council resolution 2134 (2014) provided the necessary authorization for the Council of the European Union to establish EUFOR RCA.

In resolution 2149 (2014) of 10 April 2014, the Security Council welcomed the decision of the Council of the European Union on 1 April 2014 to launch EUFOR RCA. In resolution 2181 (2014) of 21 October 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the authorization of the European Union operation contained in paragraph 44 of resolution 2134 (2014) until 15 March 2015.

#### **b. Mali**

By resolution 2164 (2014) of 25 June 2014, the Security Council authorized French forces, within the limits of their capacities and areas of deployment, to use all necessary means until the end of MINUSMA's mandate as authorized in that resolution, to intervene in support of elements of MINUSMA when under imminent and serious threat upon request of the Secretary-General, requested France to report to the Council on the implementation of this mandate in Mali and to coordinate its reporting with the reporting by the Secretary-General.<sup>94</sup>

#### **c. Syrian Arab Republic**

By resolution 2165 (2014) of 14 July 2014, the Security Council, underscoring the obligations of Member States under Article 25 of the Charter of the United Nations, authorized United Nations humanitarian agencies and their implementing partners to use routes across conflict lines and the border crossings of Bab al-Salam, Bab al-Hawa, Al Yarubiyah and Al-Ramtha, in addition to those already in use, in order to ensure that humanitarian assistance reaches people in need throughout Syria through the most direct routes, with notification to the Syrian authorities.<sup>95</sup> Moreover, the Security Council decided to establish a monitoring mechanism, under the authority of the United Nations Secretary-General, to monitor, with the consent of the relevant neighbouring countries of Syria, the loading

<sup>92</sup> Letter dated 25 February 2014 from the Secretary-General addressed to the President of the Security Council (S/2014/45).

<sup>93</sup> See also subsection (a)(i) on MINUSCA.

<sup>94</sup> See subsection (a)(ii)(l) on MINUSMA.

<sup>95</sup> See also Security Council resolution 2139 (2014) of 22 February 2014, and the statement of the President of the Security Council on 2 October 2013 (S/PRST/2013/15).

of all humanitarian relief consignments of the United Nations humanitarian agencies and their implementing partners at the relevant United Nations facilities. The Security Council further decided that these two decisions (as contained in operative paragraphs two and three of the resolution) should expire 180 days from the adoption of the resolution.

In resolution 2191 (2014) of 17 December 2014, the Security Council, underscoring the obligations of Member States under Article 25 of the Charter of the United Nations, decided to renew the decisions in paragraphs 2 and 3 of Security Council resolution 2165 (2014) for a period of twelve months, until 10 January 2016.<sup>96</sup>

(ii) *Changes in authorization and/or extension of time limits in 2014*

*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,<sup>97</sup> and Security Council resolution 1510 (2003) of 13 October 2003. By 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 ISAF for a period of twelve months until 31 December 2014.

In resolution 2189 (2014) of 12 December 2014, the Security Council, noting the conclusion of ISAF at the end of 2014, welcomed the agreement between NATO and Afghanistan to establish the post-2014 non-combat Resolute Support Mission, which would train, advise and assist the Afghan National Defence and Security Forces at the invitation of the Islamic Republic of Afghanistan.

*b. Côte d'Ivoire*

French forces had initially been authorized, for a period of 12 months, by Security Council resolution 1528 (2004) of 27 February 2004 to use all necessary means in order to support UNOCI. By resolution 2162 (2015) of 25 June 2014, the Security Council decided to extend this authorization until 30 June 2015.<sup>98</sup>

*c. Bosnia and Herzegovina*

The European Union Force Althea (EUFOR ALTHEA) was initially authorized by Security Council resolution 1575 (2004) of 22 November 2004.<sup>99</sup> By its resolution 2183 (2014) of 11 November 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, authorized the Member States acting through or in co-

<sup>96</sup> See also the report of the Secretary-General on the implementation of Security Council resolutions 2139 (2014) and 2165 (2014) (S/2014/840).

<sup>97</sup> S/2001/1154.

<sup>98</sup> See subsection (a)(ii)(g) on UNOCI.

<sup>99</sup> For more information on the EUFOR ALTHEA, see: <http://www.euforbih.org/eufor/index.php>, and the reports on the activities of EUFOR ALTHEA (e.g. S/2014/531 and S/2014/702, annexes, respectively).

operation with the European Union to establish for a further period of twelve months, starting from the date of the adoption of the resolution, a multinational stabilization force (EUFOR ALTHEA), as a legal successor to the stabilization force (SFOR) under unified command and control, which would fulfil its missions in relation to the implementation of annex 1-A and annex 2 of the Peace Agreement<sup>100</sup> in cooperation with the North Atlantic Treaty Organization (NATO) Headquarters presence in accordance with the arrangements agreed between NATO and the European Union as communicated to the Security Council in their letters of 19 November 2004, which recognized that EUFOR ALTHEA would have the main peace stabilization role under the military aspects of the Peace Agreement.

#### d. Somalia<sup>101</sup>

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.<sup>102</sup> By resolution 2182 (2014) of 24 October 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to authorize the Member States of the African Union to maintain the deployment of AMISOM, as set out in paragraph 1 of resolution 2093 (2013) until 30 November 2015, in line with the Security Council's request to the African Union for a maximum level of 22, 126 troops, which should be authorized to take all necessary measures, in full compliance with its Member States' obligations under international humanitarian law and human rights law, and in full respect of the sovereignty, territorial integrity, political independence and unity of Somalia, to carry out its mandate.

### (f) Sanctions imposed under Chapter VII of the Charter of the United Nations<sup>103</sup>

#### (i) *Somalia and Eritrea*

The Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia on 24 April 1992 was mandated 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 its mandate, the Committee decided on 26 February 2010 to change its name to "Security Council Committee pursuant to resolution 751 (1992) and

<sup>100</sup> General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto, attachment to letter dated 29 November 1995 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General (S/1995/999).

<sup>101</sup> See also subsection (b)(iii)(e) on UNSOA, subsection (d)(ii) on missions of the Security Council and subsection (i) on piracy.

<sup>102</sup> For more information AMISOM, see: <http://amisom-au.org>.

<sup>103</sup> For more information on the sanction regimes established by the Security Council, see the Council's website relating to subsidiary organs at <http://www.un.org/en/sc/subsidiary/>.

1907 (2009) concerning Somalia and Eritrea”.<sup>104</sup> The Security Council Committee submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>105</sup>

By resolution 2142 (2014) of 5 March 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed 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) and paragraphs 4 to 17 of resolution 2111 (2013). By the same resolution, the Council also decided that, until 25 October 2014, the arms embargo on Somalia should not apply to deliveries of weapons, ammunition 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, to provide security for the Somali people, except in relation to deliveries of the items set out in the annex of resolution 2111 (2013).

In resolution 2182 (2014) of 24 October 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed 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) and paragraphs 4 to 17 of resolution 2111 (2013), paragraph 14 of resolution 2125 (2013), and paragraph 2 of resolution 2142 (2013). The Council also decided to renew the provisions set out in paragraph 2 of resolution 2142 (2014) until 30 October 2015.

By the same resolution, the Security Council decided to extend until 30 November 2015 the mandate of the Somalia and Eritrea Monitoring Group as set out in paragraph 13 of resolution 2060 (2012) and updated in paragraph 41 of resolution 2093 (2013).<sup>106</sup>

By resolution 2184 (2014) of 12 November 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, further decided that the arms embargo on Somalia imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of resolution 1425 (2002) and modified by paragraphs 33 to 38 of resolution 2093 (2013) should not apply to supplies of weapons and military equipment or the provision of assistance destined for the sole use of Member States, international, regional, and subregional organizations undertaking measures in relation to the fight against piracy and armed robbery (in accordance with paragraph 13 of the same resolution).

## (ii) *Liberia*

The Security Council Committee established pursuant to resolution 1521 (2003) of 22 December 2003, to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in the same resolution, as modified by

<sup>104</sup> 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). For the report of the Committee covering its work during 2014, see letter dated 17 December 2014 from the Chair of the Committee addressed to the President of the Security Council (S/2014/936).

<sup>105</sup> Report of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea (S/2014/936).

<sup>106</sup> See the Somalia report of the Monitoring Group on Somalia and Eritrea submitted in accordance with resolution 2182 (2014) (S/2015/801, annex), and the Eritrea report of the Monitoring Group on Somalia and Eritrea submitted in accordance with resolution 2182 (2014) (S/2015/802).

resolutions 1532 (2004), 1683 (2006) and 1903 (2009), continued its operations in 2014. The Security Council Committee submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>107</sup>

By resolution 2188 (2014) of 9 December 2014, 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) remained in force, and decided to renew for a period of nine months the measures on travel imposed by paragraph 4 of resolution 1521 (2003) and on arms by paragraph 2 of resolution 1521 (2003) and modified by paragraphs 1 and 2 of resolution 1683 (2006), by paragraph 1 (b) of resolution 1731 (2006), by paragraphs 3, 4, 5 and 6 of resolution 1903 (2009), by paragraph 3 of resolution 1961 (2010), and by paragraph 2 (b) of resolution 2128 (2013). The Council further decided to maintain all of the above measures under continuous review 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 and in light of the threat to peace and security in Liberia posed by the Ebola virus.

By the same resolution, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of the Panel of Experts<sup>108</sup> appointed pursuant to paragraph 9 of resolution 1903 (2009) for a period of 10 months from the date of adoption of the resolution to undertake, *inter alia*, the following tasks in close collaboration with the Government of Liberia and the Côte d'Ivoire Group of Experts: (a) to conduct a follow-up assessment mission to Liberia and neighbouring States, as feasible given conditions on the ground, to investigate and compile a final report on the implementation, and any violations, of the measures on arms as amended by resolutions 1903 (2009), 1961 (2010) and 2128 (2013); (b) to provide to the Council, after discussion with the Committee, a final report no later than 1 August 2015 on all the issues listed in paragraph 5 of resolution 2188 (2014), and an update to the Committee no later than 23 April 2015 on the status of legislation in Liberia related to the Government of Liberia's ability to effectively monitor and control arms and border issues; and (c) to cooperate actively with other relevant panels of experts, in particular that on Côte d'Ivoire re-established by paragraph 24 of resolution 2153 (2014).

### (iii) *Democratic Republic of the Congo*

The Security Council Committee, established pursuant to resolution 1533 (2004) of 12 March 2004 to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 15 of resolution 1807 (2008), paragraph 6 of resolution 1857 (2008) and paragraph 4 of resolution 1896 (2009), continued its operations in 2014 and submitted, on 31 December 2014, a final report on its work in 2014 to the Security Council.<sup>109</sup>

<sup>107</sup> Report of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia (S/2014/931).

<sup>108</sup> See also the final report of the Panel of Experts on Liberia submitted pursuant to paragraph 5 (b) of Security Council resolution 2128 (2013) (S/2014/831).

<sup>109</sup> Report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo (S/2014/919).

By resolution 2136 (2014) of 30 January 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to renew until 1 February 2015 the measures on arms imposed by paragraph 1 of resolution 1807 (2008) and reaffirmed the provisions of paragraphs 2, 3 and 5 of that resolution and further decided that the measures on arms imposed by paragraph 1 of resolution 1807 (2008) should not apply to the supply of arms and related material, as well as assistance, advice or training, intended solely for the support of or use by the African Union-Regional Task Force. The Security Council also decided to renew, for the period specified in paragraph 1 of the resolution, the measures on transport imposed by paragraphs 6 and 8 of resolution 1807 (2008) and reaffirmed the provisions of paragraph 7 of that resolution. Moreover, the Council decided to renew, for the period specified in paragraph 1 of resolution 2136 (2014), the financial and travel measures imposed by paragraphs 9 and 11 of resolution 1807 (2008) and reaffirmed the provisions of paragraphs 10 and 12 of that resolution regarding the individuals and entities referred to in paragraph 4 of resolution 1857 (2008) and reaffirmed the provisions of paragraphs 10 and 12 of resolution 1807 (2008) in relation to those measures.

In the same resolution, the Security Council requested the Secretary-General to extend, for a period expiring on 1 February 2015, the Group of Experts established pursuant to resolution 1533 (2004)<sup>110</sup> and renewed by subsequent resolutions and requested the Group of Experts to fulfil its mandate as set out in paragraph 18 of resolution 1807 (2008) and expanded by paragraphs 9 and 10 of resolution 1857 (2008), and to present to the Council, through the Committee, a written mid-term report by 28 June 2014, and a written final report before 16 January 2015.

#### (iv) Côte d'Ivoire

The Security Council Committee established pursuant to resolution 1572 (2004) of 15 November 2004, to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 14 of the same resolution, as modified by resolutions 1584 (2005), 1643 (2005) and 1946 (2010), continued its operations in 2014 and submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>111</sup>

By resolution 2153 (2014) of 29 April 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that for a period ending on 30 April 2015, 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 lethal material, whether or not originating in their territories.

<sup>110</sup> The Group of Experts for the Democratic Republic of the Congo was set up by resolution 1533 (2004) with the mandate, *inter alia*, to examine and analyse information gathered by MONUC in the context of its monitoring mandate, and to gather and analyse all relevant information in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries, in cooperation with the governments of those countries, flows of arms and related materiel, as well as networks operating in violation of the measures imposed by paragraph 20 of resolution 1493 (2003). For information on the appointment of members to the Group of Experts, see letter dated 13 March 2014 from the Secretary-General addressed to the President of the Security Council (S/2014/183).

<sup>111</sup> Report of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire (S/2014/912).



In the same resolution, the Security Council decided to renew until 30 April 2015 the financial and travel measures imposed by paragraphs 9 to 12 of resolution 1572 (2004) and paragraph 12 of resolution 1975 (2011) and stressed its intention to review the continued listing of individuals subject to such measures provided they engage in actions that further the objective of national reconciliation.

The Security Council further decided to terminate as of the date of adoption of the resolution the measures preventing the importation by any State of all rough diamonds from Côte d'Ivoire imposed by paragraph 6 of resolution 1643 (2005), in light of progress made towards Kimberley Process Certification Scheme (KPCS) implementation and better governance of the sector. The Council requested Côte d'Ivoire to update the Security Council, through the Committee, on its progress in implementing its Action Plan for diamonds, including on any enforcement activities involving illegal smuggling, development of its customs regime, and reporting of financial flows from diamonds.

By the same resolution, the Security Council decided to extend the mandate of the Group of Experts as set out in paragraph 7 of resolution 1727 (2006) for a period of 13 months until 30 May 2015 and requested the Secretary-General to take the necessary measures to support its action.<sup>112</sup> The Security Council further decided that the Group of Experts would also report on the activities of and any continued threat to peace and security in Côte d'Ivoire posed by sanctioned individuals and additionally requested the Group of Experts to assess and report on the effects of the modifications decided in the resolution.

#### (v) *Republic of the Sudan*

The Security Council Committee established pursuant to resolution 1591 (2005) of 29 March 2005, to oversee the relevant sanctions measures concerning the Sudan and to undertake the tasks set out by the Security Council in sub-paragraph 3 (a) of the same resolution, continued its operations in 2014 and submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>113</sup>

By resolution 2138 (2014) of 13 February 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of the Panel of Experts, originally appointed pursuant to resolution 1591 (2005) and previously extended by resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007), 1841 (2008), and 1891 (2009), 1945 (2010), 1982 (2011), 2035 (2012) and 2091 (2013), 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.<sup>114</sup> The Council also condemned the reported continuing violations of the measures contained in paragraphs 7 and 8 of resolution 1556 (2004) and paragraph 7 of resolution 1591 (2005), as updated in paragraph 9 of resolution 1945 (2010) and 4 of reso-

<sup>112</sup> See the final report of the Group of Experts on Côte d'Ivoire pursuant to paragraph 19 of Security Council resolution 2101 (2013) (S/2014/266), and the midterm report of the Group of Experts on Côte d'Ivoire pursuant to paragraph 27 of Security Council resolution 2153 (2014) (S/2014/729).

<sup>113</sup> Report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (S/2014/913).

<sup>114</sup> See the final report of the Panel of Experts submitted in accordance with paragraph 3 of resolution 2091 (2013) (S/2014/87).

lution 2035 (2012) and directed the Committee, in line with its mandate, to respond effectively to such violations.

(vi) *Democratic People's Republic of Korea*

The Security Council Committee established pursuant to resolution 1718 (2006) on 14 October 2006, to oversee the relevant sanctions measures concerning the Democratic People's Republic of Korea and to undertake the tasks set out in paragraph 12 of that same resolution and in resolution 1874 (2009), continued its operations in 2014 and submitted, on 31 December 2014, a report on its work to the Security Council.<sup>115</sup>

By resolution 2141 (2014) of 5 March 2014, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided to extend until 5 April 2015 the mandate of the Panel of Experts, as specified in paragraph 26 of resolution 1874 (2009) and modified in paragraph 29 of resolution 2094 (2013), and expressed its intent to review the mandate and take appropriate action regarding further extension no later than 5 March 2015.<sup>116</sup>

(vii) *Islamic Republic of Iran*

The Security Council Committee established pursuant to resolution 1737 (2006) of 23 December 2006, to undertake the tasks set out in paragraph 18 of that same resolution, as modified by resolutions 1747 (2007), 1803 (2008) and 1929 (2010), concerning the effective implementation of measures relating to, *inter alia*, proliferation-sensitive nuclear and ballistic missile programmes, arms, finance and travel, continued its operations in 2014 and submitted, on 31 December 2014, a report on its work to the Security Council.<sup>117</sup>

By resolution 2159 (2014) of 9 June 2014, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided to extend until 9 July 2015 the mandate of the Panel of Experts monitoring sanctions against Iran, as specified in paragraph 29 of resolution 1929 (2010),<sup>118</sup> and expressed its intent to review the mandate and take appropriate action regarding further extension no later than 9 June 2015.

<sup>115</sup> Report of the Security Council Committee established pursuant to resolution 1718 (2006) (S/2014/920).

<sup>116</sup> See the final report of the Panel of Experts submitted pursuant to resolution 2094 (2013) (S/2014/147).

<sup>117</sup> Report of the Security Council Committee established pursuant to resolution 1737 (2006) (S/2014/932).

<sup>118</sup> The Panel of Experts was set up by resolution 1929 (2010) to, *inter alia*, assist the Committee in the implementation of its mandate: to gather, examine and analyse information regarding the implementation of the measures decided in resolutions 1737 (2006), 1747 (2007), 1803 (2008), in particular incidents of non-compliance; and to make recommendations on actions the Council, or the Committee or Member States, may consider to improve implementation of the relevant measures. See also the final report of the Panel of Experts established pursuant to resolution 1929 (2010) (394).



(viii) *Libya*

The Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya was established on 26 February 2011 to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 24 of the same resolution. The mandate of the Committee was subsequently expanded by resolution 1973 (2011). The Committee continued its operations in 2014 and submitted, on 31 December 2014, a report on its work to the Security Council.<sup>119</sup>

In resolution 2144 (2014) of 14 March 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend until 13 April 2015 the mandate of the Panel of Experts, established by paragraph 24 of resolution 1973 (2011) and modified by resolution 2040 (2012),<sup>120</sup> 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. In resolution 2146 (2014) of 19 March 2014, the Security Council decided that the mandate of the panel of experts should apply with respect to the measures imposed in the resolution, and requested the Secretary-General to increase the Panel to six members.

By resolution 2146 (2014), the Security Council, acting under Chapter VII of the Charter of the United Nations, also authorized Member States to inspect on the high seas vessels designated by the Committee pursuant to paragraph 11 of the resolution, and authorized Member States to use all measures commensurate to the specific circumstances, in full compliance with international humanitarian law and international human rights law, as may be applicable, to carry out such inspections and direct the vessel to take appropriate actions to return to Libya the crude oil, with the consent of and in coordination with the Government of Libya.

In the same resolution, the Security Council decided to impose the following measures on vessels designated in accordance with paragraph 11: (a) the Flag State of a designated vessel should take the necessary measures to direct the vessel not to load, transport, or discharge such crude oil from Libya aboard the vessel, absent direction from the Government of Libya focal point; (b) all Member States should take the necessary measures to prohibit designated vessels from entering their ports, unless such entry is necessary for the purpose of an inspection, in the case of emergency or in the case of return to Libya; (c) all Member States should take the necessary measures to prohibit the provision by their nationals or from their territory of bunkering services, such as provision of fuel or supplies, or other servicing of vessels, unless provision of such services is necessary for humanitarian purposes, or in the case of return to Libya; (d) all Member States should take the necessary measures to require their nationals and entities and individuals in their territory not to engage in any financial transactions with respect to such crude oil from Libya aboard designated vessels. The Security Council further decided that the authorizations provided by and the measures imposed by this resolution should terminate one year from the date of the adoption of the resolution, unless the Council decided to extend them.

<sup>119</sup> Report of the Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya (S/2014/909).

<sup>120</sup> See the final report of the Panel of Experts in accordance with paragraph 14 (d) of resolution 2095 (2013) (S/2014/106).

By resolution 2174 (2014) of 27 August 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed that the measures specified in paragraphs 15, 16, 17, 19, 20 and 21 of resolution 1970 (2011), as modified by paragraphs 14, 15 and 16 of resolution 2009 (2011), apply to individuals and entities designated under that resolution and under resolution 1973 (2011) and by Committee established pursuant to paragraph 24 of resolution 1970 (2011). The Security Council decided that they should also apply to individuals and entities determined by the Committee to be engaging in or providing support for other acts that threaten the peace, stability or security of Libya, or obstruct or undermine the successful completion of its political transition, and decided that such acts may include but were not limited to: (a) planning, directing, or committing, acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in Libya; (b) attacks against any air, land, or sea port in Libya, or against a Libyan State institution or installation, or against any foreign mission in Libya; (c) providing support for armed groups or criminal networks through the illicit exploitation of crude oil or any other natural resources in Libya; and (d) acting for or on behalf of or at the direction of a listed individual or entity. The Security Council further decided that the supply, sale or transfer of arms and related materiel, including related ammunition and spare parts, to Libya in accordance with paragraph 13 (a) of resolution 2009 (2011) as modified by paragraph 10 of resolution 2095 (2013) must be approved in advance by the Committee.

(ix) *Afghanistan*

The Security Council Committee established pursuant to resolution 1988 (2011) on 17 June 2011, to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 30 of the same resolution, continued its operations in 2014 and submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>121</sup>

By resolution 2160 (2014) of 17 June 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that States should continue to take the measures set out in paragraph 1 resolution 1988 (2011), with respect to individuals and entities designated prior to the date of adoption of resolution 1988 (2011) as the Taliban, as well as other individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan as designated by the Committee established in paragraph 30 of resolution 1988 (2011). The Security Council also requested the Secretary-General to make all list entries and narrative summaries of reasons for listing available in all official languages of the United Nations in a timely and accurate manner.

In the same resolution, the Security Council also decided, in order to assist the Committee in fulfilling its mandate, that the 1267/1989 Monitoring Team, established pursuant to paragraph 7 of resolution 1526 (2004), should also support the Committee for a period of thirty months from the date of expiration of the current mandate in June 2015, with the mandate set forth in the annex to the resolution.

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<sup>121</sup> Report of the Security Council Committee established pursuant to resolution 1988 (2011) (S/2014/924).

(x) *Guinea-Bissau*

The Security Council Committee established pursuant to resolution 2048 (2012) on 18 May 2012, to monitor the implementation of the measures imposed by resolution 2048 (2012), designate the individuals subject to the measures and consider requests for exemptions, continued its operations in 2014 and submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>122</sup>

(xi) *Central African Republic*

The Security Council Committee established pursuant to resolution 2127 (2013) of 5 December 2013 to undertake the tasks set out by the Security Council in paragraph 57 of the same resolution continued its operations in 2014 and submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>123</sup>

By resolution 2134 (2014) of 28 January 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that, for an initial period of one year from the date of the adoption of the resolution, all Member States should take the necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee established pursuant to paragraph 57 of resolution 2127 (2013).

In the same resolution, the Security Council decided that all Member States should, for an initial period of one year from the date of the adoption of the resolution, freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee established pursuant to paragraph 57 of resolution 2127 (2013), or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and decided further that all Member States should ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the individuals or entities designated by the Committee.

By resolution 2149 (2014) of 10 April 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to establish the United Nations Multidimensional Stabilization Mission in the Central African Republic (MINUSCA) and provided it with the mandate to assist the Committee and the Panel of Experts established pursuant to resolution 2127 (2013),<sup>124</sup> including by monitoring the implementation of the sanctions measures.

<sup>122</sup> Report of the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau (S/2014/918).

<sup>123</sup> Report of the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic (S/2014/921).

<sup>124</sup> See the interim report of the Panel of Experts in accordance with paragraph 59 (c) of resolution 2127 (2013) (S/2014/452) and the final report of the Panel of Experts in accordance with paragraph 59 (c) of resolution 2127 (2013) (S/2014/762). See also subsection (a)(i) on MINUSCA.

(xii) *Yemen*

By resolution 2140 (2014) of 26 February 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that all Member States should, for an initial period of one year from the date of the adoption of the resolution, freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee established pursuant to paragraph 19 of the resolution, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and decided further that all Member States should ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the individuals or entities designated by the Committee.

By the same resolution, the Security Council decided that, for an initial period of one year from the date of the adoption of the resolution, all Member States should take the necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee established pursuant to paragraph 19 of the resolution, provided that nothing in the paragraph should oblige a State to refuse its own nationals entry into its territory.

The Council established a new Sanctions Committee consisting of all the members of the Council to, *inter alia*, monitor the implementation of the measures imposed by resolution 2140 (2014), designate the individuals subject to the measures and consider requests for exemptions. On 31 December 2014, the Committee transmitted a report to the Security Council containing an account of its activities undertaken from 26 February to 31 December 2014.<sup>125</sup>

The Security Council also requested the Secretary-General to create for an initial period of 13 months, in consultation with the Committee, and to make the necessary financial and security arrangements to support the work of the Panel, a group of up to four experts ("Panel of Experts"), under the direction of the Committee to carry out its tasks.

(g) **Terrorism**(i) *The United Nations Global Counter-Terrorism Strategy*

The fourth biennial review of the United Nations Global Counter-Terrorism Strategy took place on 12 and 13 June 2014. On 13 June 2014, the General Assembly adopted, without a reference to a Main Committee, resolution 68/276 entitled "The United Nations Global Counter-Terrorism Strategy Review", without a vote. In that resolution, the Assembly, *inter alia*, reaffirmed the United Nations Global Counter-Terrorism Strategy and its four pillars,<sup>126</sup> and called upon Member States, the United Nations and other appropriate international, regional and subregional organizations to step up their efforts to implement the Strategy in an integrated and balanced manner and in all its aspects. The Assembly

<sup>125</sup> Report of the Security Council Committee established pursuant to resolution 2140 (2014) (S/2014/906).

<sup>126</sup> General Assembly resolution 60/288 of 8 September 2006.

also took note of the report of the Secretary-General on this item<sup>127</sup> as well as of measures that Member States and relevant international, regional and subregional organizations had adopted within the framework of the Strategy, as presented in the report of the Secretary-General and at the fourth biennial review of the Strategy, all of which strengthened cooperation to fight terrorism, including through the exchange of best practices.

(iii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/127 entitled “Measures to eliminate international terrorism” without a vote, upon the recommendation of the Sixth Committee.

(ii) *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. The Committee continued its operations in 2014 and submitted, on 31 December 2014, a report on its work in 2014 to the Security Council.<sup>128</sup>

By resolution 2161 (2014) of 17 June 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that all States should take the measures as previously imposed by paragraph 8 (c) of resolution 1333 (2000), paragraphs 1 and 2 of resolution 1390 (2002), and paragraphs 1 and 4 of resolution 1989 (2011), with respect to Al-Qaida and other individuals, groups, undertakings and entities associated with them. The Security Council requested the Secretary-General to make all list entries on the Al-Qaida Sanctions List and narrative summaries of reasons for listing available in all official languages of the United Nations in a timely and accurate manner.

By the same resolution, the Security Council decided that the Focal Point mechanism established in resolution 1730 (2006) might: (a) receive requests from listed individuals, groups, undertakings, and entities for exemptions to the measures outlined in paragraph 1 (a) of resolution 2161 (2014), as defined in resolution 1452 (2002) provided that the request has first been submitted for the consideration of the State of residence; and (b) receive requests from listed individuals for exemptions to the measures outlined in paragraph 1 (b) of resolution 2161 (2014) and transmit these to the Committee to determine, on a case-by-case basis. The Council also decided that the Focal Point might receive, and transmit to the Committee for its consideration, communications from: (a) individuals

<sup>127</sup> A/68/841.

<sup>128</sup> Report of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities (S/2014/923).

who have been removed from the Al-Qaida Sanctions List; (b) individuals claiming to have been subjected to the measures outlined in paragraph 1 above as a result of false or mistaken identification or confusion with individuals included on the Al-Qaida Sanctions List.

By resolution 2161 (2014), the Security Council also decided to extend the mandate of the Office of the Ombudsperson, established by resolution 1904 (2009), as reflected in the procedures outlined in annex II of the resolution, for a period of thirty months from the date of expiration of the Office of the Ombudsperson's current mandate in June 2015. The Security Council further decided, in order to assist the Committee in fulfilling its mandate, as well as to support the Ombudsperson, to extend the mandate of the current New York-based Monitoring Team and its members, established pursuant to paragraph 7 of resolution 1526 (2004), for a further period of thirty months from the date of expiration of its current mandate in June 2015, under the direction of the Committee with the responsibilities outlined in annex I of the resolution.<sup>129</sup>

In resolution 2170 (2014) of 15 August 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that the individuals associated with Al-Qaida, Islamic State in Iraq and the Levant (ISIL) and Al-Nusrah Front (ANF) specified in the annex to the resolution should be subject to the measures imposed in paragraph 1 of resolution 2161 (2014) and added to the Al-Qaida Sanctions List. The Security Council directed the Monitoring Team to submit a report to the Committee within 90 days on the threat, including to the region, posed by ISIL and ANF, their sources of arms, funding, recruitment and demographics, and recommendations for additional action to address the threat.<sup>130</sup>

By resolution 2178 (2014) of 24 September 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that, without prejudice to entry or transit necessary in the furtherance of a judicial process, Member States should prevent the entry into or transit through their territories of any individual about whom that State has credible information that provides reasonable grounds to believe that he or she is seeking entry into or transit through their territory for the purpose of participating in the acts described in paragraph 6 of the resolution, including any acts or activities indicating that an individual, group, undertaking or entity is associated with Al-Qaida, as set out in paragraph 2 of resolution 2161 (2014), provided that nothing in the paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals or permanent residents. The Security Council expressed its readiness to consider designating, under resolution 2161 (2014), individuals associated with Al-Qaida who commit the acts specified in paragraph 6 of the resolution.

By the same resolution, the Security Council requested the Analytical Support and Sanctions Monitoring Team, in close cooperation with other United Nations counter-terrorism bodies, to report to the Committee established pursuant to resolutions 1267 (1999) and 1989 (2011) within 180 days, and provide a preliminary oral update to the Committee

<sup>129</sup> See fifteenth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2083 (2012) concerning Al-Qaida and associated individuals and entities (S/2014/41) and the sixteenth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2161 (2014) concerning Al-Qaida and associated individuals and entities (S/2014/77).

<sup>130</sup> The Islamic State in Iraq and the Levant and the Al-Nusrah Front for the People of the Levant: report and recommendations submitted pursuant to resolution 2170 (2014) (S/2014/815).

within 60 days, on the threat posed by foreign terrorist fighters recruited by or joining ISIL, ANF and all groups, undertakings and entities associated with Al-Qaida.<sup>131</sup>

### **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.<sup>132</sup> By resolution 1535 (2004) of 26 March 2004, the Security Council established the Counter-Terrorism Committee Executive Directorate (CTED) to assist the work of the CTC and coordinate the process of monitoring the implementation of resolution 1373 (2001).

The Security Council, by resolution 2133 (2014) of 27 January 2014, reaffirmed its resolution 1373 (2001), in particular the decisions contained in paragraphs 1 (*a*), 2 (*a*), 1 (*d*), and 2 (*f*) of that resolution.

In resolution 2170 (2014) of 15 August 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, urged all States, in accordance with their obligations under resolution 1373 (2001), to cooperate in efforts to find and bring to justice individuals, groups, undertakings and entities associated with Al-Qaida including ISIL and ANF who perpetrate, organize and sponsor terrorist acts and in this regard underlined the importance of regional cooperation.

By resolution 2178 (2014) of 24 September 2014, the Security Council, acting under Chapter VII of the Charter of the United Nations, recalling its decision in paragraph 2 (*e*) of resolution 1373 (2001), decided that all States should ensure that their domestic laws and regulations establish serious criminal offences sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offence. The Council further requested the CTC, within its existing mandate and with the support of CTED, to identify principal gaps in Member States' capacities to implement Security Council resolutions 1373 (2001) and 1624 (2005) that may hinder States' abilities to stem the flow of foreign terrorist fighters, as well as to identify good practices to stem the flow of foreign terrorist fighters in the implementation of resolutions 1373 (2001) and 1624 (2005), and to facilitate technical assistance, specifically by promoting engagement between providers of capacity-building assistance and recipients, especially those in the most affected regions.

The Security Council, through resolution 2185 (2014) of 20 November 2014, encouraged CTED to enhance its dialogue and information sharing with Special Envoys, the Department of Political Affairs and the Department of Peacekeeping Operations, with respect to policing activities, including during the planning stages of missions, as appropriate, in relation to implementation of resolutions 1373 (2001) and 1624 (2005), and requested CTED to identify principal gaps in Member States' capacities, including the capacities

<sup>131</sup> Report of the Analytical Support and Sanctions Monitoring Team, prepared pursuant to paragraph 23 of Security Council resolution 2178 (2014), on the threat posed by foreign terrorist fighters (S/2015/538).

<sup>132</sup> See also Security Council resolution 1624 (2005) of 14 September 2005.



of their policing and other law enforcement institutions, to implement Security Council resolutions 1373 (2001) and 1624 (2005).

By resolution 2195 (2014) of 19 December 2014, the Security Council recognized the significant capacity and coordination challenges many Member States face in countering terrorism and violent extremism, and preventing terrorist financing, recruitment and all other forms of support to terrorist organizations, commended work under way by the CTC and CTED to identify capacity gaps and to facilitate technical assistance to strengthen the implementation of resolutions 1373 (2001) and 1624 (2005), encouraged Member States to continue cooperating with the CTC and CTED on the development of comprehensive and integrated national, subregional and regional counter-terrorism strategies, highlighted the important role that Counter-Terrorism Implementation Task Force (CTITF) entities, and other providers of capacity-building assistance should play in technical assistance delivery, and requested the relevant entities of the United Nations, whenever appropriate and within existing resources, to take into account in their technical assistance to counter terrorism the elements necessary for addressing terrorism benefitting from transnational organized crime.<sup>133</sup>

**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. The Committee continued its operations in 2014 and submitted, on 31 December 2014, a review of the implementation of resolution 1540 (2004) in 2014 to the Security Council.<sup>134</sup>

In a statement on 7 May 2014 made by the President of the Security Council at the occasion of the tenth anniversary of resolution 1540 (2004),<sup>135</sup> the Security Council, *inter alia* commended the contributions of the Committee established pursuant to resolution 1540 (2004), and, recalling resolution 1977 (2011) which extended the mandate of the Committee for ten years, reaffirmed its continued support for the Committee. The Security Council also recommended the Committee to consider developing a strategy towards full implementation of resolution 1540 (2004) and incorporating such strategy in the Committee's Comprehensive Review on the status of implementation of resolution 1540 (2004), which is to be submitted to the Security Council before December 2016.

<sup>133</sup> For more information, see the website of the Counter-Terrorism Implementation Task Force: <https://www.un.org/counterterrorism/ctitf/>.

<sup>134</sup> Review of the implementation of resolution 1540 (2004) for 2014 (S/2014/958).

<sup>135</sup> S/PRST/2014/7.



## (h) Humanitarian law and human rights in the context of peace and security

### (i) *Protection of civilians in armed conflict*

In a statement on 12 February 2014 made by the President of the Security Council at the occasion of the fifteenth anniversary of the progressive consideration by the Security Council of the protection of civilians in armed conflict as a thematic issue,<sup>136</sup> the Security Council reaffirmed its commitment regarding the protection of civilians in armed conflict, and to the continuing and full implementation of all its previous relevant resolutions including 1265 (1999), 1296 (2000), 1674 (2006), 1738 (2006), 1894 (2009), as well as all of its resolutions on women and peace and security, children and armed conflict and peacekeeping, and all relevant statements of its President.

In resolution 2175 (2014) of 29 August 2014, the Security Council expressed its determination to take appropriate steps in order to ensure the safety and security of humanitarian personnel and United Nations and its associated personnel, including, *inter alia*, by: (a) ensuring that the mandates of relevant United Nations peacekeeping operations can, where appropriate and on a case-by-case basis, help to contribute to a secure environment to enable the delivery of humanitarian assistance by humanitarian organisations, in accordance with humanitarian principles; (b) requesting the Secretary-General to seek the inclusion of, and that host countries include, key provisions of the Convention on the Safety of United Nations and Associated Personnel in future as well as, if necessary, in existing status-of-forces, status-of-missions and host country agreements negotiated between the United Nations and those countries; (c) encouraging the Secretary-General to bring to the attention of the Security Council situations in which humanitarian assistance is unable to reach people in need as a consequence of violence directed against humanitarian personnel and United Nations and its associated personnel; and (d) issuing the declaration of exceptional risk for the purposes of article 1 (c) (ii) of the Convention on the Safety of United Nations and Associated Personnel, in situations where in its assessment circumstances would support such a declaration, and inviting the Secretary-General to advise the Security Council, where in his assessment circumstances would support such a declaration. The Security Council also requested the Secretary-General to include in all his country-specific situation reports, and other relevant reports which address the protection of civilians, the issue of the safety and security of humanitarian personnel and United Nations and its associated personnel.

### (ii) *Children and armed conflict*

The Security Council Working Group on Children and Armed Conflict was established by Security Council resolution 1612 (2005) to review reports of the monitoring and reporting mechanism concerning on children armed conflict listed in the annexes to the Secretary-General's report on children and armed conflict.<sup>137</sup> The Working Group

<sup>136</sup> S/PRST/2014/3.

<sup>137</sup> A/59/659–S/2005/72. See also the report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2014/453), the Conclusions on children and armed conflict in the Democratic Republic of the Congo of the Security Council Working Group on Children

continued its operations in 2014 and submitted, on 31 December 2014, a report of its activities in 2014 to the Security Council.<sup>138</sup>

By resolution 2143 (2014) of 7 March 2014, the Security Council reiterated its readiness to adopt targeted and graduated measures against persistent perpetrators of violations and abuses committed against children, taking into account the relevant provisions of its resolutions 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011) and 2068 (2012) and to consider including provisions pertaining to parties to armed conflict that engage in activities in violation of applicable international law relating to the rights and protection of children in armed conflicts, when establishing, modifying or renewing the mandate of relevant sanctions regimes. The Council also decided to continue the inclusion of specific provisions for the protection of children in the mandates of all relevant United Nations peacekeeping operations and political missions.

(iii) *Women and peace and security*<sup>139</sup>

On 28 October 2014, the President of the Security Council issued a statement in connection with consideration of the item “Women and peace and security”.<sup>140</sup> The Security Council reaffirmed its commitments to the full and effective implementation of resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013). The Security Council also took note with appreciation of the report of the Secretary-General on Women and Peace and Security.<sup>141</sup> The Council recognized that refugee and internally displaced women and girls are at heightened risk of being subject to various forms of human rights violations and abuses, including sexual and gender-based violence, and discrimination, and urged Member States, *inter alia*, to take measures to prevent refugee and internally displaced women and girls from being subject to violence, and to strengthen access to justice for women in such circumstances.

By the same statement, the 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), and welcomed the commissioning by the Secretary-General, in preparation for the High-level Review, of a global study on the implementation of resolution 1325 (2000).

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and Armed Conflict (S/AC.51/2014/3) and the letter dated 11 November 2014 from the President of the Security Council addressed to the Secretary-General (S/2014/809).

<sup>138</sup> Annual report on the activities of the Security Council Working Group on Children and Armed Conflict, established pursuant to resolution 1612 (2005) (S/2014/914).

<sup>139</sup> For more information on the legal activities of the United Nations as it relates to women, see section 6 of the present chapter.

<sup>140</sup> S/PRST/2014/21.

<sup>141</sup> S/2014/693.

### (i) Piracy

On 12 November 2014, the Security Council adopted resolution 2184 (2014), whereby it welcomed the report of the Secretary-General<sup>142</sup> submitted pursuant to Security Council resolution 2125 (2013) 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. The Council decided that, for a further period of twelve months from the date of the resolution, to renew the authorizations as set out in paragraph 10 of resolution 1846 (2008) and paragraph 6 of resolution 1851 (2008),<sup>143</sup> granted to States and regional organizations cooperating with Somali authorities in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by Somali authorities to the Secretary-General. The Council affirmed that such authorizations were renewed only following the receipt of the 4 November letter 2014 conveying the consent of Somali authorities.

The Council further called upon all States to criminalize piracy under their domestic law and to favourably consider the prosecution of suspected, and imprisonment of those convicted, pirates apprehended off the coast of Somalia, and their facilitators and financiers ashore, consistent with applicable international law, including international human rights law, and decided to keep these matters under review, including, as appropriate, the establishment of specialized anti-piracy courts in Somalia with substantial international participation and/or support as set forth in resolution 2015 (2011), and encouraged the Contact Group on Piracy off the Coast of Somalia (CGPCS) to continue its discussions in this regard. The Council further urged States parties to the United Nations Convention on the Law of the Sea and the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) to implement fully their relevant obligations under these conventions and customary international law and to cooperate with the United Nations Office on Drugs and Crime (UNODC), the International Maritime Organization (IMO), and other States and international organizations to build judicial capacity for the successful prosecution of persons suspected of piracy and armed robbery at sea off the coast of Somalia.

### (j) Promotion and strengthening of the rule of law in the maintenance of international peace and security

In a statement made by the President of the Security Council on 21 February 2014, the Security Council, *inter alia*, reaffirmed the statement of its President of 19 January 2012, and its continued recognition of the need for universal adherence to and implementation of the rule of law, as well as emphasis on the vital importance it attaches to promoting justice and the rule of law as an indispensable element for peaceful coexistence and the prevention

<sup>142</sup> S/2014/740.

<sup>143</sup> As previously renewed by paragraph 7 of resolution 1897 (2009), paragraph 7 of resolution 1950 (2010), paragraph 9 of resolution 2020 (2011), paragraph 12 of resolution 2077 (2012), and paragraph 12 of resolution 2125 (2013).

of armed conflict. The Security Council recalled the Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, held on 24 September 2012.<sup>144</sup> The Security Council also noted the report of the Secretary-General on measuring the effectiveness of the support provided by the United Nations system for the promotion of the rule of law in conflict and post-conflict situations and the recommendations contained therein.<sup>145</sup>

### 3. Disarmament and related matters<sup>146</sup>

#### (a) Disarmament machinery

##### (i) *Disarmament Commission*

The United Nations Disarmament Commission, a subsidiary organ of the General Assembly with a general mandate on disarmament questions, is comprised of all Member States of the United Nations.

The Commission held its organizational session for 2014 in New York on 20 November 2013.<sup>147</sup> The Commission then met in New York from 7 to 25 April 2014. From 7 to 8 April, the Disarmament Commission held a general exchange of views on all agenda items.<sup>148</sup> Working Group I held eight meetings, from 9 to 24 April, discussing agenda item 4, entitled “Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons”. Working Group II held ten meetings, from 10 to 24 April, on agenda item 5, entitled “Practical confidence-building measures in the field of conventional weapons”.

The Commission had before it the annual report of the Conference on Disarmament for 2013,<sup>149</sup> together with all the official records of the sixty-eighth session of the General Assembly relating to disarmament matters, as well as working papers relating to the substantive questions on its agenda.<sup>150</sup>

On 25 April 2014, 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-ninth session of the General Assembly.<sup>151</sup>

<sup>144</sup> General Assembly resolution 67/1 (2012) of 24 September 2012.

<sup>145</sup> S/2013/341.

<sup>146</sup> 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 <http://www.un.org/disarmament>.

<sup>147</sup> See A/CN.10/PV.336.

<sup>148</sup> See A/CN.10/PV.337–340.

<sup>149</sup> *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 42 (A/68/42)*.

<sup>150</sup> *Ibid.*, Sixty-ninth Session, Supplement No. 42 (A/69/42), chap. III. B.

<sup>151</sup> *Ibid.*

### (ii) *Conference on Disarmament*

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.

The Conference on Disarmament was in session from 20 January to 28 March, 12 May to 27 June and 28 July to 12 September 2014, during which it held 28 formal plenary meetings and 29 informal plenary meetings. On 21 January 2014, the Conference adopted its agenda for the 2014 session,<sup>152</sup> 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 2014 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 2014 session. On 26 March 2014, under the Presidency of Mr. Toshio Sano, Ambassador of Japan, the Conference agreed upon a schedule of activities of the 2014 session of the Conference on Disarmament.<sup>153</sup> On 10 September 2014, the Conference adopted its annual report and transmitted it to the General Assembly for its consideration.<sup>154</sup>

### (iii) *General Assembly*

In 2014, the General Assembly adopted, on the recommendation of the First Committee, four resolutions and two decisions concerning institutional activities relating to disarmament machinery.

On 2 December 2014, the General Assembly adopted resolution 69/27 entitled “Prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons: report of the Conference on Disarmament”, by a recorded vote of 174 in favour to 2 against, with 1 abstention, and resolution 69/76 entitled “Report of the Conference on Disarmament”, without a vote. On the same day, the Assembly adopted resolution 69/75 entitled “United Nations disarmament fellowship, training and advisory services”, and resolution 69/77 entitled “Report of the Disarmament Commission”, without a vote, respectively.

On 2 December 2014, the General Assembly also adopted, by a recorded vote of 175 in favour to none against, with 4 abstentions, decision 69/518 entitled “Open-ended Working Group on the fourth special session of the General Assembly devoted to disarmament”. On the same day, the General Assembly adopted decision 69/519 “Revitalizing the work of the Conference on Disarmament and taking forward multilateral disarmament negotiations”, without a vote.

<sup>152</sup> CD/1965.

<sup>153</sup> CD/1978.

<sup>154</sup> *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 27 (A/69/27)*.

### (b) Nuclear disarmament and non-proliferation issues

In 2014, several preparatory meetings and conferences were held on nuclear disarmament and non-proliferation matters. On 7 May, the Third Preparatory Meeting for the Third Conference of States Parties and Signatories that establish Nuclear-Weapon-Free Zones and Mongolia, to be held in Vienna in 2015, took place in New York.

The Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, 1968 (NPT),<sup>155</sup> also held its third session from 28 April to 9 May 2014 in New York.<sup>156</sup> This meeting was the third of three sessions held prior to the 2015 Review Conference. Delegations of 148 States parties participated in one or more sessions of the Preparatory Committee. The Preparatory Committee held 30 meetings on substantive issues related to the NPT and the upcoming Review Conference in 2015.<sup>157</sup>

In addition, the International Atomic Energy Agency (IAEA) held its 58th General Conference of Member States from 22 to 26 September 2014 in Vienna.<sup>158</sup> The Conference adopted 17 resolutions and two decisions<sup>159</sup> relating to the work of IAEA in key areas, including on 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.

On 26 September 2014, the Seventh Ministerial Meeting of the Comprehensive Nuclear Test-Ban Treaty, 1996 (CTBT),<sup>160</sup> took place.<sup>161</sup> Foreign ministers and other high-level representatives met at the United Nations Headquarters in New York to issue a joint call for the entry into force of the CTBT.<sup>162</sup>

#### (i) General Assembly

On 3 November 2014, the General Assembly adopted resolution 69/7 entitled "Report of the International Atomic Energy Agency", without a vote.

On 2 December 2014, the General Assembly adopted, upon the recommendation of the First Committee, several resolutions concerning nuclear weapons and non-proliferation issues: resolution 69/26 entitled "African Nuclear-Weapon-Free Zone Treaty", without a vote; resolution 69/29 entitled "Establishment of a nuclear-weapon-free zone in the region of the Middle East", without a vote; resolution 69/30 entitled "Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", by a recorded vote of 125 to none against, with 56 abstentions; resolution 69/35 entitled "Nuclear-weapon-free southern hemisphere and

<sup>155</sup> United Nations, *Treaty Series*, vol. 729, p. 161.

<sup>156</sup> For more information see <https://www.un.org/disarmament/wmd/nuclear/npt2015/prepcom2014/>.

<sup>157</sup> Final report of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT/CONF.2015/1).

<sup>158</sup> For more information see <https://www.iaea.org/about/policy/gc/gc58>.

<sup>159</sup> GC(58)/RES/DEC(2014).

<sup>160</sup> A/50/1027.

<sup>161</sup> For more information see <https://www.ctbto.org/the-treaty/ctbt-ministerial-meetings/2014/>.

<sup>162</sup> A/69/629, annex.

adjacent areas”, by a recorded vote of 173 in favour to 4 against, with 3 abstentions; resolution 69/36 entitled “Treaty on a Nuclear-Weapon-Free Zone in Central Asia”, without a vote; resolution 69/37 entitled “Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments”, by a recorded vote of 169 in favour to 7 against, with 5 abstentions; resolution 69/39 entitled “Measures to prevent terrorists from acquiring weapons of mass destruction”, without a vote; resolution 69/40 entitled “Reducing nuclear danger”, by a recorded vote of 124 to 48, with 10 abstentions; resolution 69/41 entitled “Taking forward multilateral nuclear disarmament negotiations”, by a recorded vote of 154 in favour to 5 against, with 20 abstentions; resolution 69/42 entitled “Decreasing the operational readiness of nuclear weapons systems”, by a recorded vote of 166 in favour to 4 against, with 11 abstentions; resolution 69/44 entitled “Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons”, by a recorded vote of 134 in favour to 23 against, with 23 abstentions; resolution 69/48 entitled “Nuclear disarmament”, by a recorded vote of 121 in favour to 44 against, with 17 abstentions; resolution 69/50 entitled “Preventing the acquisition by terrorists of radioactive sources”, without a vote; resolution 69/52 entitled “United action towards the total elimination of nuclear weapons”, by a recorded vote of 170 in favour to 1 against, with 14 abstentions; resolution 69/58 entitled “Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament”, by a recorded vote of 139 in favour to 24 against, with 19 abstentions; resolution 69/63 entitled “Mongolia’s international security and nuclear-weapon-free status”, without a vote; resolution 69/66 entitled “Third Conference of States Parties and Signatories to Treaties that Establish Nuclear-Weapon-Free Zones and Mongolia, 2015”, without a vote; resolution 69/69 entitled “Convention on the Prohibition of the Use of Nuclear Weapons”, by a recorded vote of 125 in favour to 50 against, with 7 abstentions; resolution 69/78 entitled “The risk of nuclear proliferation in the Middle East”, by a recorded vote of 161 in favour to 5 against, with 18 abstentions; and resolution 69/81 entitled “Comprehensive Nuclear-Test-Ban Treaty”, by a recorded vote of 179 in favour to 1 against, with 3 abstentions.

On the same day, the General Assembly also adopted, on the recommendation of the First Committee, decision 69/516 entitled “Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”, by a recorded vote of 177 in favour to 1 against, with 5 abstentions, and decision 69/517 entitled “Missiles”, without a vote.

## (ii) *Security Council*

In 2014, the Security Council adopted two resolutions relating to nuclear disarmament and non-proliferation issues.<sup>163</sup> By resolution 2141 (2014) of 5 March 2014, the Security Council decided to extend until 5 April 2015 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 with the monitoring the monitoring of the relevant sanctions measures imposed on the Democratic People’s Republic of Korea. By resolution 2159 (2014) of 9 June 2014, the Security Council decided to extend until 9 July 2015 the mandate of the Panel of Experts, which had been created by the Secretary-General pursuant to

<sup>163</sup> See also the statement by the President of the Security Council (S/PRST/2014/7).



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 Parties<sup>164</sup> 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 Convention<sup>165</sup>), the Meeting of Experts and the Meeting of States Parties were held in Geneva from 4 to 8 August 2014 and from 1 to 5 December 2014, respectively.<sup>166</sup>

The Meeting of Experts held two sessions devoted to each of the standing agenda items,<sup>167</sup> and two sessions devoted to the biennial item on how to strengthen implementation of article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties. At its closing meeting on 8 August 2014, the Meeting of Experts adopted its report by consensus.<sup>168</sup> The Meeting of States Parties considered the work of the Meeting of Experts on the three standing agenda items, namely (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. It also devoted a session to the biennial item and another one to progress with universalization of the Convention and the annual report of the Implementation Support Unit<sup>169</sup>. At its closing meeting on 5 December 2014, the Meeting of States Parties considered arrangements for the Meeting of Experts and the Meeting of States Parties in 2015 and adopted its report by consensus.<sup>170</sup>

With regard to chemical weapons, the nineteenth 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 Convention<sup>171</sup>) was held in The Hague, from 1 to 5 December 2014. The issues considered included, *inter alia*, the status of implementation of the Chemical Weapons Convention, fostering of international cooperation for peaceful purposes in the field of

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<sup>164</sup> BWC/MSP/2014/5 and Corr.1.

<sup>165</sup> United Nations, *Treaty Series*, vol. 1015, p. 164.

<sup>166</sup> BWC/MSP/2014/MX/3 and BWC/MSP/2014/5.

<sup>167</sup> 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.

<sup>168</sup> BWC/MSP/2014/MX/3.

<sup>169</sup> BWC/MSP/2014/4.

<sup>170</sup> BWC/MSP/2014/5.

<sup>171</sup> United Nations, *Treaty Series*, vol. 1974, p. 45.



chemical activities, and ensuring the universality of the Convention. On 5 December 2014, the Conference considered and adopted the report of its nineteenth session.<sup>172</sup>

#### (i) *General Assembly*

On 14 November 2014, the General Assembly adopted, without reference to a Main Committee, resolution 69/14 entitled “Cooperation between the United Nations and the Organization for the Prohibition of Chemical Weapons”, without a vote.

On 2 December 2014, the General Assembly adopted two resolutions, on the recommendation of the First Committee, relating to biological and chemical weapons: resolution 69/67 entitled “Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction”, by a recorded vote of 181 in favour to none against, with 1 abstention, and resolution 69/82 entitled “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction”, without a vote.

#### (ii) *Security Council*

On 7 May 2014, the Security Council, in a statement made by its President, observed that the Security Council meeting at the occasion of the tenth anniversary of the adoption of resolution 1540 (2004), reaffirmed that proliferation of nuclear, chemical and biological weapons and their means of delivery constitutes a threat to international peace and security.<sup>173</sup>

On 30 September 2014, the OPCW-United Nations Joint Mission for the Elimination of the Chemical Weapons Programme of the Syrian Arab Republic formally closed.<sup>174</sup> OPCW maintained a presence in the country with a view to finalizing remaining activities.<sup>175</sup>

### (d) *Conventional weapons issues*

#### (i) *International Trade in Conventional Arms*

On 24 December 2014, the Arms Trade Treaty entered into force.<sup>176</sup> In 2014, two preparatory meetings for the upcoming first Conference of States Parties, to take place in 2015, were held. The first round of informal consultations took place in Mexico City from 8 to 9 September 2014, and the second round of informal consultations was held in Berlin, from 27 to 28 November 2014.

<sup>172</sup> C-19/5.

<sup>173</sup> S/PRST/2014/7.

<sup>174</sup> See also subsection (c)(ii) on the OPCW-United Nations Joint Mission.

<sup>175</sup> See the Thirteenth monthly report of the Director General of the Organization for the Prohibition of Chemical Weapons (OPCW), submitted pursuant to paragraph 12 of Security Council resolution 2118 (2013) (A/2014/767).

<sup>176</sup> United Nations, *Treaty Series*, registration No. 52373 (no volume number had been determined for this Convention at the time of this publication). See also A/69/173 and Add.1.

On 2 December 2014, the General Assembly, on the recommendation of the First Committee, adopted resolution 69/33, entitled “Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them”, without a vote.

On the same day, the General Assembly, on the recommendation of the First Committee, adopted resolution 69/49, entitled “The Arms Trade Treaty”, by a recorded vote of 154 to none, with 29 abstentions, in which it welcomed the 54 ratifications of the Arms Trade Treaty and its entry into force on 24 December 2014; and resolution 69/51, entitled “The illicit trade in small arms and light weapons in all its aspects”, without a vote.

### (ii) *Other conventional weapons issues*

On 2 December 2014, the General Assembly, on the recommendation of the First Committee, adopted 12 other resolutions dealing with conventional arms issues: resolution 69/34 entitled “Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction”, by a recorded vote of 164 to none, with 17 abstentions; resolution 69/44 entitled “The Hague Code of Conduct against Ballistic Missile Proliferation”, by a recorded vote of 163 in favour to 1 against, with 17 abstentions; resolution 69/56, entitled “Relationship between disarmament and development”, without a vote; resolution 69/57 entitled “Effects of the use of armaments and ammunitions containing depleted uranium”, by a recorded vote of 150 in favour to 4 against, with 27 abstentions; resolution 69/59, entitled “Compliance with non-proliferation, arms limitation and disarmament agreements and commitments”, by a recorded vote of 170 in favour to 1 against, with 10 abstentions; resolution 69/60 entitled “Consolidation of peace through practical disarmament measures”, without a vote; resolution 69/64 entitled “Information on confidence-building measures in the field of conventional arms”, without a vote; resolution 69/71 entitled “United Nations Disarmament Information Programme”, without a vote; resolution 69/75 entitled “United Nations disarmament fellowship, training and advisory services”, without a vote; resolution 69/76 entitled “Report of the Conference on Disarmament”, without a vote; resolution 69/77 entitled “Report of the Disarmament Commission”, without a vote; and resolution 69/79, 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”, without a vote.

### (iii) *Other international conferences and meetings*

The Fifth Meeting of States Parties to the Convention on Cluster Munitions, 2008,<sup>177</sup> was held in San José, Costa Rica, from 2 to 5 September 2014<sup>178</sup> with the objective of, *inter alia*, discussing the matters of promoting universality of the Convention, the matters pertaining to stockpile destruction and retention, the matters pertaining to clearance and risk reduction and issues related to victim assistance.<sup>179</sup>

<sup>177</sup> United Nations, *Treaty Series*, vol. 2688, p.39.

<sup>178</sup> CCM/MSP/2014/6.

<sup>179</sup> CCM/MSP/2014/1.

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<sup>180</sup> (Convention on Conventional Weapons) was held in Geneva on 13 and 14 November 2014. The Meeting considered, *inter alia*, the report on promoting universality of the convention and its protocols,<sup>181</sup> which responds 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”,<sup>182</sup> The Meeting also welcomed the report of the CCW Sponsorship Programme,<sup>183</sup> the report of the Implementation Support Unit,<sup>184</sup> the report of the estimated costs of the 2015 Meeting of the High Contracting Parties<sup>185</sup> and the Meeting of Experts on lethal autonomous weapons systems.<sup>186</sup> On 14 November, the Meeting adopted its final report.<sup>187</sup>

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)<sup>188</sup> annexed to the Convention on Conventional Weapons, the sixteenth Annual Conference of the High Contracting Parties to Amended Protocol II was held on 12 November 2014 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 on Improvised Explosive Devices, as well as the reports by the High Contracting parties regarding the development of technologies to protect civilians against indiscriminate effects of mines.<sup>189</sup>

The 2014 Meeting of Experts relating to the Protocol on Explosive Remnants of War (Protocol V)<sup>190</sup> was held from 3 to 4 April 2014, in Geneva. The main focus of the Meeting of Experts was on the following issues: clearance, removal or destruction of explosive remnants of war; cooperation and assistance and requests for assistance; generic preventive measures; national reporting and victim assistance. The Eighth Conference of the High Contracting Parties to Protocol V was held in Geneva on 10 and 11 November 2014, to consider, *inter alia*, the work of the Meeting of Experts. At its fourth plenary meeting, the Conference adopted its final document.<sup>191</sup>

The Third Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines

<sup>180</sup> United Nations, *Treaty Series*, vol. 1342, p. 137.

<sup>181</sup> CCW/MSP/2014/9.

<sup>182</sup> Final declaration, Final document of the Fourth Review Conference, CCW/CONF.IV/4/Add.1, paragraph 9, page 11.

<sup>183</sup> CCW/MSP/2014/6.

<sup>184</sup> CCW/MSP/2014/7.

<sup>185</sup> CCW/MSP/2014/5.

<sup>186</sup> CCW/MSP/2014/3.

<sup>187</sup> CCW/MSP/2014/9.

<sup>188</sup> United Nations, *Treaty Series*, vol. 2048, p. 93.

<sup>189</sup> CCW/AP.II/CONF.16/6.

<sup>190</sup> United Nations, *Treaty Series*, vol. 2399, p. 100.

<sup>191</sup> CCW/P.V/CONF/2014/10.

and on Their Destruction, 1997 (Mine-Ban Convention)<sup>192</sup> was held in Maputo from 23 to 27 June 2014. The Conference reviewed, *inter alia*, the general status and operation of the Convention, reviewing progress made and challenges that remain in the pursuit of the Convention's aims and in the application of the Cartagena Action Plan 2010–2014. The Conference further adopted, with the aim of supporting enhanced implementation and promotion of the Convention, the Maputo Action Plan 2014–2019.<sup>193</sup> At its final plenary meeting, on 27 June 2014, the Conference adopted its final document<sup>194</sup>.

### (e) Regional disarmament activities of the United Nations

#### (i) *Africa*

In 2014, the United Nations Regional Centre for Peace and Disarmament in Africa (UNREC) continued to assist, upon request, Member States and intergovernmental and civil society organizations in Africa to promote disarmament, peace and security.<sup>195</sup>

The Centre focused its work on providing assistance to States to combat illicit small arms and light weapons and to reform their security sectors. The Centre supported Member States in their implementation of international, regional and subregional instruments aimed at combating the proliferation of small arms and light weapons and provided training to civilian authorities, including national commissions on small arms and light weapons and defence and security forces. The Centre also partnered with civil society organizations to promote the signature and ratification of the Arms Trade Treaty. The Centre provided support to Member States in meeting their obligations regarding the implementation of international treaties and other instruments relating to weapons of mass destruction, including bacteriological (biological) and toxin weapons, and Security Council resolution 1540 (2004). Such support was aimed at strengthening the capacity of national authorities in the region.

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-eighth and thirty-ninth ministerial meetings of UNSAC, held in Malabo (July–August 2014) and Bujumbura (December 2014). In these two statutory meetings, the Committee continued to review the geopolitical and security situation in Central Africa.

#### (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 2014 on the promotion of dialogue and confidence-building in the region and beyond by organizing the twelfth

<sup>192</sup> United Nations, *Treaty Series*, vol. 2056, p. 211.

<sup>193</sup> Annex III of APLC/CONF/2014/4.

<sup>194</sup> APLC/CONF/2014/4.

<sup>195</sup> For more information, see the reports of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament (A/69/361 (for the period 1 July 2013 to 30 June 2014) and A/70/116 (for the period from 1 July 2014 to 30 June 2015).

United Nations-Republic of Korea Joint Conference on Disarmament and Non-proliferation Issues in Jeju, Republic of Korea.<sup>196</sup> The Centre undertook projects to build national capacity to combat illicit trade in small arms and light weapons, in Myanmar, and to enhance national implementation of international treaties on biological and chemical weapons, in Mongolia and Nepal. It also organized regional seminars to promote the Arms Trade Treaty following its opening for signature in June 2013, as well as regional seminars on information and cybersecurity. Additionally, in its efforts to strengthen its outreach and advocacy activities, the Centre carried out peace and disarmament education activities. The Centre expanded its communications and outreach efforts, with a view to strengthening its engagement with the full range of stakeholders in the region.

### (iii) *Latin America and the Caribbean*

The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) supported Member States in the region in their implementation of international disarmament, arms control and non-proliferation instruments, most notably the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, by carrying out 55 assistance activities.<sup>197</sup> The main focus of the Regional Centre's activities was to assist States in their efforts to combat illicit small arms trafficking and to address the negative impact of such illicit trafficking on public security. With a view to supporting future implementation of the Arms Trade Treaty, the Centre developed an introductory training manual and a model end-user certificate. The Centre also actively promoted public policy dialogue on small arms control and relevant legislative support, reaching out to national authorities throughout the region. With regard to weapons of mass destruction, the Centre launched its new Caribbean programme aimed at the effective implementation of Security Council resolution 1540 (2004). The Centre also provided legal assistance with regard to the implementation of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and supported the establishment of national implementation entities in the Andean region.

### (iv) *General Assembly*

On 2 December 2014, the General Assembly adopted, on the recommendation of the First Committee, nine resolutions dealing with regional disarmament: resolution 69/45, entitled "Regional disarmament", without a vote; resolution 69/46, entitled "Confidence-building measures in the regional and subregional context", without a vote; resolution 69/47, entitled "Conventional arms control at the regional and subregional levels", by a recorded vote of 181 to 1, with 2 abstentions; resolution 69/68, entitled "United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific",

<sup>196</sup> For more information, see the reports of the Secretary-General on the United Nations Regional Centre for Peace, Disarmament and Development in Asia and the Pacific (A/69/127 (for the period 1 July 2013 to 30 June 2014) and A/70/114 (for the period from 1 July 2014 to 30 June 2015)).

<sup>197</sup> For more information, see reports of the Secretary-General on the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (A/69/136 for the period 1 July 2013 to 30 June 2014) and A/70/138 (for the period from 1 July 2014 to 30 June 2015)).

without a vote; resolution 69/70, entitled “United Nations regional centres for peace and disarmament”, without a vote; resolution 69/72, entitled “United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean”, without a vote; resolution 69/73, entitled “Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa”, without a vote; resolution 69/74, entitled “United Nations Regional Centre for Peace and Disarmament in Africa”, without a vote; and resolution 69/80, entitled “Strengthening of security and cooperation in the Mediterranean region”, without a vote.

### (f) Outer space (disarmament aspects)

#### (i) *Inter-Agency Meeting on Outer Space Activities*

The 2014 Inter-Agency Meeting on Outer Space Activities (UN-Space) held its thirty-fourth session at United Nations Headquarters in New York on 13 and 14 May 2014.<sup>198</sup> The Meeting agreed that in view of the recommendations contained in the report of the Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space Activities,<sup>199</sup> which was welcomed by the General Assembly in its resolution 68/50, an *ad hoc* item should be included in the agenda of UN-Space at its thirty-fifth session, in order to promote dialogue and the sharing of information relevant to the report.

#### (ii) *General Assembly*

On 2 December 2014, the General Assembly, on the recommendation of the First Committee, adopted three resolutions on the matters of outer space regarding disarmament: resolution 69/31 entitled “Prevention of an arms race in outer space”, by a recorded vote of 178 in favour to none against, with 2 abstentions; resolution 69/32, entitled “No first placement of weapons in outer space”, by a recorded vote of 126 in favour to 4 against, with 46 abstentions; and resolution 69/38, entitled “Transparency and confidence-building measures in outer space activities”, without a vote.

### (g) Other disarmament measures and international security

#### *General Assembly*

On 2 December 2014, the General Assembly, on the recommendation of the First Committee, adopted seven resolutions and one decision concerning other disarmament measures and international security: resolution 69/28, entitled “Developments in the field of information and telecommunications in the context of international security”, without a vote; resolution 69/53, entitled “Measures to uphold the authority of the 1925 Geneva Protocol”, by a recorded vote of 181 in favour to none against, with 2 abstentions; resolution 69/54 entitled “Promotion of multilateralism in the area of disarmament and non-proliferation”, by a recorded vote of 131 in favour to 5 against, with 49 abstentions; resolution 69/55, entitled “Observance of environmental norms in the drafting and implementation of agreements on

<sup>198</sup> A/AC.105/1064.

<sup>199</sup> A/68/189.

disarmament and arms control”, without a vote; resolution 69/61 entitled “Women, disarmament, non-proliferation and arms control” by a recorded vote of 183 in favour to none against, with no abstentions; resolution 69/62 entitled “Preventing and combating illicit brokering activities”, by a recorded vote of 180 in favour to none against, with 2 abstentions; resolution 69/65, entitled “United Nations study on disarmament and non-proliferation education”, without a vote; and decision 69/515 entitled “Role of science and technology in the context of international security and disarmament”, without a vote.

#### 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-third session at the United Nations Office in Vienna from 24 March to 4 April 2014.<sup>200</sup>

Under the agenda item “Information on the activities of international intergovernmental and non-governmental organizations relating to space law”, the Subcommittee, *inter alia*, agreed that it was important to continue the exchange of information on recent developments in the area of space law between the Subcommittee and international intergovernmental and non-governmental organizations and that such organizations should once again be invited to report to the Subcommittee, at its fifty-fourth session, on their activities relating to space law. The Subcommittee also agreed that the representative of the International Institute for the Unification of Private Law (UNIDROIT) should be invited to update the Subcommittee, at its fifty-fourth session, on developments relating to the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets.

With regard to the agenda item entitled “Status and application of the five United Nations treaties on outer space”, the Subcommittee, *inter alia*, reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space.<sup>201</sup> The Subcommittee also welcomed reports from Member States regarding their progress towards becoming parties to the five United Nations treaties. The Subcommittee agreed that the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space and the Working Group on Matters Relating to the Definition and Delimitation of Outer Space should be reconvened at its fifty-fourth session.

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,<sup>202</sup> which was endorsed by the Subcommittee.

Regarding the agenda item entitled “National legislation relevant to the peaceful exploration and use of outer space”, the Subcommittee welcomed, *inter alia*, the adoption by the General Assembly of resolution 68/74 on recommendations on national legislation

<sup>200</sup> For the report of the Legal Subcommittee, see A/AC.105/1067.

<sup>201</sup> See the report of the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, A/AC.105/1067, annex I.

<sup>202</sup> See the report of the Chair of the Working Group on the Definition and Delimitation of Outer Space, A/AC.105/1067, annex II.



relevant to the peaceful exploration and use of outer space. It noted that it was the result of successful cooperation and broad consensus among member States and that it provided for an excellent source of information and guidance for those States wishing to strengthen or develop their national space legislation.

Under the agenda item “Capacity-building in space law”, the Subcommittee, *inter alia*, agreed that capacity-building, training and education in space law were of paramount importance to national, regional and international efforts to further develop the practical aspects of space science and technology, especially in developing countries, and to increase knowledge of the legal framework within which space activities were carried out.

Regarding the agenda item “Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space”, the Subcommittee, *inter alia*, noted with satisfaction that the Safety Framework for Nuclear Power Source Applications in Outer Space,<sup>203</sup> adopted by the Scientific and Technical Subcommittee at its forty-sixth session, in 2009, and endorsed by the Committee at its fifty-second session, in 2009, had considerably advanced international cooperation in ensuring the safe use of nuclear power sources in outer space and had facilitated the development of international space law.

Under the agenda item “General exchange of information on national 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 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: 2011 (Space systems: space debris mitigation requirements) as references in their regulatory frameworks established for national space activities.

Under agenda item “General exchange of information on non-legally binding United Nations instruments on outer space”, the Subcommittee, *inter alia*, noted with satisfaction that some States had taken measures to implement internationally recognized guidelines, principles and standards through relevant provisions in their national legislation, and thus non-binding international norms had become binding in certain provisions of national legislation.

Under the agenda item “Review of international mechanisms for cooperation in the peaceful exploration and use of outer space”, the Subcommittee established its Working Group on the Review of International Mechanisms for Cooperation in the Peaceful Exploration and Use of Outer Space. The Subcommittee endorsed the report of the Chair of the Working Group.<sup>204</sup> The Subcommittee, *inter alia*, noted that the exchange of information on the review of international mechanisms for cooperation in space activities should focus not only on the legal aspects of those mechanisms but also on practical issues, such as the reasons behind the development of such mechanisms and the benefits for States that acceded to them.

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<sup>203</sup> A/AC.105/934.

<sup>204</sup> See Report of the Chair of the Working Group on the Definition and Delimitation of Outer Space, A/AC.105/1067, annex III.



Concerning future work, the Subcommittee agreed that the two single issues/items for discussion, entitled “Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space” and “General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee”, should be retained on the agenda of the Subcommittee at its fifty-fourth session. The Subcommittee also agreed that the single issue/item for discussion entitled “General exchange of information on non-legally binding United Nations instruments on outer space” should be retained on the agenda of the Subcommittee at its fifty-fourth session, and that, under that agenda item, member States could, as appropriate, discuss other non-legally binding instruments on outer space, as well as the relationship between legally binding and non-legally binding instruments.

The Committee on the Peaceful Uses of Outer Space held its fifty-seventh session in Vienna from 11 to 20 June 2014. The Committee took note of the Legal Subcommittee’s report and endorsed the recommendations contained therein.<sup>205</sup>

### (b) General Assembly

On 5 December 2014, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 69/85 entitled “International cooperation in the peaceful uses of outer space”. The General Assembly, *inter alia*, requested the Committee on the Peaceful Uses of Outer Space to continue to consider, as a matter of priority, ways and means of maintaining outer space for peaceful purposes and to report thereon to the General Assembly at its seventieth session, and agreed that during its consideration of the matter the Committee could continue to consider ways to promote regional and inter-regional cooperation and the role that space technology could play in the implementation of recommendations of the United Nations Conference on Sustainable Development. It also endorsed the United Nations Programme on Space Applications for 2015, as proposed to the Committee by the Expert on Space Applications and endorsed by the Committee.<sup>206</sup> Furthermore, it decided that Luxembourg shall become a member of the Committee and endorsed the decision of the Committee to grant permanent observer status to the African Association of Remote Sensing of the Environment.

<sup>205</sup> For the report of the Committee on the Peaceful use of Outer Space, see *Official records of the General Assembly, Sixty-ninth Session, Supplement No. 20 (A/69/20)*.

<sup>206</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 20 (A/69/20)*, para. 81; and A/AC.105/1062.

## 5. Human rights<sup>207</sup>

### (a) Sessions of the United Nations human rights bodies and treaty bodies

#### (i) *Human Rights Council*

The Human Rights Council, established in 2006,<sup>208</sup> 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 Assembly.

The 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.<sup>209</sup> 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.<sup>210</sup> Moreover, based on the previous "1503 procedure", the confidential complaint procedure of the Council allows individuals and organizations to continue to bring complaints revealing a consistent pattern of gross and reliably attested violations of human rights to the attention of the Council.<sup>211</sup>

In 2014, the Human Rights Council held its twenty-fifth, twenty-sixth, and twenty-seventh regular sessions,<sup>212</sup> its twentieth special session on "The situation of human rights

<sup>207</sup> 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>.

<sup>208</sup> General Assembly resolution 60/251 of 15 March 2006. For further details on its establishment, see the *United Nations Juridical Yearbook*, 2006, chap. III, section 5.

<sup>209</sup> The first universal periodic review 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 Universal Periodic Review at the homepage of the Human Rights Council at <http://www.ohchr.org>.

<sup>210</sup> Human Rights Council decision 1/102 of 30 June 2006.

<sup>211</sup> 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>.

<sup>212</sup> For the reports of the twenty-fifth and twenty-sixth sessions, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 53 (A/69/53)*. For the report of the twenty-seventh session, see *ibid.*, *Sixty-ninth session, Supplement No. 53A (A/69/53/Add.1)*.

in the Central African Republic”,<sup>213</sup> its twenty-first special session on “The human rights situation in the Occupied Palestinian Territory, including East Jerusalem”<sup>214</sup> and its twenty-second special session on “The human rights situation in Iraq in light of abuses committed by the Islamic State in Iraq and the Levant and associated groups”.<sup>215</sup>

### (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.<sup>216</sup> 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 twelfth session from 24 to 28 February 2014 and its thirteenth session from 11 to 15 August 2014 in Geneva.<sup>217</sup>

### (iii) *Human Rights Committee*

The Human Rights Committee was established under the International Covenant on Civil and Political Rights of 1966<sup>218</sup> to monitor the implementation of the Covenant and its Optional Protocols<sup>219</sup> in the territory of States parties. The Committee held its 110th session from 10 to 28 March 2014. The Committee held its 111th session from 7 to 25 July 2014, and its 112th session from 7 to 31 October 2014 in Geneva.<sup>220</sup>

In 2014, the Committee adopted general comment No. 35 on liberty and security of person,<sup>221</sup> replacing general comment No. 8 (1982).

<sup>213</sup> For the report of the twentieth special session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 53 (A/69/53)*.

<sup>214</sup> For the report of the twenty-first special session, see *ibid.*

<sup>215</sup> For the report of the twenty-second special session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 53A (A/69/53/Add.1)*.

<sup>216</sup> The Human Rights Council Advisory Committee replaced the Sub-Commission for the Promotion and Protection of Human Rights as the main subsidiary body of the Human Rights Council.

<sup>217</sup> For the reports of the Advisory Committee on its twelfth and thirteen sessions, see A/HRC/AC/12/2 and A/HRC/AC/13/2, respectively.

<sup>218</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>219</sup> 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.

<sup>220</sup> For the report of the 110th session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 40 (A/69/40)*, vols. I and II. For the report of the 111th and 112th sessions, see *ibid.*, *Seventieth Session, Supplement No. 40 (A/70/40)*.

<sup>221</sup> CCPR/C/GC/35.

(iv) *Committee on Economic, Social and Cultural Rights*

The Committee on Economic, Social and Cultural Rights was established by the Economic and Social Council<sup>222</sup> to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights of 1966<sup>223</sup> by its State parties. The Committee also has additional competence under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which entered into force on 5 May 2013, to receive and consider communications from individuals claiming that their rights under the Covenant have been violated.<sup>224</sup> The Committee may also, under certain circumstances, undertake inquiries on grave or systematic violations of any of the economic, social and cultural rights set forth in the Covenant, and consider inter-state complaints. The Committee held its fifty-second session from 28 April to 23 May 2014 and its fifty-third session from 10 to 28 November 2014 in Geneva.<sup>225</sup>

(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 of 1966<sup>226</sup> to monitor the implementation of this Convention by its States parties. The Committee held its eighty-fourth session from 3 to 21 February 2014 and its eighty-fifth session from 11 to 29 August 2014 in Geneva.<sup>227</sup>

In 2014, the Committee adopted a corrigendum to general recommendation No. 35 on combating racist hate speech.<sup>228</sup>

(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 of 1979<sup>229</sup> to monitor the implementation of this Convention by its States parties. The Committee held its fifty-seventh session from 10 to 28 February 2014, its fifty-eighth session from 30 June to 18 July 2014 and its fifty-ninth session from 20 October to 7 November 2014 in Geneva.<sup>230</sup>

<sup>222</sup> Economic and Social Council resolution 1985/17 of 28 May 1985.

<sup>223</sup> United Nations, *Treaty Series*, vol. 993, p. 3.

<sup>224</sup> United Nations, *Treaty Series*, registration No. 14531 (no volume number had been determined for this Convention at the time of this publication).

<sup>225</sup> For the reports of the fifty-second and fifty-third session, see *Official Records of the Economic and Social Council, 2015, Supplement No. 2 (E/2015/22)*.

<sup>226</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

<sup>227</sup> For the report of the eighty-fourth session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 18 (A/69/18)*. For the report of the eighty-fifth session, see *ibid.*, *Seventieth Session, Supplement No. 18 (A/70/18)*.

<sup>228</sup> CERD/C/GC/35/Corr.1.

<sup>229</sup> United Nations, *Treaty Series*, vol. 1249, p. 13.

<sup>230</sup> For the report of the fifty-seventh session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 38 (A/69/38)*. For the report of the fifty-eighth and fifty-ninth sessions,

In 2014, the Committee adopted joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices.<sup>231</sup> The Committee also adopted general recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women.<sup>232</sup>

#### (vii) *Committee against Torture*

The Committee against Torture was established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984<sup>233</sup> to monitor the implementation of the Convention by its States parties. In 2014, the Committee held its fifty-second session from 28 April to 23 May 2014 and its fifty-third session from 3 to 28 November 2014 in Geneva.<sup>234</sup>

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,<sup>235</sup> held its twenty-second session from 24 to 28 February 2014, its twenty-third session from 2 to 6 June 2014 and its twenty-fourth session from 17 to 21 November 2014 in Geneva.

#### (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 of 1989<sup>236</sup> to monitor the implementation of this Convention by its States parties. The Committee held its sixty-fifth session from 13 to 31 January 2014, its sixty-sixth session from 26 May to 13 June 2014, and its sixty-seventh session from 1 to 19 September 2014 in Geneva.<sup>237</sup>

In 2014, the Committee adopted joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices.<sup>238</sup>

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see *ibid.*, *Seventieth Session, Supplement No. 38* (A/70/38).

<sup>231</sup> CEDAW/C/GC/31–CRC/C/GC/18.

<sup>232</sup> CEDAW/C/GC/32.

<sup>233</sup> United Nations, *Treaty Series*, vol. 1465, p. 85.

<sup>234</sup> For the report of the fifty-second session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 44* (A/69/44). For the report of the fifty-third session, see *ibid.*, *Seventieth Session, Supplement No. 44* (A/70/44).

<sup>235</sup> United Nations, *Treaty Series*, vol. 2375, p. 237.

<sup>236</sup> *Ibid.*, vol. 1577, p. 3.

<sup>237</sup> For the report of the sixty-fifth session, see *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 41* (A/69/41). For the reports of the sixty-sixth and sixty-seventh sessions, see *ibid.*, *Seventy-first Session, Supplement No. 41* (A/71/41).

<sup>238</sup> CEDAW/C/GC/31–CRC/C/GC/18.

(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 of 1990<sup>239</sup> to monitor the implementation of this Convention by its States parties in their territories. In 2014, the Committee held its twentieth session from 31 March to 11 April 2014 and twenty-first session from 1 to 5 September 2014 in Geneva.<sup>240</sup>

(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 of 2006<sup>241</sup> and its 2006 Optional Protocol<sup>242</sup> 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. In 2014, the Committee held its eleventh session from 31 March to 11 April 2014 and its twelfth session 15 September to 3 October 2014 in Geneva.<sup>243</sup>

In 2014, the Committee adopted general comment No. 1 on the implementation of article 12 on the equal recognition before the law and general comment No. 2 on the implementation of article 9 on accessibility.

(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, 2006<sup>244</sup> to monitor the implementation of the Convention by its State parties. In 2014, the Committee held its sixth session from 17 to 28 March 2014 and its seventh session from 15 to 26 September 2014 in Geneva.<sup>245</sup>

<sup>239</sup> United Nations, *Treaty Series*, vol. 2220, p. 3.

<sup>240</sup> For the report of the twentieth session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 48 (A/69/48)*. For the report of the twenty-first session, see *ibid.*, *Seventieth Session, Supplement No. 48 (A/70/48)*.

<sup>241</sup> United Nations, *Treaty Series*, vol. 2515, p. 3.

<sup>242</sup> *Ibid.*, vol. 2518, p. 283.

<sup>243</sup> For the reports of the eleventh and twelfth sessions, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 55 (A/70/55)*.

<sup>244</sup> General Assembly resolution 61/177 of 20 December 2006, annex.

<sup>245</sup> For the report of the sixth session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 56 (A/69/56)*. For the report of the seventh session, see *ibid.*, *Seventieth Session, Supplement No. 56 (A/70/56)*.

**(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 2014. The first report,<sup>246</sup> submitted pursuant to Human Rights Council resolution 16/33 of 25 March 2011, focused on the role of new communication and information, technologies, such as the Internet and social media, in the wider dissemination of racist and xenophobic content that incites racial hatred and violence. The second report entitled “Contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the implementation of General Assembly resolution 68/150”<sup>247</sup> was submitted pursuant to General Assembly resolution 68/150 of 18 December 2013, and addressed the human rights and democratic challenges that extremist political parties, movements and groups, as well as similar extremist ideological movements continued to pose.

On 28 March 2014, the Council adopted resolution 25/34, 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.

On the same day, the Council adopted resolution 25/33, entitled “International Decade for People of African Descent”, without a vote, requesting the Intergovernmental Working Group on the Implementation of the Durban Declaration and Programme of Action to present its final report in this regard to the Human Rights Council at its twenty-sixth session for adoption and transmission to the General Assembly. On 9 July 2014, the Council adopted, without a vote, resolution 26/1 on the “Implementation of the International Decade for People of African Descent: draft programme of activities” in which the Council decided to urgently transmit to the General Assembly the report of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action containing the draft programme of activities in its current form.<sup>248</sup> On 26 September 2014, the Council adopted, without a vote, resolution 27/25 entitled “Mandate of the Working Group of Experts on People of African Descent”.

**(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,<sup>249</sup> the Special Rapporteur addressed the implementation of General Assembly resolution 68/150 of 18 December 2013 on combating glorification of Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, based on views collected from Governments

<sup>246</sup> A/HRC/26/49.

<sup>247</sup> A/HRC/26/50.

<sup>248</sup> A/HRC/26/55.

<sup>249</sup> A/69/334.



and non-governmental organizations. In his second report to the General Assembly,<sup>250</sup> submitted pursuant to General Assembly resolution 68/151 of 18 December 2013 and entitled “Contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, the Special Rapporteur focused on the issue of racism and sports.

The Secretary-General also submitted two reports to the General Assembly. The first report,<sup>251</sup> 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 68/151 of 18 December 2013, summarized information received from various actors and concluded with recommendations. In the second report,<sup>252</sup> the Secretary-General addressed the “Status of the International Convention on the Elimination of All Forms of Racial Discrimination”.

On 18 December 2014, the General Assembly adopted resolution 69/160 entitled “Combating glorification of Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, on the recommendation of the Third Committee, by a recorded vote of 133 in favour to 4 against, with 51 abstentions. On the same day, the General Assembly adopted resolution 69/161 entitled “International Convention on the Elimination of All Forms of Racial Discrimination”, on the recommendation of the Third Committee, without a vote. On 18 December 2014, the Assembly also adopted resolution 69/162 entitled “A global call for concrete action 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”, on the recommendation of the Third Committee, by a recorded vote of 134 in favour to 10 against, with 42 abstentions. On the same day, the General Assembly also adopted resolution 69/174 entitled “Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief”, on the recommendation of the Third Committee, without a vote.

### (c) Right to development and poverty reduction

#### (i) *Human Rights Council*

The Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona, submitted her report to the Human Rights Council.<sup>253</sup> The report, presented fiscal policy, and particularly taxation policies, as a major determinant in the enjoyment of human rights.

On 26 June 2014, the Human Rights Council adopted resolution 26/3 entitled “Extreme Poverty and Human Rights”, without a vote. On 25 September 2014, the Council adopted resolution 27/2 entitled “The right to development” by a recorded vote of 42 in favour to 1 against, with 4 abstentions.

<sup>250</sup> A/69/340.

<sup>251</sup> A/69/354.

<sup>252</sup> A/69/329.

<sup>253</sup> A/HRC/26/28, Corr.1 and Add. 1–3.



(ii) *General Assembly*

In accordance with Human Rights Council resolution 26/3 of 26 June 2014, the Secretary-General submitted the report of the new Special Rapporteur on extreme poverty and human rights, Philip Alston, to the General Assembly.<sup>254</sup> The report focused on social protection floors, with particular emphasis on the relevance of the Social Protection Floor Initiative to the post-2015 development agenda.

On 18 December 2014, the General Assembly adopted resolution 69/183 entitled “Human Rights and extreme poverty” in which it, *inter alia*, took note with appreciation of the guiding principles on extreme poverty and human rights,<sup>255</sup> adopted by the Human Rights Council in its resolution 21/11, as a useful tool for States in the formulation and implementation of poverty reduction and eradication policies, as appropriate.

The Secretary-General and the United Nations High Commissioner for Human Rights submitted a consolidated report to the General Assembly entitled “The right to development”,<sup>256</sup> summarising the activities undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and United Nations human rights mechanisms with regard to the promotion and realization of the right to development covering the period from May 2013 to April 2014.

On 18 December 2014, the General Assembly adopted resolution 68/181 entitled “The right to development”, on the recommendation of the Third Committee, by a recorded vote of 156 in favour to 5 against, with 26 abstentions.

On 19 December 2014, the General Assembly adopted, without a vote, resolution 69/234 entitled “Second United Nations Decade for the Eradication of Poverty (2008–2017)”, on the recommendation of the Second Committee. On the same day, the General Assembly adopted, without a vote, resolution 69/233 entitled “Promotion of sustainable tourism, including ecotourism, for poverty eradication and environment protection”, on the recommendation of the Second Committee.

(d) *Right of peoples to self-determination*(i) *Universal realization of the right of peoples to self-determination*a. *Human Rights Council*

On 28 March 2014, the Human Rights Council adopted resolution 25/27 entitled “Right of the Palestinian people to self-determination”, by a recorded vote of 46 in favour to 1 against. On the same day, the Council adopted resolution 25/28 entitled “Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan”, by a recorded vote of 46 in favour to 1 against.

On 23 July 2014, during a special session, the Council re-affirmed the right to self-determination of the Palestinian people in resolution S-21/1 entitled “Ensuring respect

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<sup>254</sup> A/69/297.

<sup>255</sup> A/HRC/21/39.

<sup>256</sup> A/HRC/27/27.

for international law in the Occupied Palestinian Territory, including East Jerusalem”, adopted by a recorded vote of 29 in favour to 1 against, with 17 abstentions.

#### **b. General Assembly**

The Secretary-General submitted a report entitled “Rights of Peoples to self-determination”, pursuant to General Assembly resolution 68/153 of 18 December 2013, to the General Assembly.<sup>257</sup>

On 18 December 2014, the General Assembly adopted, without a vote, resolution 69/164 entitled “Universal realization of the right of peoples to self-determination”, on the recommendation of the Third Committee. On the same date, the General Assembly also adopted resolution 69/165 entitled “The right of the Palestinian people to self-determination”, on the recommendation of the Third Committee, by a recorded vote of 180 in favour to 7 against, with 4 abstentions.

#### *(ii) Mercenaries*

##### **a. Human Rights Council**

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 its report to the Human Rights Council,<sup>258</sup> presenting the findings of its ongoing global study of national laws and regulations relating to private military and/or security companies (PMSCs). On 25 September 2014, the Human Rights Council adopted resolution 27/10 entitled “The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”, by a recorded vote of 32 in favour to 14 against, with 1 abstention.

##### **b. General Assembly**

In accordance with Commission on Human Rights resolution 2005/2 of 7 April 2005, the Secretary-General submitted the 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 to the General Assembly.<sup>259</sup> The report focused on the subject of the use by the United Nations of private security companies in light of the vast and complex challenges which outsourcing security to private military and security companies poses to the United Nations and to local populations. On 18 December 2014, the General Assembly adopted resolution 69/163 entitled “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”, on the recommendation of the Third Committee, by a record vote of 130 in favour to 52 against, with 7 abstentions.

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<sup>257</sup> A/69/342.

<sup>258</sup> A/HRC/27/70 and Add.1.

<sup>259</sup> A/69/338.

### (e) Economic, social and cultural rights

#### Human Rights Council

On 27 March 2014, the Human Rights Council adopted resolution 25/11, entitled “Question of the realization in all countries of economic, social and cultural rights”, without a vote, in which it requested the Secretary-General to submit a report on the implementation of the resolution.<sup>260</sup>

#### (i) *Right to food*

##### a. Human Rights Council

The Special Rapporteur on the right to food, Mr. Olivier De Schutter, submitted his report to the Human Rights Council in accordance with its resolution 22/9,<sup>261</sup> in which he drew the conclusions from his mandate, showing the connections between his various contributions. The new Special Rapporteur on the right to food, Ms. Hilal Elver, also submitted a report to the Human Rights Council in accordance with its resolution 22/9 on the access to justice and the right to food.<sup>262</sup>

On 27 March 2014, the Human Rights Council adopted resolution 25/14 entitled “The right to food”, without a vote.

##### b. General Assembly

In accordance with General Assembly resolution 68/177 of 18 December 2013, the Secretary-General submitted to the General Assembly the interim report of the Special Rapporteur on the right to food, Ms. Hilal Elver.<sup>263</sup> The report set forth some of the issues the Special Rapporteur intended to focus on during her tenure.

On 18 December 2014, the General Assembly adopted resolution 69/117 entitled “The right to food”, on the recommendation of the Third Committee, without a vote.

#### (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.<sup>264</sup> The report focussed on the assessment of the educational attainments of students and the implementation of the right to education.

On 28 March 2014, the Human Rights Council adopted resolution 25/20 entitled “The right to education of persons with disabilities”, without a vote. On 26 June 2014, the Human Rights Council adopted resolution 26/17 entitled “The right to education: follow-up to Human Rights Council resolution 8/4”, without a vote. On 25 September 2014, the

<sup>260</sup> A/HRC/28/35.

<sup>261</sup> A/HRC/25/57.

<sup>262</sup> A/HRC/28/65.

<sup>263</sup> A/69/275.

<sup>264</sup> A/HRC/26/27 and Add.1.

Council adopted resolution 27/6 entitled “Panel discussion on realizing the equal enjoyment of the right to education by every girl”, without a vote.

#### **b. General Assembly**

In accordance with Human Rights Council resolutions 8/4 of 18 June 2008, 17/3 of 16 June 2011 and 26/17 of 26 June 2014, the Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the right to education,<sup>265</sup> which focused on State responsibility in the face of the explosive growth of private education providers, from a right to education perspective.

#### *(iii) Right to adequate standard of living, including adequate housing and to be free of adverse effects of toxic waste*

##### **a. Human Rights Council**

In accordance with Human Rights Council resolutions 15/8 of 30 September 2010 and 25/17 of 28 March 2014, 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. Leilani Farha, submitted her report to the Human Rights Council.<sup>266</sup> The report focused on the roles of local and other subnational levels of government and considers how they can be fully engaged in the realization of the right to adequate housing.

On 28 March 2014, the Human Rights Council adopted resolution 25/17 entitled “Adequate housing as a component of the right to an adequate standard of living”, without a vote.

#### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the 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 resolutions 15/8 of 30 September 2010 and 25/17 of 28 March 2014.<sup>267</sup> The report outlined some of the central opportunities and priorities about which the Special Rapporteur wished to consult with States, civil society and other relevant stakeholders.

#### *(iv) Access to safe drinking water and sanitation*

##### **a. Human Rights Council**

In accordance with Human Rights Council resolutions 16/2 of 24 March 2011 and 21/2 of 27 September 2012, the Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque, submitted her report to the Human Rights Council.<sup>268</sup> The report focused on common violations of the human rights to water

<sup>265</sup> A/69/402.

<sup>266</sup> A/HRC/28/62.

<sup>267</sup> A/69/274.

<sup>268</sup> A/HRC/27/55 and Add.1–5.

and sanitation, as identifying violations of those rights is critical to ensure their realization, to prevent further violations and to ensure that concerted action is taken to remedy them.

On 25 September 2014, the Human Rights Council adopted resolution 27/7 entitled “The human right to safe drinking water and sanitation”, without a vote.

#### **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, in accordance with Human Rights Council resolutions 16/2 of 24 March 2011 and 21/2 of 27 September 2012.<sup>269</sup> The report focused on the right to participation in the context of realizing the right to safe drinking water and sanitation, emphasizing that States have an obligation to ensure participation.

On 19 December 2014, the General Assembly adopted resolution 69/215 entitled “International Decade for Action, ‘Water for Life’, 2005–2015, and further efforts to achieve the sustainable development of water resources”, on the recommendation of the Second Committee, without a vote.

#### *(v) Right to health*

##### **a. Human Rights Council**

In accordance with Human Rights Council resolution 21/17 of 27 September 2012, the Special Rapporteur on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste, Mr. Baskut Tuncak, submitted his report to the Human Rights Council.<sup>270</sup> In the report, the Special Rapporteur provided a brief overview of the background, history, scope and context of the mandate, and presented his preliminary strategy for the mandate.

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 his report to the Human Rights Council pursuant to its resolution 24/6 of 26 September 2013.<sup>271</sup> In his report, the Special Rapporteur drew links between unhealthy foods and diet-related non-communicable diseases (NCDs).

On 26 June 2014, the Council adopted resolution 26/18 entitled “The right of everyone to the enjoyment of the highest attainable standard of physical and mental health: sport and healthy lifestyles as contributing factors”, without a vote. On 27 June 2014, the Council adopted resolution 26/21 entitled “Promotion of the right of migrants to the enjoyment of the highest attainable standard of physical and mental health”, without a vote.

#### **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

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<sup>269</sup> A/69/213.

<sup>270</sup> A/HRC/27/54.

<sup>271</sup> A/HRC/26/31.

physical and mental health, in accordance with Human Rights Council resolutions 6/29 of 14 December 2007 and 24/6 of 26 September 2013.<sup>272</sup> In the report, the Special Rapporteur considered a number of critical elements that affect the effective and full implementation of the right to health framework.

#### (vi) *Cultural rights*

##### a. Human Rights Council

In accordance with Human Rights Council resolution 19/6 of 22 March 2012, the Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed, submitted two reports to the Human Rights Council. In the first report, the Special Rapporteur addressed memorialization processes of the events of the past in post-conflict and divided societies, with a specific focus on memorials and museums of history/memory.<sup>273</sup> In the second report, the Special Rapporteur examined copyright law and policy from the perspective of the right to science and culture, emphasizing both the need for protection of authorship and expanding opportunities for participation in cultural life.<sup>274</sup>

On 28 March 2014, the Human Rights Council adopted resolution 25/19 entitled “Promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity”, without a vote.

##### b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur in the field of cultural rights submitted a report to the General Assembly,<sup>275</sup> in accordance with Human Rights Council resolution 19/6 of 22 March 2012. The report focused on the impact commercial advertising and marketing practices have on the enjoyment of cultural rights, with a particular focus on freedom of thought, opinion and expression, cultural diversity and ways of life, the rights of children with respect to education and leisure, academic and artistic freedom and the right to participate in cultural life and to enjoy the arts.

#### (f) *Civil and political rights*

##### (i) *Torture*

##### a. Human Rights Council

In accordance with Human Rights Council resolution 16/23 of 25 March 2011, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan Méndez, submitted his report to the Human Rights Council.<sup>276</sup> The

<sup>272</sup> A/69/299.

<sup>273</sup> A/HRC/25/49 and Add.1.

<sup>274</sup> A/HRC/28/57.

<sup>275</sup> A/69/286.

<sup>276</sup> A/HRC/25/60 and Add.1.

report focused on the scope and objective of the exclusionary rule in judicial proceedings and in relation to acts by executive actors.

### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,<sup>277</sup> in accordance with General Assembly resolution 68/156 of 18 December 2013. The report focused on the key role forensic science plays regarding the obligation of States to effectively investigate and prosecute allegations of torture or other cruel, inhuman or degrading treatment or punishment.

### *(ii) Arbitrary detention and extrajudicial, summary and arbitrary execution*

#### **a. Human Rights Council**

In accordance with Human Rights Council resolution 17/5 of 16 June 2011, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Christof Heyns, submitted his report to the Human Rights Council.<sup>278</sup> The report discussed the protection of the right to life during law enforcement and made the case for the need for a concerted effort to bring domestic laws on the use of (especially lethal) force by the police in line with the international standards.

The Working Group on Arbitrary Detention submitted two reports to the Human Rights Council. The first report provided an overview of the national, regional and international laws, regulations and practices on the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention and order his or her release if the detention is not lawful.<sup>279</sup> The second report contained an overview of the activities of the Working Group in 2013 and focused on the thematic issue of military justice, over-incarceration and protective custody.<sup>280</sup>

### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions,<sup>281</sup> in accordance with General Assembly resolution 67/168 of 20 December 2012. In the report, the Special Rapporteur provided an overview of his activities and considers four topics relating to the protection of the right to life: (a) the role of regional human rights systems; (b) less lethal and unmanned weapons in law enforcement; (c) resurrections of the death penalty; and (d) the role of statistical indicators.

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<sup>277</sup> A/69/387.

<sup>278</sup> A/HRC/26/36 and Add. 1–3.

<sup>279</sup> A/HRC/27/47.

<sup>280</sup> A/HRC/27/48 and Add.1–5.

<sup>281</sup> A/69/265.

On 18 December 2014, the General Assembly adopted resolution 69/182, on the recommendation of the Third Committee, entitled “Extrajudicial, summary or arbitrary executions”, by a recorded vote of 122 to none, with 66 abstentions.

(iii) *Enforced disappearances and missing persons*

a. **Human Rights Council**

The Working Group on Enforced or Involuntary Disappearances submitted its annual report to the Human Rights Council,<sup>282</sup> detailing the activities of and communications and cases examined by the Working Group on Enforced or Involuntary Disappearances covering the period 10 November 2012 to 16 May 2014.

On 25 September 2014, the Human Rights Council adopted resolution 27/1, without a vote, entitled “Enforced or involuntary disappearances”.

b. **General Assembly**

In accordance with General Assembly resolution 68/166 of 18 December 2013, the Secretary General submitted to the General Assembly a report entitled “International Convention for the Protection of All Persons from Enforced Disappearance”.<sup>283</sup> The report also included information on the activities carried out in relation to the implementation of the resolution by the Secretary-General, the United Nations High Commissioner for Human Rights and her Office, the Committee on Enforced Disappearances, the Working Group on Enforced or Involuntary Disappearances and intergovernmental and non-governmental organizations.

On 18 December 2014, the General Assembly adopted resolution 69/169 entitled “International Convention for the Protection of All Persons from Enforced Disappearance”, on the recommendation of the Third Committee, without a vote. On the same date, the General Assembly adopted resolution 69/184 entitled “Missing persons”, on the recommendation of the Third Committee, without a vote.

(iv) *Integration of human rights of women and a gender perspective*<sup>284</sup>

a. **Human Rights Council**

In accordance with Human Rights Council resolution 26/38, the Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, submitted a report to the Human Rights Council.<sup>285</sup> The report focused broadly on developments in the United Nations regarding violence against women, its causes and consequences, over approximately 20 years.

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<sup>282</sup> A/HRC/27/49 and Add.1–2.

<sup>283</sup> A/69/214.

<sup>284</sup> For more information on the rights of women, see section 6 of this chapter.

<sup>285</sup> A/HRC/26/38 and Add.1–4.



The Working Group on the issue of discrimination against women in law and in practice also submitted a report to the Human Rights Council.<sup>286</sup> The report addressed discrimination against women in economic and social life, with a focus on economic crisis.

The Office of the United Nations High Commissioner for Human Rights also submitted a report to the Human Rights Council pursuant to its resolution 6/30 of 14 December 2007.<sup>287</sup> The report summarized the recommendations of the panel discussion on gender stereotyping and on women's human rights in the context of sustainable development agenda.

On 26 June 2014, the Council adopted resolution 26/5, entitled "Elimination of discrimination against women", without a vote.

#### **b. General Assembly**

The Secretary-General transmitted to the General Assembly two reports pursuant to General Assembly resolution 67/144 of 20 December 2012. The first report, entitled "Intensification of efforts to eliminate all forms of violence against women", provided information on measures taken by Member States and activities undertaken within the United Nations system to address violence against women.<sup>288</sup> The Secretary-General also submitted to the General Assembly the report of the Special Rapporteur on violence against women, its causes and consequences,<sup>289</sup> which focused on violence against women as a barrier to the realization of women's civil, political, economic, social, cultural and developmental rights and the effective exercise of citizenship rights.

On 18 December 2014, the General Assembly adopted resolution 69/147, on the recommendation of the Third Committee, entitled "Intensification of efforts to eliminate all forms of violence against women", without a vote. On the same day, the General Assembly adopted, without a vote, resolution 69/151 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", on the recommendation of the Third Committee.

### **(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,<sup>290</sup> pursuant to Human Rights Council resolution 17/1 of 16 June 2011. In the report, the Special Rapporteur provided an overview of her activities from 1 March 2013 to 1 March 2014 and a thematic analysis of the first decade of the mandate of the Special Rapporteur on trafficking in persons, especially women and children.

<sup>286</sup> A/HRC/26/39 and Add.1–2.

<sup>287</sup> A/HRC/27/73.

<sup>288</sup> A/69/222.

<sup>289</sup> A/69/368.

<sup>290</sup> A/HRC/26/37 and Add.1–11.

The Office of the United Nations High Commissioner for Human Rights also submitted a report to the Human Rights Council pursuant to its resolution 20/1 of 5 July 2012.<sup>291</sup> The report summarized the consultations held on the draft basic principles on the right to effective remedy for victims of trafficking in persons.

## b. General Assembly

The Secretary-General transmitted two reports to the General Assembly. Pursuant to General Assembly resolution 67/145 of 20 December 2012, the Secretary-General submitted a report entitled “Trafficking in women and girls”,<sup>292</sup> which provided information on measures taken by Member States and activities carried out within the United Nations system to address trafficking in women and girls. In accordance with Human Rights Council resolution 17/1 of 16 June 2011, the Secretary-General also submitted to the General Assembly the report of the Special Rapporteur on trafficking in persons, especially women and children.<sup>293</sup> The report included an overview of the activities of the Special Rapporteur during the reporting period, a thematic analysis of the first decade of the mandate of the Special Rapporteur, and the finalized basic principles on the right to an effective remedy.

On 18 December 2014, the General Assembly adopted resolution 69/149, on the recommendation of the Third Committee, entitled “Trafficking in women and girls”, without a vote. In the resolution, the General Assembly acknowledged the drafting of the basic principles on the right to an effective remedy for victims of trafficking in persons.<sup>294</sup>

## (vi) *Freedom of religion, belief and expression*

### a. Human Rights Council

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 focused on the realization of the right to freedom of opinion and expression in electoral contexts, paying particular attention to the establishment and enforcement of legal instruments regulating political communications.<sup>295</sup>

The Office of the United Nations High Commissioner for Human Rights also submitted a report to the Human Rights Council pursuant to its resolution 22/31 of 22 March 2013.<sup>296</sup> The report summarized the contributions received from States and drew some conclusions therefrom regarding combating intolerance, negative stereotyping, stigmatization of, discrimination, incitement to violence and violence against persons, based on religion or belief.

The Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt, submitted a report to the Human Rights Council in which he provided a typological description

<sup>291</sup> A/HRC/26/18.

<sup>292</sup> A/69/224.

<sup>293</sup> A/69/269.

<sup>294</sup> A/69/269, annex.

<sup>295</sup> A/HRC/26/30.

<sup>296</sup> A/HRC/26/18.

of various forms of violence carried out in the name of religion and explored root causes and relevant factors that underlie such violence.<sup>297</sup>

On 27 March 2014, the Human Rights Council adopted resolution 25/12 entitled “Freedom of religion or belief”, without a vote.

#### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the interim report of the Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt,<sup>298</sup> in accordance with General Assembly resolution 68/170 of 18 December 2013. In his report, the Special Rapporteur provided an overview of his mandate activities in the reporting period, and focused on means to eliminate religious intolerance and discrimination in the workplace.

On 18 December 2014, the General Assembly adopted two resolutions addressing the issue of freedom of religion or belief, both adopted on the recommendation of the Third Committee, without a vote: resolution 69/174 entitled “Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief”, and resolution 69/175 entitled “Freedom of religion or belief”.

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,<sup>299</sup> in accordance with Human Rights Council resolution 25/2 of 27 March 2014. The report focused on the right of the child to freedom of expression.

### **(g) Rights of the Child**

#### **a. Human Rights Council**

The Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Leila Zerrougui, submitted her annual report to the Human Rights Council pursuant to General Assembly resolution 67/152 of 20 December 2012.<sup>300</sup> In the report, the Special Rapporteur outlined the activities undertaken in discharging her mandate, acknowledged the progress made since the previous reporting period with regard to the launch of the “Children, Not Soldiers” campaign and set out a series of recommendations addressed to States parties to the Convention on the Rights of the Child, the Human Rights Council and Member States to further the protection of children’s rights.

The Special Representative of the Secretary-General on Violence against Children, Ms. Marta Santos Pais, submitted her annual report to the Human Rights Council.<sup>301</sup> The report contained a review of key developments and initiatives promoted by the Special Representative to accelerate progress in children’s protection from violence, and identified efforts required for sustaining and scaling up achievements made.

<sup>297</sup> A/HRC/28/66 and Add. 1–4.

<sup>298</sup> A/69/261.

<sup>299</sup> A/69/335.

<sup>300</sup> A/HRC/28/54.

<sup>301</sup> A/HRC/25/47.

The Office of the United Nations High Commissioner for Human Rights submitted a report to the Human Rights Council pursuant to resolution 25/6 of 27 March 2014.<sup>302</sup> The report set out the obligations of States to invest adequately in the rights of children, in accordance with the Convention on the Rights of the Child.

On 27 March 2014, the Human Rights Council adopted resolution 25/6 entitled “Rights of the child: access to justice for children”, without a vote, and resolution 25/10 entitled “Ending violence against children: a global call to make the invisible visible”, without a vote. On 25 September 2014, the Council adopted resolution 27/15 entitled “The right of the child to engage in play and recreational activities”, without a vote.

### **b. General Assembly**

The Special Representative of the Secretary-General for Children and Armed Conflict submitted her annual report to the General Assembly,<sup>303</sup> pursuant to General Assembly resolution 68/147 of 18 December 2013. The report covered the activities undertaken by the Special Representative in the period from August 2013 to July 2014.

The Special Representative of the Secretary-General on Violence against Children submitted her annual report to the General Assembly, pursuant to General Assembly resolution 68/147 of 18 December 2013.<sup>304</sup> The report provided an overview of major developments promoted by the Special Representative of the Secretary-General on Violence against Children to sustain and scale up efforts to safeguard children’s freedom from violence.

On 20 May 2014, the General Assembly adopted resolution 68/273 entitled “High-level meeting of the General Assembly on the twenty-fifth anniversary of the adoption of the Convention on the Rights of the Child” without a vote. On 18 December 2014, the General Assembly adopted resolution 69/157 entitled “Rights of the child”, on the recommendation of the Third Committee, without a vote.

### **c. Security Council**

On 7 March 2014, the Security Council adopted resolution 2143 (2014) on children and armed conflict.<sup>305</sup>

## **(h) Migrants**

### **a. Human Rights Council**

The Special Rapporteur on the human rights of migrants, Mr. François Crépeau, submitted his report to the Human Rights Council,<sup>306</sup> in accordance with Human Rights Council resolution 17/2 of 17 June 2011. The report provided an overview of the activities carried out by the Special Rapporteur, including some reflections on the 2013 High-level Dialogue on International Migration and Development, and focused on labour exploitation of migrants.

<sup>302</sup> A/HRC/28/33.

<sup>303</sup> A/69/212.

<sup>304</sup> A/69/264.

<sup>305</sup> See also subsection 2 (h)(ii) regarding the Security Council and children and armed conflict.

<sup>306</sup> A/HRC/26/35 and Add.1–2.

On 27 June 2014, the Human Rights Council adopted resolution 26/21 entitled “Promotion of the right of migrants to the enjoyment of the highest attainable standard of physical and mental health”, without a vote.

#### **b. General Assembly**

The Special Rapporteur on human rights of migrants submitted his annual report to the General Assembly,<sup>307</sup> in accordance with General Assembly resolution 68/179 of 18 December 2013. The report focused on advocating the inclusion of the human rights of migrants in the post-2015 development agenda and contained an analysis of current migration trends. On 18 December 2014, the General Assembly adopted resolution 69/167 entitled “Protection of migrants”, on the recommendation of the Third Committee, without a vote. On the same day, the General Assembly adopted resolution 69/187 entitled “Migrant children and adolescents”, on the recommendation of the Third Committee, without a vote.

### **(i) Internally displaced persons**

#### **a. Human Rights Council**

The Special Rapporteur on the human rights of internally displaced persons, Mr. Chaloka Beyani, submitted his annual report to the Human Rights Council.<sup>308</sup> The report focused on the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), including the context of its adoption, its key provisions and its implementation.

#### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the human rights of internally displaced persons submitted his annual report to the General Assembly,<sup>309</sup> in accordance with General Assembly resolution 68/180 of 18 December 2013 and Human Rights Council resolution 23/8 of 27 March 2014. The report focused on the challenge of finding durable solutions for internally displaced persons in urban settings.

On 18 December 2014, the General Assembly adopted resolution 69/154 entitled “Assistance to refugees, returnees and displaced persons in Africa” on the recommendation of the Third Committee, without a vote.

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<sup>307</sup> A/69/302.

<sup>308</sup> A/HRC/26/33, Corr.1 and Add. 1–6.

<sup>309</sup> A/69/295.

## **(j) Minorities**

### **a. Human Rights Council**

The Independent Expert on minority issues, Ms. Rita Izsák, submitted her report to the Human Rights Council.<sup>310</sup> The report included a thematic discussion on “Ensuring the inclusion of minority issues in post-2015 development agendas”.

The Office of the United Nations High Commissioner for Human Rights submitted two reports to the Human Rights Council,<sup>311</sup> pursuant to resolutions 13/12 of 25 March 2010 and 22/4 of 21 March 2013 of the Human Rights Council, on the rights of persons belonging to national or ethnic, religious and linguistic minorities.

On 26 June 2014, the Human Rights Council adopted resolution 26/4 entitled “Protection of Roma”, without a vote.

### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Independent Expert on minority issues,<sup>312</sup> in accordance with General Assembly resolution 68/172 of 18 December 2013. The report was entitled and focused on the “Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”.<sup>313</sup>

## **(k) Indigenous issues**

### **a. Human Rights Council**

The United Nations High Commissioner for Human Rights submitted a report on the rights of indigenous peoples to the Human Rights Council.<sup>314</sup> The report contained information on relevant developments with regard to human rights bodies and mechanisms, and outlined the activities undertaken by the Office of the High Commissioner for Human Rights, at headquarters and in the field, from May 2013 to April 2014 that contributed to the promotion and the full application of the provisions of the United Nations Declaration of the Rights of Indigenous Peoples and to the follow-up on the effectiveness of the Declaration.

The Special Rapporteur on the rights of indigenous peoples, Ms. Victoria Tauli Corpuz, also submitted report to the Human Rights Council.<sup>315</sup> In the report, the Special Rapporteur presented some preliminary reflections on the status of operationalization of international standards relating to indigenous peoples and her vision for her work as Special Rapporteur in that context.

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<sup>310</sup> A/HRC/25/56.

<sup>311</sup> A/HRC/25/30 and A/HRC/28/27.

<sup>312</sup> A/69/266.

<sup>313</sup> General Assembly resolution 47/135 of 18 December 1992, annex.

<sup>314</sup> A/HRC/27/30.

<sup>315</sup> A/HRC/27/52 and Add.1–4.

The Expert Mechanism on the Rights of Indigenous Peoples submitted a report to the Human Rights Council, covering the activities of the Expert Mechanism during its seventh session in Geneva from 7 to 11 July 2014.<sup>316</sup> The Expert Mechanism also submitted a study on “Access to justice in the promotion and protection of the rights of indigenous peoples: restorative justice, indigenous juridical systems and access to justice for indigenous women, children and youth, and persons with disabilities” to the Human Rights Council.<sup>317</sup> The Expert Mechanism also submitted a study on the “Promotion and protection of the rights of indigenous peoples in disaster risk reduction, prevention and preparedness initiatives”, and a report containing a “Final 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”, both pursuant to Human Rights Council resolution 24/10 of 26 December 2013.

On 25 September 2014, the Human Rights Council adopted resolution 27/13 entitled “Human rights and indigenous peoples”, without a vote.

#### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the rights of indigenous peoples,<sup>318</sup> in accordance with Human Rights Council resolution 24/10 of 26 September 2013. In the report, the Special Rapporteur provided some thoughts on the post-2015 development agenda and indigenous peoples with the aim of guiding Member States and others in their reflection on development priorities.

On 22 September 2014, the General Assembly adopted resolution 69/2 entitled “Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples”, without a vote. On 18 December 2014, the General Assembly adopted resolution 69/159 entitled “Rights of indigenous peoples”, on the recommendation of the Third Committee, without a vote.

### **(I) Terrorism and human rights<sup>319</sup>**

#### **a. Human Rights Council**

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Ben Emmerson, submitted his report to the Human Rights Council.<sup>320</sup> In the report, the Special Rapporteur examined the use of remotely piloted aircraft, or drones, in extraterritorial lethal counter-terrorism operations.

The Office of the United Nations High Commissioner for Human Rights also submitted a report on the protection of human rights and fundamental freedoms while countering

<sup>316</sup> A/HRC/27/64.

<sup>317</sup> A/HRC/27/65.

<sup>318</sup> A/69/267.

<sup>319</sup> See also subsections 2 (g) on terrorism in the activities of the Security Council and 16 (j) on measures to eliminate international terrorism as dealt with by the Sixth Committee of the General Assembly.

<sup>320</sup> A/HRC/25/59 and Add.1–3.

terrorism to the Human Rights Council.<sup>321</sup> The report highlighted developments since the last report of the United Nations High Commissioner for Human Rights in the protection of human rights and fundamental freedoms while countering terrorism.

On 27 March 2014, the Human Rights Council adopted resolution 25/7 entitled “Protection of human rights and fundamental freedoms while countering terrorism”, without a vote. On 28 March 2014, the Human Rights Council adopted resolution 25/22 entitled “Ensuring use of remotely piloted aircraft or armed drones in counter-terrorism and military operations in accordance with international law, including international human rights and humanitarian law”, by a recorded vote of 27 in favour to 6 against, and 14 abstentions.

## **b. General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,<sup>322</sup> in accordance with General Assembly resolution 68/178 of 18 December 2014 and Human Rights Council resolution 15/15 of 30 September 2010. In his report, the Special Rapporteur examined the use of mass digital surveillance for counter-terrorism purposes, and considered the implications of bulk access technology for the right to privacy under article 17 of the International Covenant on Civil and Political Rights.

On 13 June 2014, the General Assembly, without reference to a Main Committee adopted resolution 68/276, entitled “The United Nations Global Counter-Terrorism Strategy Review”, without a vote.

On 10 December 2014, the General Assembly adopted resolution 69/127 entitled “Measures to eliminate international terrorism”, on the recommendation of the Sixth Committee, without a vote.

## **(m) Promotion and protection of human rights**

### **(i) *International cooperation and universal instruments***

#### **a. Human Rights Council**

The Independent Expert on human rights and international solidarity, Ms. Virginia Dandan, submitted her report to the Human Rights Council, in accordance with Human Rights Council resolution 23/12 of 13 June 2013.<sup>323</sup> The proposed draft declaration on the right of peoples and individuals to international solidarity, contained in the annex, was the main feature of the report.<sup>324</sup>

On 27 March 2014, the Human Rights Council adopted resolution 25/3 entitled “Enhancement of international cooperation in the field of human rights”, without a vote. On 27 June 2014, the Council adopted resolution 26/30 entitled “Cooperation and assistance to Ukraine in the field of human rights” by a recorded vote of 23 to 4, and 19 abstentions.

<sup>321</sup> A/HRC/28/28.

<sup>322</sup> A/67/397.

<sup>323</sup> A/HRC/26/34.

<sup>324</sup> A/HRC/26/34, annex. See also A/HRC/26/34, Add.1 containing a “Preliminary text of a draft declaration on the right of peoples and individuals to international solidarity”.



On 25 September 2014, the Council adopted resolution 27/20 entitled “Enhancement of technical cooperation and capacity-building in the field of human rights, without a vote.

#### **b. General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Independent Expert on human rights and international solidarity, in accordance with Human Rights Council resolution 26/6 of 26 June 2014.<sup>325</sup> The report focused on the progress made regarding the draft declaration on the right of peoples and individuals to international solidarity submitted to the Council at its twenty-sixth session in June 2014. The report also sought to contribute to the current process of formulating the future sustainable development goals so that they are consistent with universal human rights standards, focusing on the value added to those goals when they are framed and informed by the right to international solidarity.

On 18 December 2014, the General Assembly adopted resolution 69/179 entitled “Enhancement of international cooperation in the field of human rights”, on the recommendation of the Third Committee, without a vote.

#### *(ii) Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights*

##### **a. Human Rights Council**

On 25 September 2014, the Human Rights Council adopted resolution 27/18 entitled “National institutions for the promotion and protection of human rights”, without a vote.

##### **b. General Assembly**

On 18 December 2014, the General Assembly adopted, without a vote, resolution 69/168 entitled “The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights”, on the recommendation of the Third Committee.

#### *(iii) Human rights and 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.<sup>326</sup> In her report, the Special Rapporteur focused on the main tools at her disposal, lessons learned and challenges in the discharge of her functions since 2008.

On 27 March 2014, the Council adopted resolution 25/8 entitled “The role of good governance in the promotion and protection of human rights”, without a vote.

<sup>325</sup> A/69/366.

<sup>326</sup> A/HRC/25/55 and Add.1–3.

## **b. General Assembly**

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the situation of human rights defenders, Mr. Michel Forst, in accordance with General Assembly resolutions 66/164 of 19 December 2011 and 68/181 of 18 December 2013 and Human Rights Council resolutions 16/5 of 24 March 2011 and 25/18 of 28 March 2014.<sup>327</sup> The report focused on the manner in which he approached his mandate and on the vision and priorities that he had established for the coming years.

On 18 December 2014, the General Assembly adopted resolution 69/172 entitled “Human rights in the administration of justice”, on the recommendation of the Third Committee, without a vote.

## **(n) Persons with disabilities**

### **a. Human Rights Council**

The Office of the United Nations High Commissioner for Human Rights submitted its report on activities undertaken to support efforts by States to promote and protect the rights of persons with disabilities in their national legislation, policies and programmes.<sup>328</sup> It also submitted its report pursuant to Human Rights Council resolution 25/20 of 28 March 2014 in which it presented a thematic study on the right of persons with disabilities to live independently and be included in the community.<sup>329</sup>

On 27 June 2014, the Human Rights Council adopted resolution 26/20 entitled “Special Rapporteur on the rights of persons with disabilities”, without a vote. In this resolution, the Council decided to appoint, for a period of three years, a Special Rapporteur on the rights of persons with disabilities with the mandate to, *inter alia*: develop a regular dialogue and to consult with States and other relevant stakeholders; gather, request, receive and exchange information and communications from and with States and other relevant sources; make concrete recommendations on how to better promote and protect the rights of persons with disabilities; to conduct, facilitate and support the provision of advisory services, technical assistance, capacity-building and international cooperation in support of national efforts for the effective realization of the rights of persons with disabilities; and cooperate closely with the Conference of States Parties to the Convention on the Rights of Persons with Disabilities<sup>330</sup> and the Commission for Social Development. On 1 December 2014, Ms. Catalina Devandas Aguilar took office as the first Special Rapporteur on the Rights of Persons with Disabilities.

## **b. General Assembly**

On 18 December 2014, the General Assembly adopted resolution 69/142 entitled “Realizing the Millennium Development Goals and other internationally agreed

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<sup>327</sup> A/69/259.

<sup>328</sup> A/HRC/26/24.

<sup>329</sup> A/HRC/28/37.

<sup>330</sup> United Nations, *Treaty Series*, vol. 2515, p.3.

development goals for persons with disabilities towards 2015 and beyond”, on the recommendation of the Third Committee, without a vote.

**(o) Contemporary forms of slavery**

**a. Human Rights Council**

The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Urmila Bhoola, presented her report to the Human Rights Council in accordance with Human Rights Council resolution 24/3 of 26 September 2013.<sup>331</sup> The report provided a summary of the activities undertaken by the previous Special Rapporteur on contemporary forms of slavery, including its causes and consequences. The report also outlined the priorities on which the Special Rapporteur intended to focus during her tenure.

**(p) Miscellaneous**

**(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 three reports to the Human Rights Council. The first report, submitted in accordance with Human Rights Council resolution 16/14 of 24 March 2011, highlighted the challenges faced by the Council in addressing sovereign debt as a human rights issue and described the constraints confronting the special procedures in carrying out their mandates, including insufficient resources.<sup>332</sup> The second report, submitted in accordance with Human Rights Council resolution 20/10 of 5 July 2012, presented the draft commentary to the Guiding Principles on foreign debt and human Rights.<sup>333</sup> The second report, submitted in accordance with Human Rights Council resolution 19/38 of 23 March 2012, illustrated the negative impact of illicit financial flows on developing countries and in particular the extent to which the non-repatriation of funds of illicit origin have an impact on the implementation of human rights in the countries of origin.

On 26 September 2014, the Human Rights Council adopted resolution 27/30 entitled “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: the activities of vulture funds”, by a recorded vote of 33 in favour to 5 against, with 9 abstentions.

<sup>331</sup> A/HRC/27/53 and Add.1–3.

<sup>332</sup> A/HRC/25/50 and Add.1–3.

<sup>333</sup> A/HRC/25/51.

## b. General Assembly

The Secretary-General transmitted to the General Assembly the 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, Mr. Juan Pablo Bohoslavsky, pursuant to Human Rights Council resolution 25/16 of 27 March 2014.<sup>334</sup> The report focused on six thematic areas: (a) preventive aspects of fiscal policy and debt management to avoid potential negative human rights implications of borrowing; (b) international human rights law in the context of debt restructuring and debt relief; (c) good practices to avoid negative human rights implications in the context of debt crisis and economic adjustment programmes; (d) human rights and debt arbitration in the context of bilateral investment treaties; (e) lending to States and non-State actors involved in gross human rights violations and transitional justice; and (f) impact of illicit financial flows on human rights.

### (ii) *Human rights and unilateral coercive measures*

#### a. Human Rights Council

In accordance with Human Rights Council resolution 24/14 of 27 September 2013, the Office of the United Nations High Commissioner for Human Rights submitted a report on the “Proceedings of the workshop on the impact of the application of unilateral coercive measures on the enjoyment of human rights by the affected populations, in particular their socioeconomic impact on women and children, in the States targeted”.<sup>335</sup>

On 26 September 2014, the Human Rights Council adopted resolution 27/21 and Corr.1 entitled “Human rights and unilateral coercive measures”, by a recorded vote of 31 in favour to 14 against, with 2 abstentions.

## b. General Assembly

On 18 December 2014, the General Assembly adopted resolution 69/180 entitled “Human rights and unilateral coercive measures”, on the recommendation of the Third Committee, by a recorded vote of 134 in favour and 53 against, with 1 abstention.

### (iii) *Human rights and environment*<sup>336</sup>

#### 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 report to the Human Rights Council in accordance with 19/10 of 22 March 2012.<sup>337</sup> The report mapped out human rights obligations relating to the environment, on the basis of an extensive review of global and regional sources.

<sup>334</sup> A/67/304.

<sup>335</sup> A/HRC/27/32.

<sup>336</sup> For more information on the environment, see section 8 of this chapter.

<sup>337</sup> A/HRC/25.53.

On 28 March 2014, the Human Rights Council adopted resolution 25/21 entitled “Human rights and the environment”, as orally revised, without a vote.

(iv) *Business and human rights*

**Human Rights Council**

The Working Group on the issue of human rights and transnational corporations and other business enterprises submitted its report to the Human Rights Council pursuant to Human Rights Council resolution 17/4 of 16 June 2011.<sup>338</sup> In the report, the Working Group reviewed its strategic objectives, activities and outcomes of the past three years and identified challenges ahead.

On 26 June 2014, the Human Rights Council adopted resolution 26/9 entitled “Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights”, by a recorded vote of 20 in favour to 14 against, with 13 abstentions. On 27 June 2014, the Human Rights Council adopted resolution 26/22 entitled “Human rights and transnational corporations and other business enterprises”, without a vote.

**6. Women<sup>339</sup>**

**(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.<sup>340</sup>

The Executive Board of UN-Women held three meeting sessions in New York in 2014,<sup>341</sup> during which it adopted six decisions: decision 2014/1 entitled “Harmonization of reporting cycles”; decision 2014/2 entitled “Report of the Under-Secretary-General/Executive Director on progress made on the strategic plan, 2011–2013, including operational activities in 2013”; decision 2014/3 entitled “Report on the evaluation function, 2013”;

<sup>338</sup> A/HRC/26/25 and Add.1–5.

<sup>339</sup> 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>.

<sup>340</sup> 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 and the International Research and Training Institute for the Advancement of Women.

<sup>341</sup> See the reports of the Executive Board of UN-Women: report of the first regular session, held on 20 January 2014 (UNW/2014/1); report of the annual session, held from 17 to 19 June 2014 (UNW/2014/5); and the report of the second regular session, held from 15 September to 16 September 2014 (UNW/2014/7).

decision 2014/4 entitled “Report on internal audit and investigation activities for the period from 1 January to 31 December 2013”; decision 2014/5 entitled “Election of the Bureau of the Executive Board”; and decision 2014/6 entitled “Structured dialogue on financing”.

### **(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-eighth session in New York from 10 March to 21 March 2014.<sup>342</sup> In accordance with the multi-year programme of work adopted by the Economic and Social Council,<sup>343</sup> the priority theme of the Commission was “Challenges and achievements in the implementation of the Millennium Development Goals for women and girls”, and progress was evaluated in the implementation of the agreed conclusions from its fifty-fifth session on “Access and participation of women and girls in education, training, science and technology, including for the promotion of women’s equal access to full employment and decent work”. It further considered an emerging issue, “Women’s access to productive resources”.

During its fifty-eighth session, the Commission adopted three resolutions to be brought to the attention of the Economic and Social Council: resolution 58/1 entitled “Release of women and children taken hostage, including those subsequently imprisoned, in armed conflicts”; resolution 58/2 entitled “Gender equality and the empowerment of women in natural disasters”; and resolution 58/3 entitled “Women, the girl child and HIV and AIDS”.

### **(c) Economic and Social Council**

On 12 June 2014, the Economic and Social Council adopted resolution 2014/1 entitled “Situation of and assistance to Palestinian women”, and resolution 2014/2 entitled “Mainstreaming a gender perspective into all policies and programmes in the United Nations system”.

### **(d) General Assembly**

In 2014, the General Assembly adopted six resolutions relating to women and human rights.

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<sup>342</sup> Commission on the Status of Women, Report on the fifty-eighth session (10 March–21 March 2014), *Official Records of the Economic and Social Council, 2014 Supplement No. 7* (E/2014/27 and E/CN.6/2014/15).

<sup>343</sup> Economic and Social Council resolution 2009/15 of 28 July 2009.

On 2 December 2014, the General Assembly adopted resolution 69/61 entitled “Women, disarmament, non-proliferation and arms control”, on the recommendation of the First Committee, by a recorded vote of 183 in favour to none against, with no abstentions.

On 18 December 2014, the General Assembly adopted four resolutions, without a vote, on the recommendation of the Third Committee: resolution 69/147 entitled “Intensification of efforts to eliminate all forms of violence against women and girls”, resolution 69/149 entitled “Trafficking in women and girls”, resolution 69/150 entitled “Intensifying global efforts for the elimination of female genital mutilations”, and resolution 69/151 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”.

On 19 December 2014, the General Assembly adopted resolution 69/236 entitled “World Survey on the Role of Women in Development”, on the recommendation of the Second Committee, without a vote.

#### **(e) Security Council<sup>344</sup>**

On 28 October 2014, the President of the Security Council issued a statement in connection with consideration of the item “Women and peace and security”.<sup>345</sup>

### **7. Humanitarian matters**

#### **(a) Economic and Social Council**

On 25 June 2014, the Economic and Social Council adopted resolution 2014/13, entitled “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”, without a vote.

#### **(b) General Assembly**

On 5 December 2014, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 69/91 entitled “Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories”, by a recorded vote of 163 in favour to 7 against, with 9 abstentions.

On 10 December 2014, the General Assembly, on the recommendation of the Sixth Committee, adopted resolution 69/120 entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”, without a vote.<sup>346</sup>

On 12 December 2014, the General Assembly, without a reference to a Main Committee, adopted three resolutions on humanitarian affairs, without a vote: resolution 69/133

<sup>344</sup> See also subsection 2(h)(iii) regarding the Security Council and women and peace and security.

<sup>345</sup> S/PRST/2014/21.

<sup>346</sup> See also subsection 16 (c) on this item as dealt with by the Sixth Committee of the General Assembly.

entitled “Safety and security of humanitarian personnel and protection of United Nations personnel”, without a vote;<sup>347</sup> resolution 69/134 entitled “Twentieth anniversary of the participation of volunteers, “White Helmets”, in the activities of the United Nations in the field of humanitarian relief, rehabilitation and technical cooperation for development”, without a vote; and resolution 69/135 on “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”.<sup>348</sup>

On 19 December 2014, the General Assembly, on the recommendation of the Second Committee, adopted resolution 69/219 entitled “International Strategy for Disaster Reduction”, without a vote.

On 23 December 2014, the General Assembly, without a reference to a Main Committee, adopted resolution 69/243 entitled “International cooperation on humanitarian assistance in the field of natural disasters, from relief to development”, without a vote.<sup>349</sup>

## 8. Environment

### (a) United Nations Climate Change Conference in Lima

The United Nations Climate Change Conference was held in Lima, Peru, from 1 to 14 December 2014. The twentieth session of the Conference of States Parties to the United Nations Framework Convention on Climate Change, 1992,<sup>350</sup> and the tenth session of the Conference of the Parties serving as the meeting of Parties to the Kyoto Protocol, 1997,<sup>351</sup> were held during the Conference.

The Conference of States Parties to the United Nations Framework Convention on Climate Change adopted 24 decisions and one resolution.<sup>352</sup>

The Conference of the Parties serving as the meeting of Parties to the Kyoto Protocol adopted eight decisions and one resolution.<sup>353</sup> By decision 1/CMP.10, the Conference, *inter alia*, adopted the amendment to the terms and conditions of services to be provided by the International Bank for Reconstruction and Development (the World Bank) as trustee for the Adaptation Fund, on an interim basis, contained in the annex.<sup>354</sup>

### (b) Economic and Social Council

A number of developments related to the environment occurred in the work of the Economic and Social Council and its functional bodies in 2014.

<sup>347</sup> See also report of the Secretary-General on safety and security of humanitarian personnel and protection of United Nations personnel (A/69/406).

<sup>348</sup> See also the report of the Secretary-General on strengthening of the coordination of emergency humanitarian assistance of the United Nations (A/69/80–E/2014/68).

<sup>349</sup> See also the report of the Secretary-General on international cooperation on humanitarian assistance in the field of natural disasters, from relief to development (A/69/303).

<sup>350</sup> United Nations, *Treaty Series*, vol. 1771, p. 107.

<sup>351</sup> *Ibid.*, vol. 2303, p. 107.

<sup>352</sup> For the report of the Conference of the Parties, see FCCC/CP/2014/10 and Add.1 to 3.

<sup>353</sup> For the report of the Conference of the Parties, see FCCC/KP/CMP/2014/9 and Add.1.

<sup>354</sup> *Ibid.*, Add.1, p. 2.



The 2014 Annual Ministerial Review (AMR) was convened as part of the Economic and Social Council High-level Segment in July 2014 in New York. The theme of the 2014 AMR was “Addressing on-going and emerging challenges for meeting the Millennium Development Goals in 2015 and for sustaining development gains in the future”.<sup>355</sup> Moreover, the High-level Political Forum<sup>356</sup> on sustainable development was held from 30 June to 9 July 2014 in New York and adopted a Ministerial Declaration on the 2014 theme of the AMR.<sup>357</sup>

On 17 November 2014, the Economic and Social Council adopted resolution 2014/31 entitled “A global geodetic reference frame for sustainable development”.

### (c) General Assembly

On 2 December 2014, the General Assembly adopted, on the recommendation of the First Committee and without a vote, resolution 69/55 entitled “Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control”.

On 8 December 2014, the General Assembly adopted 69/108 entitled “Report of the Intergovernmental Committee of Experts on Sustainable Development Financing established pursuant to General Assembly resolution 66/288”, without reference to a Main Committee and without a vote.

On 19 December 2014, the General Assembly adopted, on the recommendation of the Second Committee and without a vote, the following resolutions related to the environment and sustainable development: resolution 69/211 entitled “Follow-up to the United Nations Decade of Education for Sustainable Development (2005–2014): Global Action Programme on Education for Sustainable Development”; resolution 69/212 entitled “Oil slick on Lebanese shores”; resolution 69/213 entitled “Role of transport and transit corridors in ensuring international cooperation for sustainable development”; resolution 69/214 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 69/215 entitled “International Decade for Action, “Water for Life”, 2005–2015, and further efforts to achieve the sustainable development of water resources”; resolution 69/216 entitled “Towards the sustainable development of the Caribbean Sea for present and future generations”; resolution 69/217 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”; resolution 69/218 entitled “International cooperation to reduce the impact of the El Niño phenomenon”; resolution 69/219 entitled “International Strategy for Disaster Reduction”; resolution 69/220 entitled “Protection of global climate for present and future generations of humankind”; resolution 69/221 entitled “Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa”; resolution 69/222 entitled “Implementation of the Convention on

<sup>355</sup> For more information on the 2014 Annual Ministerial Review, see [https://www.un.org/ecosoc/en/AMR\\_2014](https://www.un.org/ecosoc/en/AMR_2014).

<sup>356</sup> The Forum was established as a functional body of both the Economic and Social Council and the General Assembly. For more information, see <https://sustainabledevelopment.un.org/hlpf/2014>.

<sup>357</sup> E/HLPF/2014/2.

Biological Diversity and its contribution to sustainable development”; resolution 69/223 entitled “Report of the United Nations Environment Assembly of the United Nations Environment Programme”; resolution 69/224 entitled “Harmony with Nature”; resolution 69/225 entitled “Promotion of new and renewable sources of energy”; resolution 69/226 entitled “Promotion of new and renewable sources of energy”; resolution 69/226 entitled “Implementation of the outcome of the United Nations Conference on Human Settlements (Habitat II) and strengthening of the United Nations Human Settlements Programme (UN-Habitat)”; resolution 69/230 entitled “Culture and sustainable development”; and resolution 69/233 entitled “Promotion of sustainable tourism, including ecotourism, for poverty eradication and environment protection”.

## 9. Law of the Sea

### (a) Reports of the Secretary-General

Pursuant to paragraph 284 of General Assembly resolution 68/70 of 9 December 2013, the Secretary-General submitted a comprehensive report on oceans and the law of the sea<sup>358</sup> to the General Assembly at its sixty-ninth session under the agenda item entitled “Oceans and the law of the sea.” The report consisted of two parts.

The first part of the report<sup>359</sup> was prepared to facilitate discussions on the topic of focus of the fifteenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Informal Consultative Process), namely the role of seafood in global food security. It contained information on the importance of seafood as a key source of food and nutrition, as an input into the food production chain and as a source of revenue. It also provided information on the pressures on the role of seafood in global food security, such as overexploitation and other unsustainable practices, as well as other stressors on the marine environment, which affect the health, productivity and resilience of marine ecosystems. In addition, this part of the report highlights opportunities for and challenges to the future role of seafood in global food security.

The second part of the report<sup>360</sup> provided an overview of developments relating to the implementation of the United Nations Convention on the Law of the Sea (the “Convention”) and the work of the Organization, its specialized agencies and other institutions in the field of ocean affairs and the law of the sea. It outlined the work carried out in 2014 by the three bodies established by the Convention, namely the Commission on the Limits of the Continental Shelf (CLCS),<sup>361</sup> the International Seabed Authority (ISA),<sup>362</sup> and the International Tribunal for the Law of the Sea (ITLOS),<sup>363</sup> and included updates on the sta-

<sup>358</sup> A/69/71, A/69/71/Add.1.

<sup>359</sup> A/69/71.

<sup>360</sup> A/69/71/Add.1.

<sup>361</sup> *Ibid.*, chap. II(B). See also SPLOS/277/Chap. VII. For more information on the thirty-fourth (27 January–14 March 2014), thirty-fifth (21 July–5 September 2014), and thirty-sixth (20 October–28 November 2014) sessions of the CLCS, see CLCS/83, CLCS/85 and CLCS/86, respectively.

<sup>362</sup> *Ibid.*, paras. 8, 54, 55, 74, 87 and 92.

<sup>363</sup> *Ibid.*, paras. 8, 17 and 55. See also SPLOS/277/Chap. V. For the work of the Tribunal see chapter VII., part B of this publication.

tus of the Convention and its implementing Agreements, on declarations and statements made by States under articles 287, 298 and 310 of the Convention.<sup>364</sup> It also addressed State practice in relation to maritime spaces;<sup>365</sup> dispute settlement;<sup>366</sup> international shipping;<sup>367</sup> maritime security;<sup>368</sup> people at sea;<sup>369</sup> sustainable ocean-based economy;<sup>370</sup> the impacts of climate change and ocean acidification on oceans and their resources;<sup>371</sup> small island developing States and land-locked developing States;<sup>372</sup> marine science and technology;<sup>373</sup> capacity-building;<sup>374</sup> and international cooperation and coordination including developments related to the Informal Consultative Process and UN-Oceans.<sup>375</sup>

In the second part of the report, the Secretary-General also highlighted the need for international cooperation to enhance maritime security and to combat crimes at sea. In that regard, the report drew attention to the 2050 African Integrated Maritime Strategy which addresses a range of criminal activities at sea and encourages African Union member States to develop legal frameworks for coordinated State intervention at sea and for the prosecution of perpetrators engaged in these crimes.<sup>376</sup> Attention was also drawn to the European Union Maritime Security Strategy, which provides a framework for coherent development of policies and a common response to maritime threats and risks,<sup>377</sup> as well as to IMO resolution A.1069(28) on the prevention and suppression of piracy, armed robbery against ships and illicit maritime activity in the Gulf of Guinea,<sup>378</sup> and the 2014 IMO strategy for implementing sustainable maritime security measures in West and Central Africa, which is being implemented in cooperation with other partners such as the Counter-Terrorism Committee Executive Directorate.<sup>379</sup>

The second part of the report also provided information on the meetings 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, held in April and June 2014 within its mandate established by resolution 66/231 and in the light of resolution 67/78, in order to prepare for the decision to be taken at the sixty-ninth

<sup>364</sup> A/69/71/Add.1, chap. II(A).

<sup>365</sup> *Ibid.*, chap. II(C).

<sup>366</sup> *Ibid.*, chap. II(D).

<sup>367</sup> *Ibid.*, chap. III(A). See also section B.7 of this chapter regarding the work of the International Maritime Organization.

<sup>368</sup> *Ibid.*, chap. III(B).

<sup>369</sup> *Ibid.*, chap. IV. See also section A.12 regarding the work of the United Nations High Commissioner for Refugees, section B.1 regarding the work of the International Labour Organization, and section B.7 regarding the work of the International Maritime Organization, of this chapter.

<sup>370</sup> *Ibid.*, chap. V.

<sup>371</sup> *Ibid.*, chap. VI.

<sup>372</sup> *Ibid.*, chap. VII.

<sup>373</sup> *Ibid.*, chap. VIII.

<sup>374</sup> *Ibid.*, chap. IX.

<sup>375</sup> *Ibid.*, chap. X.

<sup>376</sup> See [pages.au.int/maritime/documents/2050-aim-strategy-0](http://pages.au.int/maritime/documents/2050-aim-strategy-0).

<sup>377</sup> See [ec.europa.eu/maritimeaffairs/policy/maritime-security/index\\_en.htm](http://ec.europa.eu/maritimeaffairs/policy/maritime-security/index_en.htm).

<sup>378</sup> See [http://www.imo.org/OurWork/Security/WestAfrica/Documents/A.1069\(28\).pdf](http://www.imo.org/OurWork/Security/WestAfrica/Documents/A.1069(28).pdf).

<sup>379</sup> See [www.imo.org/OurWork/Security/WestAfrica/Pages/WestAfrica.aspx](http://www.imo.org/OurWork/Security/WestAfrica/Pages/WestAfrica.aspx).

session of the Assembly, to make recommendations to the Assembly on the scope, parameters and feasibility of an international instrument under the United Nations Convention on the Law of the Sea.<sup>380</sup>

In relation to the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (the “Regular Process”), the second part of the report of the Secretary-General addressed the eight workshops in support of the Regular Process which identified the needs of States in contributing to and benefiting from the Regular Process, as well as information gaps. The draft of the first global integrated assessment (the “World Ocean Assessment”) was sent out for review in December 2014 and its summary is scheduled to be considered first by the Ad Hoc Working Group of the Whole of the Regular Process and then by the General Assembly at its seventieth session in 2015.

## **(b) Consideration by the General Assembly**

### **(i) *Oceans and law of the sea***

The General Assembly considered the agenda item entitled “Oceans and the law of the sea” on 9 and 29 December 2014, having before it the following documents: the report of the Secretary-General, and the reports on the work 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, 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, the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its fifteenth meeting and the twenty-fourth Meeting of States Parties to the Convention.

On 29 December 2014, the General Assembly adopted resolution 69/245 entitled “Oceans and the law of the sea”, by a recorded vote of 151 votes in favour and 1 against, with 3 abstentions.

### **(ii) *Sustainable fisheries***

At its meeting on 9 December 2014, the General Assembly also considered the agenda item “Oceans and the law of the sea: 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”. On the same date, the General Assembly, without reference to a Main Committee, adopted resolution 69/109 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”, without a vote.

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<sup>380</sup> A/69/71/Add.1, chap. V.C.

**(c) Consideration by the Meeting of States Parties to the United Nations Convention on the Law of the Sea**

The Secretary-General report was also submitted to the Meeting of States Parties to Convention, in accordance with article 319 thereof.<sup>381</sup> At their twenty-fourth Meeting, the States Parties addressed, *inter alia*, the role of the Convention in setting out the legal framework within which all activities in the oceans and seas must be carried out, the activities of the three institutions established under the Convention, the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, flag state jurisdiction and the role of seafood in global food security. The Meeting also recalled a wide range of issues of significance for governance of oceans and seas, including the challenges of illegal, unreported and unregulated fishing; pollution and degradation of the marine environment; climate change; and the disappearance of marine species, which affect the ecosystem balance in the oceans and therefore food security. Moreover, the Meeting commemorated the twentieth anniversary of the entry into force of the Convention.<sup>382</sup>

**10. Crime prevention and criminal justice<sup>383</sup>**

**(a) Conference of the Parties to the United Nations Convention against Transnational Organized Crime**

The seventh session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime was held in Vienna from 6 to 10 October 2014.<sup>384</sup> During the session, four resolutions and two decisions were adopted relating to the implementation of the Convention against Transnational Organized Crime, 2000,<sup>385</sup> and the Protocols thereto,<sup>386</sup> the implementation of the provisions concerning technical assistance of the Convention, and organizational issues concerning the eighth session of the Conference of the Parties, as well as future sessions.

**(b) Commission on Crime Prevention and Criminal Justice**

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, including combating

<sup>381</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363, art. 319.

<sup>382</sup> See SPLOS/277, Part IX.

<sup>383</sup> This section covers the sessions of the General Assembly, the Economic and Social Council and the Commission on Crime Prevention and Criminal Justice. 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>.

<sup>384</sup> For the report of the Conference, see CTOC/COP/2014/13.

<sup>385</sup> United Nations, *Treaty Series*, vol. 2225, p. 209.

<sup>386</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000 (*ibid.*, vol. 2237, p. 319), Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000 (*ibid.*, vol. 2241, p. 507) and Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, 2001 (*ibid.*, vol. 2326, p. 208).

national and transnational crime, covering 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 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-third session of the Commission was held in Vienna on 13 December 2013, from 12 to 16 May 2014 and from 4 to 5 December 2014, respectively. The main theme for the twenty-third session of the Commission was “The international cooperation in criminal matters”.<sup>387</sup>

In its annual report,<sup>388</sup> the Commission brought to the attention of the Economic and Social Council the following resolutions: resolution 23/1 entitled “Strengthening a targeted crime prevention and criminal justice response to combat illicit trafficking in forest products, including timber”; resolution 23/2 entitled “Preventing and combating trafficking in human organs and trafficking in persons for the purpose of organ removal”; resolution 23/3 entitled “Strengthening the development and implementation of the goAML system as a useful tool in implementing the United Nations crime prevention and criminal justice programme”; and resolution 23/4 entitled “Implementation of the budget for the biennium 2014–2015 for the United Nations Crime Prevention and Criminal Justice Fund”. The Commission 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.

### (c) Economic and Social Council

On 16 July 2014, the Economic and Social Council adopted, on the recommendation of the Commission on Crime Prevention and Criminal Justice, resolution 2014/21 “Strengthening social policies as a tool for crime prevention”, resolution 2014/22 entitled “Thirteenth United Nations Congress on Crime Prevention and Criminal Justice and the post-2015 development agenda”, and resolution 2014/23 entitled “Strengthening international cooperation in addressing the smuggling of migrants”.

On the same day, also on the recommendation of the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council adopted the following draft resolutions, recommending their adoption by the General Assembly: resolution 2014/15 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 2014/16 entitled “Standard Minimum Rules for the Treatment of Prisoners”; resolution 2014/17 entitled “International cooperation in criminal matters”; resolution 2014/18 entitled “United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention

<sup>387</sup> Economic and Social Council decision 2013/247 of 25 July 2013.

<sup>388</sup> *Official records of the Economic and Social Council 2014, Supplement No. 10* (E/2014/30–E/CN.15/2014/20) and *ibid.*, *Supplement No. 10A* (E/2014/30/Add.1–E/CN.15/2014/20/Add.1).

and Criminal Justice”; resolution 2014/19 entitled “Rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015”; and resolution 2014/20 entitled “International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences”.

#### **(d) General Assembly**

On 18 December 2014, the General Assembly adopted, on the recommendation of the Third Committee,<sup>389</sup> without a vote, the following resolutions under the agenda item entitled “Crime prevention and criminal justice”: resolution 69/191 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 69/192 entitled “Standard Minimum Rules for the Treatment of Prisoners”; resolution 69/193 entitled “International cooperation in criminal matters”; resolution 69/194 entitled “United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice”; resolution 69/195 entitled “Rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015”; resolution 69/196 entitled “International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences”; resolution 69/197 entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity”; resolution 69/198 entitled “United Nations African Institute for the Prevention of Crime and the Treatment of Offenders”; and resolution 69/199 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”.

### **11. International drug control**

#### **(a) Commission on Narcotic Drugs**

The Commission on Narcotic Drugs was established by the Economic and Social Council in its resolution 9 (I) of 16 February 1946 as a functional commission and as 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-seventh regular and reconvened session,<sup>390</sup> held in Vienna from on 13 December, from 13 to 21 March and from 3 to 5 December 2014, respectively, the

<sup>389</sup> For the report of the Third Committee, see A/69/489.

<sup>390</sup> For the report of the fifty-seventh session of the Commission on Narcotic Drugs, see *Official Records of the Economic and Social Council, 2014, Supplement No. 8* (E/2014/28–E/CN.7/2014/16) and *ibid.*, Supplement No. 8A (E/2014/28/Add.1–E/CN.7/2014/16/Add.1).



Commission adopted twelve resolutions regarding matters brought to the attention of the Economic and Social Council: resolution 57/1 “Promoting the implementation of the United Nations Guiding Principles on Alternative Development and proposal to organize an international seminar/workshop on the implementation of the Guiding Principles”; resolution 57/2 “Drug abuse prevention through sport: promoting a society free of drug abuse through sport and the Olympic ideal”; resolution 57/3 “Promoting prevention of drug abuse based on scientific evidence as an investment in the well-being of children, adolescents, youth, families and communities”; resolution 57/4 “Supporting recovery from substance use disorders”; resolution 57/5 “Special session of the General Assembly on the world drug problem to be held in 2016”; resolution 57/6 “Education and training on drug use disorders”; resolution 57/7 “Providing sufficient health services to individuals affected by substance use disorders during long-term and sustained economic downturns”; resolution 57/8 “Raising awareness and strengthening international cooperation in combating drug trafficking, which in some cases, misuses activities related to opium poppy seeds for illicit purposes, also produced from illicit opium poppy crops”; resolution 57/9 “Enhancing international cooperation in the identification and reporting of new psycho-active substances and incidents involving such substances”; resolution 57/10 “Preventing the diversion of ketamine from legal sources while ensuring its availability for medical use”; resolution 57/11 “Strengthening and expanding international cooperation to counter the threats posed by illicit production and manufacturing, trafficking and abuse of drugs in the Greater Mekong subregion”; and resolution 57/12 entitled “Implementation of the budget for the biennium 2014–2015 for the Fund of the United Nations International Drug Control Programme”.

### **(b) Economic and Social Council**

On 16 July 2014, the Economic and Social Council recommended to the General Assembly the adoption of draft resolution 2014/24, entitled “Special session of the General Assembly on the world drug problem to be held in 2016”, in which it, *inter alia*, decided that the special session shall be convened following the fifty-ninth session of the Commission, scheduled to be held in March 2016. It also decided that the special session on the world drug problem in 2016 shall have an inclusive preparatory process that includes extensive substantive consultations, allowing organs, entities and specialized agencies of the United Nations system, relevant international and regional organizations, civil society and other relevant stakeholders to fully contribute to the process, in accordance with the relevant rules of procedure and established practice. It further decided that the Commission, as the central policymaking body within the United Nations system dealing with drug-related matters, shall lead this process by addressing all organizational and substantive matters in an open-ended manner, and in this regard invites the President of the General Assembly to support, guide and stay involved in the process.

### **(c) General Assembly**

On 18 December 2014, the General Assembly adopted resolution 69/200 entitled “Special session of the General Assembly on the world drug problem to be held in 2016” on the recommendation of the Third Committee, without a vote.



On the same day, the General Assembly adopted resolution 69/201 entitled “International cooperation against the world drug problem”, on recommendation of the Third Committee, without a vote.

## 12. Refugees and displaced persons

### (a) Executive Committee of the Programme of the United Nations High Commissioner for Refugees<sup>391</sup>

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-fifth plenary session of the Executive Committee was held in Geneva from 29 September to 3 October 2014.<sup>392</sup>

### (b) General Assembly

On 4 June 2014, the General Assembly adopted, without reference to a Main Committee, resolution 68/274 entitled “Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”, by a recorded vote of 69 in favour and 13 against, with 70 abstentions.

On 5 December 2014, the General Assembly adopted the following resolutions on the recommendation of the Fourth Committee: resolution 69/86 entitled “Assistance to Palestine refugees”, by a recorded vote of 163 in favour and 1 against, with 10 abstentions; resolution 69/87 entitled “Persons displaced as a result of the June 1967 and subsequent hostilities”, by a recorded vote of 165 in favour and 7 against, with 6 abstentions; resolution 69/88 entitled “Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East”, by a recorded vote of 166 in favour and 6 against, with 6 abstentions; and resolution 69/89 entitled “Palestine refugees’ properties and their revenues”, by a recorded vote of 165 in favour and 7 against, with 6 abstentions.

On 18 December 2014, the General Assembly adopted, on the recommendation of the Third Committee, without a vote, resolution 69/152 entitled “Office of the United Nations High Commissioner for Refugees”; resolution 69/153 entitled “Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees”; and resolution 69/154 entitled “Assistance to refugees, returnees and displaced persons in Africa”.

<sup>391</sup> For detailed information and documents regarding this topic generally, see the website of the UNHCR at <http://www.unhcr.org>.

<sup>392</sup> For the report of the sixty-fourth session of the Executive Committee of the High Commissioner’s Programme, see A/AC.96/1143. For the report of the United Nations High Commissioner for Refugees on the activities of his Office, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 12 (A/69/12)*.

### 13. International Court of Justice<sup>393</sup>

#### (a) Organization of the Court

At the end of 2014, the composition of the Court was as follows:

President: Peter Tomka (Slovakia);

Vice-President: Bernardo Sepúlveda-Amor (Mexico);

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 Court<sup>394</sup>

In 2014, one declaration was made by Italy recognizing the compulsory jurisdiction of the Court, as contemplated by Article 36, paragraph 2, of the Statute. Thus, as of 31 December 2014, 71 States had recognized such compulsory jurisdiction.

<sup>393</sup> 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-ninth session, Supplement No. 4* (A/69/4) (for the period 1 August 2013 to 31 July 2014) and *ibid.*, *Seventieth Session, Supplement No. 4* (A/70/4) (for the period 1 August 2014 to 31 July 2015). See also the website of the Court at <http://www.icj-cij.org>.

<sup>394</sup> For further information regarding the acceptance of the compulsory jurisdiction of the International Court of Justice, see chap. I.4 of *Multilateral Treaties Deposited with the Secretary-General*, available on the website <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

### (c) General Assembly

On 30 October 2014, the General Assembly adopted decision 69/510 in which it took note of the report of the International Court of Justice for the period from 1 August 2013 to 31 July 2014.<sup>395</sup>

On 2 December 2014, the General Assembly adopted, on the recommendation of the First Committee, resolution 69/43 entitled “Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons”, by a recorded vote of 134 in favour, 23 against and 23 abstentions.

## 14. International Law Commission<sup>396</sup>

### (a) Membership of the Commission<sup>397</sup>

The membership of the International Law Commission at its sixty-sixth 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), Mr. Amos S. Wako (Kenya), Mr. Nugroho Wisnumurti (Indonesia), and Mr. Michael Wood (United Kingdom of Great Britain and Northern Ireland)

### (b) Sixty-sixth session of the International Law Commission

The International Law Commission held the first part of its sixty-sixth session from 5 May to 6 June 2014, and the second part of the session from 7 July to 8 August 2014, at its seat at the United Nations Office in Geneva.<sup>398</sup> The Commission continued its consideration of the following topics: “Expulsion of aliens”, “The obligation to extradite or prosecute (*aut dedere*”

<sup>395</sup> See *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 4 (A/69/4)*.

<sup>396</sup> 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/>.

<sup>397</sup> 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.

<sup>398</sup> For the report of the International Law Commission on the work at its sixty-sixth session, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*.

*aut judicare*)”, “Protection of persons in the event of disasters”, “Immunity of State officials from foreign criminal jurisdiction”, “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”, “The Most-Favoured-Nation clause”, “Provisional application of treaties”, “Identification of customary international law”, “Protection of the environment in relation to armed conflict”, and “Protection of the atmosphere”.

With regard to the topic “Expulsion of aliens”, the Commission adopted, on second reading, a set of 31 draft articles, together with commentaries thereto, on the expulsion of aliens. In accordance with article 23 of its Statute, the Commission recommended to the General Assembly to take note of the draft articles on the expulsion of aliens in a resolution, to annex the articles to the resolution, and to encourage their widest possible dissemination; and to consider, at a later stage, the elaboration of a convention on the basis of the draft articles.<sup>399</sup>

Concerning the topic “Protection of persons in the event of disasters”, the Commission had before it the seventh report of the Special Rapporteur which dealt with the protection of relief personnel and their equipment and goods, as well as the relationship of the draft articles with other rules, and included a proposal for the use of terms.<sup>400</sup> As a result of its consideration of the topic, the Commission adopted on first reading a set of 21 draft articles, together with commentaries thereto, on the protection of persons in the event of disasters.<sup>401</sup> The Commission decided, in accordance with articles 16 to 21 of its Statute, to transmit the draft articles, through the Secretary-General, to Governments, competent international organizations, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies for comments and observations, with the request that such comments and observations be submitted to the Secretary-General by 1 January 2016. The Commission also indicated that it would welcome comments and observations on the draft articles from the United Nations, including the Office for the Coordination of Humanitarian Affairs and the United Nations Office for Disaster Risk Reduction, by the same date.<sup>402</sup>

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. The Working Group continued to evaluate the work on this topic, particularly in the light of comments made in the Sixth Committee at the sixty-eighth session of the General Assembly on the 2013 report of the Working Group. On basis of the work of the Working Group, the Commission adopted the final report on the topic, and decided to conclude its consideration of the topic.<sup>403</sup>

As regards the topic “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”, the Commission had before it the second report of the Special Rapporteur, which contained, *inter alia*, six draft conclusions relating to the identification of subsequent agreements and subsequent practice, the possible effects of subsequent agreements and subsequent practice in interpretation, the forms and value of subsequent practice under article 31, paragraph 3 (b), of the 1969 Vienna Convention on the Law of Treaties,

<sup>399</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. IV.

<sup>400</sup> A/CN.4/668, Corr.1 and Add.1.

<sup>401</sup> A/CN.4/L.838 and Add.1.

<sup>402</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. V.

<sup>403</sup> *Ibid.*, chap. VI.

agreement of the parties regarding the interpretation of a treaty, decisions adopted within the framework of a Conference of States Parties, and the scope for interpretation by subsequent agreements and subsequent practice.<sup>404</sup> Following the debate in Plenary, the Commission decided to refer the six draft conclusions proposed by the Special Rapporteur to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted five draft conclusions,<sup>405</sup> together with commentaries thereto.<sup>406</sup>

With respect to the topic “Protection of the atmosphere”, the Commission considered the first report of the Special Rapporteur.<sup>407</sup> The report addressed the general objective of the project, including providing the rationale for work on the topic, delineating its general scope, identifying the relevant basic concepts and offering perspectives and approaches to be taken with respect to the subject; and presented three draft guidelines concerning (a) the definition of the term “atmosphere; (b) the scope of the draft guidelines; and (c) the legal status of the atmosphere. Following the debate in plenary, the referral of the draft guidelines to the Drafting Committee was deferred, at the request of the Special Rapporteur, until the following year.<sup>408</sup>

In relation to the topic “Immunity of State officials from foreign criminal jurisdiction”, the Commission considered the third report of the Special Rapporteur, in which, *inter alia*, draft article 2 (e), on the definition of State official, and draft article 5, on the beneficiaries of immunity *ratione materiae*, were presented.<sup>409</sup> Following the debate in plenary, the Commission decided to refer the two draft articles to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted draft article 2 (e), on the definition of State official, and draft article 5, on the persons enjoying immunity *ratione materiae*,<sup>410</sup> together with commentaries thereto.<sup>411</sup>

As regards the topic “Identification of customary international law”, the Commission had before it the second report of the Special Rapporteur, which, following an analysis of: the scope and outcome of the topic, the basic approach, as well as the two constituent elements of rules of customary international law, namely “a general practice” and “accepted as law” contained eleven draft conclusions.<sup>412</sup> Following the debate in Plenary, the Commission decided to refer the eleven draft conclusions proposed by the Special Rapporteur to the Drafting Committee. The Commission took note of the interim report of the Chair of the Drafting Committee, including the eight draft conclusions provisionally adopted by the Committee, which was submitted to the Commission for information.<sup>413</sup>

Concerning the topic “Protection of the environment in relation to armed conflicts”, the Commission had before it the preliminary report of the Special Rapporteur, which,

<sup>404</sup> A/CN.4/671.

<sup>405</sup> A/CN.4/L.833.

<sup>406</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. VII.

<sup>407</sup> A/CN.4/667.

<sup>408</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. VIII.

<sup>409</sup> A/CN.4/673.

<sup>410</sup> A/CN.4/L.850.

<sup>411</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. IX.

<sup>412</sup> A/CN.4/672.

<sup>413</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. X.

*inter alia*, presented an overview of views expressed by delegates in the Sixth Committee of the General Assembly, practice of States and international organizations, scope and methodology, use of terms, environmental principles, and issues relating to human and indigenous rights.<sup>414</sup> The debate in the plenary addressed, among other issues, scope and methodology, use of terms, environmental principles, and human and indigenous rights.<sup>415</sup>

In relation to the topic “Provisional application of treaties”, the Commission had before it the second report of the Special Rapporteur that sought to provide a substantive analysis of the legal effects of the provisional application of treaties.<sup>416</sup> The debate revealed broad agreement that the basic premise underlying the topic was that, subject to the specificities of the treaty in question, the rights and obligations of a State which had decided to provisionally apply the treaty, or parts thereof, were the same as if the treaty were in force for that State.<sup>417</sup>

Concerning the topic “The Most-Favoured-Nation clause”, the Commission reconstituted the Study Group on the topic. The Study Group began its consideration of the draft final report, prepared by its Chair, based on the working papers and other informal documents that had been considered by the Study Group in the course of its work since it began deliberations in 2009. The Study Group envisaged a revised draft final report to be presented for consideration at the sixty-seventh session of the Commission in 2015, taking into account comments made and amendments proposed by individual members of the Study Group during the present session.<sup>418</sup>

The Commission established a Planning Group to consider its programme, procedures and working methods.<sup>419</sup> The Commission decided to include the topic “Crimes against humanity” in its programme of work, and to appoint Mr. Sean D. Murphy as Special Rapporteur for the topic.<sup>420</sup> The Commission decided to include the topic “*Jus cogens*” in its long-term programme of work. The Commission endorsed the review and update of the list of possible topics, using the 1996 illustrative general scheme of topics<sup>421</sup> list as a starting point for that purpose. In this connection, it requested the Secretariat to review the 1996 list in the light of subsequent developments and prepare a list of potential topics (“survey”), accompanied by brief explanatory notes, by the end of the present quinquennium. It was understood that the Working Group on the long-term programme of work would continue to consider any topics that members may propose.<sup>422</sup>

<sup>414</sup> A/CN.4/674 and Corr.1.

<sup>415</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. XI.

<sup>416</sup> A/CN.4/675.

<sup>417</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. XII.

<sup>418</sup> *Ibid.*, chap. XIII.

<sup>419</sup> *Ibid.*, chap. XIV, sect. A.

<sup>420</sup> *Ibid.*, chap. XIV, sect. A.1.

<sup>421</sup> *Yearbook of the International Law Commission, 1996*, vol. II (Part Two), annex II.

<sup>422</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 10 (A/69/10)*, chap. XIV, sect. A.2.

### (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-sixth session” at the 19th to 27th and 29th meetings on 27, 28, 29, 31 October, and 3, 5 and 14 November 2014.<sup>423</sup> The Chair of the International Law Commission at its sixty-sixth session introduced the report of the Commission on the work of that session: chapters I to V and XIV at the 19th meeting, on 27 October, chapters VI to IX at the 21st meeting, on 29 October, and chapters X to XIII at the 25th meeting, on 3 November 2014.

At the 29th meeting, on 14 November 2014, the representative of Peru, on behalf of the Bureau, introduced two draft resolutions entitled “Report of the International Law Commission on the work of its sixty-sixth session”<sup>424</sup> and “Expulsion of aliens”.<sup>425</sup> At the same meeting, the Committee adopted the two draft resolutions without a vote.

### (d) General Assembly

On 10 December 2014, the General Assembly adopted resolution 69/118 entitled “Report of the International Law Commission on the work of its sixty-sixth session”, on the recommendation of the Sixth Committee, without a vote.

On the same date, the General Assembly also adopted resolution 69/118 entitled “Expulsion of aliens”, on the recommendation of the Sixth Committee, without a vote. The General Assembly took note of the recommendation of the International Law Commission contained in paragraph 42 of its report on the work of its sixty-sixth session,<sup>426</sup> and decided that the consideration of this recommendation shall be continued at the seventy-second session of the General Assembly.

## 15. United Nations Commission on International Trade Law<sup>427</sup>

### (a) Forty-seventh session of the Commission

The United Nations Commission on International Trade Law (UNCITRAL) held its forty-seventh session in New York from 7 to 18 July 2014.<sup>428</sup>

At the session, the Commission finalized and approved a draft convention on transparency in treaty-based investor-State arbitration and submitted it to the General Assembly for consideration and adoption, on its basis, a United Nations Convention on Transparency in Treaty-Based Investor-State Arbitration.<sup>429</sup>

<sup>423</sup> For the Report of the Sixth Committee, see A/69/498. For the summary records, see A/C.6/69/SR.19–27 and 29.

<sup>424</sup> A/C.6/69/L.14.

<sup>425</sup> A/C.6/69/L.15.

<sup>426</sup> *Ibid.*

<sup>427</sup> For the membership of the United Nations Commission on International Trade Law, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* (A/69/17), para. 4.

<sup>428</sup> *Ibid.*, paras. 1 and 12.

<sup>429</sup> *Ibid.*, para. 106.



Also at the session, the Commission reiterated its mandate to its secretariat to establish and operate the Transparency Registry under article 8 of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration<sup>430</sup>, initially as a pilot project, and, to that end, to seek any necessary funding.<sup>431</sup> It also authorized to publish a “UNCITRAL Secretariat Guide on the New York Convention”, including electronically, in the six official languages of the United Nations<sup>432</sup> with a disclaimer that “[t]he Guide is a product of the work of the Secretariat based on expert input, and was not substantively discussed by the Commission. Accordingly, the Guide did not purport to reflect the views or opinions of UNCITRAL member States and did not constitute an official interpretation of the New York Convention.”<sup>433</sup>

As regards future work in the field of settlement of commercial disputes, the Commission agreed that its Working Group II (Arbitration and Conciliation) should consider at its sixty-first and, if necessary, sixty-second sessions, the revision of the UNCITRAL Notes on Organizing Arbitral Proceedings (1996).<sup>434</sup> The Commission further agreed that the Working Group should also consider at its sixty-second session the issue of enforcement of international settlement agreements resulting from conciliation proceedings and should report to the Commission at its forty-eighth session, in 2015, on the feasibility and possible form of work in that area.<sup>435</sup> The Commission further agreed that the Secretariat should explore the issue of concurrent proceedings in close co-operation with experts from other organizations working actively in that area. That work should focus on treaty-based investor-State arbitration, without disregarding the issue in the context of international commercial arbitration.<sup>436</sup>

The Commission recalled its decision at its forty-sixth session, in 2013, to entrust Working Group I with work aimed at reducing the legal obstacles encountered by micro-, small- and medium-sized enterprises (MSMEs) throughout their life cycle, in particular, in developing economies.<sup>437</sup> After discussion, the Commission reaffirmed the mandate of the Working Group, as expressed in the report of the Commission’s forty-sixth session.<sup>438</sup>

The Commission recalled its decision at its forty-third session, in 2010, to entrust Working Group III to undertake work in the field of online dispute resolution (ODR) relating to cross-border electronic transactions.<sup>439</sup> After discussion, the Commission reaffirmed its understanding of the Working Group’s mandate, as expressed at the forty-fifth and forty-sixth sessions of the Commission in relation to low-value, high-volume transactions, encouraging the Working Group to continue to conduct its work in the most efficient manner possible.<sup>440</sup>

<sup>430</sup> *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, annex I.

<sup>431</sup> *Ibid.*, *Sixty-ninth Session, Supplement No. 17 (A/69/17)*, paras. 107 and 110.

<sup>432</sup> *Ibid.*, para. 117.

<sup>433</sup> *Ibid.*, para. 116.

<sup>434</sup> *UNCITRAL Yearbook*, vol. XXVII: 1996, part three, annex II.

<sup>435</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17 (A/69/17)*, paras. 128 and 129.

<sup>436</sup> *Ibid.*, para. 130.

<sup>437</sup> *Ibid.*, para. 131.

<sup>438</sup> *Ibid.*, para. 134.

<sup>439</sup> *Ibid.*, para. 135.

<sup>440</sup> *Ibid.*, paras. 139 and 140.



The Commission recalled that at its forty-fourth session, in 2011, it had mandated Working Group IV (Electronic Commerce) to undertake work in the field of electronic transferable records.<sup>441</sup> After discussion, the Commission reaffirmed the mandate of the Working Group to develop a legislative text on electronic transferable records.<sup>442</sup> With respect to possible future work in the area of electronic commerce, the Commission requested the Secretariat to continue reporting to the Commission on relevant developments particularly by compiling information on cloud computing, identity management, use of mobile devices in electronic commerce and single window facilities.<sup>443</sup> As regards cloud computing, it was generally agreed that the Secretariat should be given a mandate broad enough to enable it to gather as much information as possible for the Commission to consider cloud computing as a possible topic at a future session; the scope of any future work on that subject would have to be determined by the Commission at a later stage.<sup>444</sup>

The Commission expressed support for continuing the current work of Working Group V (Insolvency Law) on insolvency of enterprise groups with a view to bringing it to a conclusion at an early date. There was support for the suggestion that, in addition to that topic, the Working Group's other priority should be to develop a model law or model legislative provisions to provide for the recognition and enforcement of insolvency-derived judgments, which was said to be an important area for which no explicit guidance was contained in the UNCITRAL Model Law on Cross-Border Insolvency.<sup>445</sup> The Commission approved a mandate accordingly.<sup>446</sup>

With respect to the ongoing work of Working Group VI (Security Interests) on a model law on secured transactions, the Commission acknowledged the importance of modern secured transactions law for the availability and cost of credit and the need for urgent guidance to States, in particular those with developing economies and economies in transition. The Commission thus requested the Working Group to expedite its work so as to complete the draft model law, and to submit it to the Commission for adoption together with a guide to enactment as soon as possible.<sup>447</sup>

The Commission also continued consideration of its technical assistance to law reform activities,<sup>448</sup> promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts,<sup>449</sup> the status and promotion of UNCITRAL texts,<sup>450</sup> measures aimed at coordination and cooperation with other organizations active in the field of international trade law,<sup>451</sup> in particular in the area of security interests,<sup>452</sup>

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<sup>441</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17 (A/69/17)*, para. 141.

<sup>442</sup> *Ibid.*, para. 149.

<sup>443</sup> *Ibid.*, paras. 149 and 150.

<sup>444</sup> *Ibid.*, para. 147.

<sup>445</sup> General Assembly resolution 52/158, annex.

<sup>446</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17 (A/69/17)*, para. 155.

<sup>447</sup> *Ibid.*, paras. 160 and 163.

<sup>448</sup> *Ibid.*, paras. 164–169.

<sup>449</sup> *Ibid.*, paras. 170–176.

<sup>450</sup> *Ibid.*, paras. 177–181.

<sup>451</sup> *Ibid.*, paras. 182–207.

<sup>452</sup> *Ibid.*, paras. 185–190.

its regional presence,<sup>453</sup> the role of UNCITRAL in promoting the rule of law at the national and international levels<sup>454</sup> and the planned and possible future work,<sup>455</sup> among other items.<sup>456</sup> The Commission also took note of relevant General Assembly resolutions.<sup>457</sup>

### (b) Sixth Committee

The Sixth Committee considered the item “Report of the United Nations Commission on International Trade Law on the work of its forty-seventh session” at its 8th, 22nd and 24th meetings, on 13, 29 and 31 October 2014.<sup>458</sup> For its consideration of the item, the Committee had before it the report of the Commission on the work of its forty seventh sessions.

At the 8th meeting, on 13 October, the Chair of UNCITRAL at its forty-seventh session introduced the report of the Commission.

At the 22nd meeting, on 29 October, the representative of Austria, on behalf of several States, introduced a draft resolution entitled “Report of the United Nations Commission on International Trade Law on the work of its forty-seventh session”.<sup>459</sup> At the same meeting, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled “United Nations Convention on Transparency in Treaty-based Investor-State Arbitration”.<sup>460</sup> At its 24th meeting, on 31 October, the Committee adopted the draft resolutions without a vote.

### (c) General Assembly

On 10 December 2014, the General Assembly adopted resolution 69/115 on the report of the Commission on the work of its forty-seventh session, on the recommendation of the Sixth Committee, without a vote.<sup>461</sup>

On the same date, the General Assembly, by its resolution 69/116, adopted the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration,<sup>462</sup> on the recommendation of the Sixth Committee, without a vote, and authorized a ceremony for the opening for signature of the Convention to be held in Port Louis on 17 March 2015. By the same resolution, the General Assembly recommended that the Convention be known as the “Mauritius Convention on Transparency”.

<sup>453</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17 (A/69/17)*, paras. 208–214.

<sup>454</sup> *Ibid.*, paras. 215–240.

<sup>455</sup> *Ibid.*, paras. 241–266.

<sup>456</sup> *Ibid.*, paras. 269–294.

<sup>457</sup> *Ibid.*, para. 267–268.

<sup>458</sup> For the report of the Sixth Committee. See A/69/496. For the summary records, see A/C.6/67/SR.8, 22 and 24.

<sup>459</sup> A/C.6/69/L.5.

<sup>460</sup> A/C.6/69/L.6.

<sup>461</sup> Report of the Sixth Committee (A/69/496).

<sup>462</sup> General Assembly resolution 69/116, annex.

## 16. Legal questions dealt with by the Sixth Committee and other related subsidiary bodies of the General Assembly

During the sixty-ninth session of the General Assembly, the Sixth Committee (Legal), in addition to the topics discussed above concerning the International Law Commission and the United Nations Commission on International Trade Law, considered a range of topics.<sup>463</sup> The resolutions and decisions of the General Assembly described in this section were all adopted, without a vote, during the sixty-ninth session, on 10 December 2014, on the recommendation of the Sixth Committee.<sup>464</sup>

### (a) 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.<sup>465</sup>

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,<sup>466</sup> submitted pursuant to General Assembly resolution 59/300.<sup>467</sup> 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 General Assembly under the agenda item entitled “Criminal Accountability of United Nations officials and experts on mission”.<sup>468</sup> The General Assembly considered this item at its sixty-second to sixty-eighth sessions.

<sup>463</sup> 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/69/69\\_session.shtml](http://www.un.org/en/ga/sixth/69/69_session.shtml).

<sup>464</sup> The Sixth Committee adopts drafts 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.

<sup>465</sup> General Assembly resolution 2006 (XIX) of 18 February 1965.

<sup>466</sup> A/60/980.

<sup>467</sup> General Assembly decision 61/503A of 13 September 2006.

<sup>468</sup> The Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission was 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/](http://legal.un.org/committees/criminal_accountability/).

(i) *Sixth Committee*

During the sixty-ninth session of the General Assembly, the Six Committee considered the item at its 17th, 27th and 28th meetings, on 22 October and on 5 and 7 November 2014<sup>469</sup>. For its consideration of the item, the Committee had before it the report of the Secretary-General on this topic.<sup>470</sup>

At the 27th meeting, on 5 November, the representative of Pakistan, on behalf of the Bureau, introduced a draft resolution entitled “Criminal accountability of United Nations officials and experts on mission”.<sup>471</sup> At its 28th meeting, on 7 November, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/114 entitled “Criminal accountability of United Nations officials and experts on mission”. The General Assembly reiterated its decision that, bearing in mind its resolutions 62/63 and 63/119, the consideration of the report of the Group of Legal Experts, 4 in particular its legal aspects, taking into account the views of Member States and also noting the inputs by the Secretariat, should be continued during its seventieth session in the framework of a working group of the Sixth Committee, and, for that purpose, invited further comments from Member States on that report, including on the question of future action. The Assembly *inter alia* decided to include the item in the provisional agenda of its seventieth session.

**(b) 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 1965,<sup>472</sup> 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 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.

<sup>469</sup> For the report of the Sixth Committee, see A/69/495. For the summary records, see A/C.6/69/SR.17, 27 and 28.

<sup>470</sup> A/69/210.

<sup>471</sup> A/C.6/69/L.11.

<sup>472</sup> General Assembly resolution 2099 (XX) of 20 December 1965. For further information on the Programme of Assistance, see <http://legal.un.org/poa/>.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 13th, 14th, 22nd and 24th meetings, on 17, 20, 29 and 31 October 2014.<sup>473</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General,<sup>474</sup> as well as a letter dated 29 August 2014 from the Permanent Representative of Mauritania to the United Nations addressed to the Secretary-General, in his capacity as the then representative of the current Chair of the African Union.<sup>475</sup>

At the 22nd meeting, on 29 October, 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”.<sup>476</sup> At its 24th meeting, on 31 October, the Committee adopted the draft resolution, without a vote.

(ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution entitled “United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law”. The General Assembly requested the Secretary-General to include additional resources under the proposed programme budget for the biennium 2016–2017 for the organization of the Regional Courses in International Law for Africa, for Asia-Pacific and for Latin America and the Caribbean each year, and for the continuation and further development of the Audiovisual Library of International Law. It also requested the Secretary-General to include in the regular budget, for consideration by the Assembly, the necessary funding for the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea with effect from the biennium 2016–2017, should voluntary contributions be insufficient for granting at least one fellowship a year. The General Assembly decided to include the item in the provisional agenda of its seventieth session.

**(c) Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts**

This item was included in the agenda of the thirty-seventh session of the General Assembly, in 1982, at the request of Denmark, Finland, Norway and Sweden.<sup>477</sup> The General Assembly considered the question biennially at its thirty-seventh to sixty-seventh sessions.

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<sup>473</sup> For the report of the Sixth Committee, see A/69/497. For the summary records, see A/C.6/69/SR.13, 14, 22 and 24.

<sup>474</sup> A/69/516 and Add.1.

<sup>475</sup> A/69/524.

<sup>476</sup> A/C.6/69/L.7.

<sup>477</sup> A/37/142.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 14th, 15th and 29th meetings, on 20 and 21 October and 14 November 2014.<sup>478</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General.<sup>479</sup>

At the 29th meeting, on 14 November 2014, the representative of Sweden, on behalf of several States, introduced a draft resolution entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”.<sup>480</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/120 entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”. The Assembly *inter alia* decided to include the item in the provisional agenda of its seventy-first session.

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

This item was included in the agenda of the thirty-fifth session of the General Assembly, in 1980, at the request of Denmark, Finland, Iceland, Norway and Sweden.<sup>481</sup> The General Assembly considered the item annually at its thirty-sixth to forty-third sessions, and biennially thereafter.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 15th and 29th meetings, on 21 October and 14 November 2014.<sup>482</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General.<sup>483</sup>

At the 29th meeting, on 14 November, the representative of Finland, on behalf of several States, introduced a draft resolution entitled “Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives”.<sup>484</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

<sup>478</sup> For the report of the Sixth Committee, see A/69/499. For the summary records, see A/C.6/69/SR.14, 15 and 29.

<sup>479</sup> A/69/184 and Add.1.

<sup>480</sup> A/C.6/69/L.12.

<sup>481</sup> A/35/142.

<sup>482</sup> For the report of the Sixth Committee, see A/69/500. For the summary records, see A/C.6/69/SR.15 and 29.

<sup>483</sup> A/69/185 and Add.1.

<sup>484</sup> A/C.6/69/L.18.

(ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/121 entitled “Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives”. The Assembly decided to include the item in the provisional agenda of its seventy-first session.

(e) **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*<sup>485</sup>

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.<sup>486</sup>

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 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.<sup>487</sup>

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.<sup>488</sup>

At its thirtieth session, 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.<sup>489</sup> Since its thirtieth session, the General Assembly has considered the report of the Special Committee every year.

The Special Committee met at United Nations Headquarters from 18 to 26 February 2014.<sup>490</sup> The issues considered by the Special Committee during its 2014 session in rela-

<sup>485</sup> 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 from <http://legal.un.org/committees/charter/>.

<sup>486</sup> A/7659.

<sup>487</sup> General Assembly resolution 3349 (XXIX) of 17 December 1974.

<sup>488</sup> A/8792.

<sup>489</sup> General Assembly resolution 3499 (XXX) of 15 December 1975.

<sup>490</sup> For the report of the Special Committee, see *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 33* (A/69/33).

tion to the item “Maintenance of international peace and security” were: (i) 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”,<sup>491</sup> (ii) 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,<sup>492</sup> (iii) 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”,<sup>493</sup> (iv) a revised working paper submitted by Belarus and the Russian Federation at the 2005 session,<sup>494</sup> and (v) 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”.<sup>495</sup>

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”.

## (ii) Sixth Committee

The Sixth Committee considered the item at its 9th and 29th meetings, on 14 October and 14 November 2014.<sup>496</sup> For its consideration of the item, the Sixth Committee had before it the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,<sup>497</sup> the report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions,<sup>498</sup> and the Report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.<sup>499</sup>

At the 29th meeting, on 14 November, 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”.<sup>500</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

<sup>491</sup> A/68/226.

<sup>492</sup> *Official Records of the General Assembly, Fifty-third Session, Supplement No. 33 (A/53/33)*, para. 98.

<sup>493</sup> *Ibid.*, *Sixty-sixth Session, Supplement No. 33 (A/66/33)*, annex.

<sup>494</sup> *Ibid.*, *Sixtieth Session, Supplement No. 33 (A/60/33)*, para. 56.

<sup>495</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 33 (A/67/33)*, annex.

<sup>496</sup> For the report of the Sixth Committee, see A/69/501. For the summary records, see A/C.6/69/SR.9 and 29.

<sup>497</sup> *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 33 (A/69/33)*.

<sup>498</sup> A/69/119.

<sup>499</sup> A/69/159.

<sup>500</sup> A/C.6/69/L.13.



(iii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/122 entitled “Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization”. The Assembly further decided to include the item in the provisional agenda of its seventieth session.

(f) **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.<sup>501</sup> The General Assembly considered the item from its sixty-first to its sixty-eighth sessions.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 4th, 5th, 6th, 7th, 8th and 29th meetings, on 9, 10 and 13 October and on 14 November 2014.<sup>502</sup> For its consideration of the item, the Committee had before it the reports of the Secretary-General on strengthening and coordinating United Nations rule of law activities.<sup>503</sup>

At the 29th meeting, on 14 November, the representative of Liechtenstein, on behalf of the Bureau, introduced a draft resolution entitled “The rule of law at the national and international levels”.<sup>504</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/123 entitled “The rule of law at the national and international levels”. The Assembly further decided to include the item in the provisional agenda of its seventieth session and invite Member States to focus their comments in the upcoming Sixth Committee debate on the subtopic “The role of multilateral treaty processes in promoting and advancing the rule of law”.

(g) **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.<sup>505</sup> The General Assembly considered the item at its sixty-fourth to sixty-eighth sessions.

<sup>501</sup> A/61/142.

<sup>502</sup> For the report of the Sixth Committee, see A/69/502. For the summary records, see A/C.6/69/SR.4, 5, 6, 8 and 29.

<sup>503</sup> A/68/213/Add.1 and A/69/181.

<sup>504</sup> A/C.6/69/L.20.

<sup>505</sup> A/63/237/Rev.1.

### (i) *Sixth Committee*

The Sixth Committee considered the item at its 11th, 12th, and 28th meetings, on 15 October and on 7 November 2014.<sup>506</sup> 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 to sixty-ninth sessions.<sup>507</sup>

At its 1st meeting, on 7 October, the Committee established a working group pursuant to General Assembly resolution 68/117 to continue to undertake a thorough discussion of the scope and application of the principle of universal jurisdiction. At its 12th meeting, on 15 October, it elected Ms. Georgina Guillén-Grillo (Costa Rica) Chair of the Working Group. In its resolution 68/117, the Assembly decided that the Working Group should be open to all Member States and that relevant observers to the Assembly would be invited to participate in its work. The Working Group held three meetings, on 16, 17 and 23 October. At its 28th meeting, on 7 November, the Sixth Committee heard and took note of the oral report of the Chair of the Working Group.<sup>508</sup>

At the 28th meeting, on 7 November, the representative of the Democratic Republic of the Congo, on behalf of the Bureau, introduced a draft resolution entitled “The scope and application of the principle of universal jurisdiction”.<sup>509</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

### (ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/124 entitled “The scope and application of the principle of universal jurisdiction”. The 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. For this purpose, a working group would be established at the seventieth session to continue to undertake a thorough discussion of the scope and application of universal jurisdiction. The 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 the work of the Working Group. The Assembly further decided to include the item in the provisional agenda of its seventieth session.

## (h) *Effects of armed conflicts on treaties*

At its sixty-sixth session, in 2011, the General Assembly, under the item entitled “Report of the International Law Commission on the work of its sixty-third session”, considered chapter VI of the report of the Commission which contained the draft articles on effects of armed conflicts on treaties together with a recommendation that the Assembly take note of the draft articles and that it consider, at a later stage, the elaboration of a

<sup>506</sup> For the report of the Sixth Committee, see A/69/503. For the summary records, see A/C.6/69/SR.11, 12 and 28.

<sup>507</sup> A/65/181, A/66/93 and Add.1, A/67/116, A/68/113 and A/69/174.

<sup>508</sup> A/C.6/69/SR.28.

<sup>509</sup> A/C.6/69/L.8.

convention on the basis of the draft articles. The Assembly took note of the articles, the text of which was annexed to resolution 66/99 of 9 December 2011, and commended them to the attention of Governments without prejudice to the question of their future adoption or other appropriate action. In the same resolution, the General Assembly also decided to include in the provisional agenda of its sixty-ninth session an item entitled “Effects of armed conflicts on treaties” with a view to examining, *inter alia*, the question of the form that might be given to the articles.

#### (i) *Sixth Committee*

The Sixth Committee considered the item at its 18th, 27th and 28th meetings, on 23 October and 5 and 7 November 2014.<sup>510</sup>

At the 27th meeting, on 5 November 2014, the representative of the Czech Republic, on behalf of the Bureau, introduced a draft resolution entitled “Effects of armed conflicts on treaties”.<sup>511</sup> At the 28th meeting, on 7 November 2014, the Committee adopted the draft resolution without a vote.

#### (ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/125 entitled “Effects of armed conflicts on treaties”. The Assembly decided to include the item in the provisional agenda of its seventieth session with a view to examining, *inter alia*, the question of the form that might be given to the articles.

### (i) **Responsibility of international organizations**

At its sixty-sixth session, in 2011, the General Assembly, under the item entitled “Report of the International Law Commission on the work of its sixty-third session”, considered chapter V of the report of the Commission, which contained the draft articles on responsibility of international organizations together with a recommendation that the Assembly take note of the draft articles and that it consider, at a later stage, the elaboration of a convention on the basis of the draft articles. The Assembly took note of the articles, the text of which was annexed to resolution 66/100 of 9 December 2011, and commended them to the attention of Governments and international organizations without prejudice to the question of their future adoption or other appropriate action. In the same resolution, the General Assembly decided to include in the provisional agenda of its sixty-ninth session an item entitled “Responsibility of international organizations”, with a view to examining, *inter alia*, the question of the form that might be given to the articles.

<sup>510</sup> For the report of the Sixth Committee, see A/69/504. For the summary records, see A/C.6/69/SR.18, 27 and 28.

<sup>511</sup> A/C.6/69/L.9.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 18th, 27th and 28th meetings, on 23 October and 5 and 7 November 2014, respectively.<sup>512</sup>

At the 27th meeting, on 5 November 2014, the representative of Brazil, on behalf of the Bureau, introduced a draft resolution entitled “Responsibility of international organizations”.<sup>513</sup> At the 28th meeting, on 7 November 2014, the Committee adopted draft resolution A/C.6/69/L.10 without a vote.

(ii) *General Assembly*

On 10 December 2014, the General Assembly resolution 69/126 entitled “Responsibility of international organizations”. The Assembly decided to include this item in the provisional agenda of its seventy-second session with a view to examining, *inter alia*, the question of the form that might be given to the articles.

(j) **Measures to eliminate international terrorism**

This item was included in the agenda of the twenty-seventh session of the General Assembly, in 1972, further to an initiative of the Secretary-General.<sup>514</sup> At that session, the General Assembly decided to establish the Ad Hoc Committee on International Terrorism, consisting of 35 members.<sup>515</sup>

At its fifty-first session, the General Assembly 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 conventions dealing with international terrorism.<sup>516</sup> Through the work of the Committee, the General Assembly has thus far adopted three counter-terrorism instruments.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 1st, 2nd, 3rd, 4th, 28th and 29th meetings, on 7, 8, 9 October and on 7 and 14 November.<sup>517</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General on measures to eliminate international terrorism.<sup>518</sup>

<sup>512</sup> For the report of the Sixth Committee, see A/69/505. For the summary records, see A/C.6/69/SR.18, 27 and 28.

<sup>513</sup> A/C.6/69/L.10.

<sup>514</sup> A/8791 and Add.1 and Add.1/Corr.1.

<sup>515</sup> General Assembly resolution 3034 (XXVII) of 18 December 1972.

<sup>516</sup> General Assembly resolution 51/210 of 16 January 1997.

<sup>517</sup> For the report of the Sixth Committee, see A/69/506. For the summary records, see A/C.6/69/SR.1–4, 28 and 29.

<sup>518</sup> A/69/209.

Pursuant to General Assembly resolution 68/119 of 16 December 2013, the Committee at its 1st meeting on 7 October 2014, established a Working Group on measures to eliminate international terrorism with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations. The Committee elected Mr. Rohan Perera (Sri Lanka) as the Chair of the Working Group. The Working Group was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.<sup>519</sup> The Working Group held three meetings, on 24 October, and on 4 and 5 November. It also held informal consultations on 24 October, and on 4 and 5 November. At its 28th meeting, on 7 November, the Committee heard and took note of the oral report by the Chair of the Working Group on the work of the Working Group and on the results of the informal consultations held during the current session.<sup>520</sup>

At the 29th meeting, on 14 November, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled “Measures to eliminate international terrorism”.<sup>521</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

### (ii) *General Assembly*

On 10 December 2014, the General Assembly adopted resolution 69/127 entitled “Measures to eliminate international terrorism”. The General Assembly decided, taking into account the recommendation of the Working Group of the Sixth Committee, that more time was required to achieve substantive progress on the outstanding issues, to recommend that the Sixth Committee, at the seventieth 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 discussions on the item included in its agenda by Assembly resolution 54/110, while encouraging all Member States to redouble their efforts during the intersessional period towards resolving any outstanding issues. The Assembly decided to include the item in the provisional agenda of its seventieth session.

### (k) *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.<sup>522</sup> The General Assembly had previously considered the question at its forty-sixth to forty-eighth, fifty-second to fifty-third and fifty-fifth<sup>523</sup> to sixty-eighth sessions.

At its 2nd plenary meeting, on 19 September 2014, the General Assembly, on the recommendation of the General Committee, decided to allocate the item to all the Main

<sup>519</sup> See A/C.6/69/SR.1.

<sup>520</sup> See A/C.6/69/SR.28.

<sup>521</sup> A/C.6/69/L.17.

<sup>522</sup> See General Assembly decision 45/461 of 16 December 1991.

<sup>523</sup> At its fifty-fourth session, the General Assembly decided to defer consideration of the item (General Assembly decision 54/491).

Committees for the sole purpose of considering and taking action on their respective tentative programmes of work for the seventieth session of the General Assembly.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 29th meeting, on 14 November 2014.<sup>524</sup> At the meeting, the Chair introduced a draft decision containing the provisional programme of work of the Committee for the seventieth session of the General Assembly, as proposed by the Bureau,<sup>525</sup> and orally revised it by adding 16 November as the date for the consideration of the item “Report of the Committee on Relations with the Host Country” and deleting 17 November as a reserved date. At the same meeting, the Committee adopted the draft decision, as orally revised.

(ii) *General Assembly*

In its decision 69/529, the General Assembly noted the decision of the Sixth Committee to adopt the provisional programme of work for the seventieth session of the General Assembly, as proposed by the Bureau.

**(I) Administration of justice at the United Nations**

The General Assembly had considered the item at its fifty-fifth to fifty-seventh sessions, at its fifty-ninth session and at its sixty-first to sixty-eighth 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; and (e) the Management Evaluation Unit in the Office of the Under-Secretary-General for Management.<sup>526</sup>

At its sixty-third session, the General Assembly adopted the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal; 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.<sup>527</sup>

<sup>524</sup> For the report of the Sixth Committee, see A/69/507. For the summary records, see A/C.6/69/SR.29.

<sup>525</sup> A/C.6/69/L.16.

<sup>526</sup> General Assembly resolution 62/228 of 22 December 2007.

<sup>527</sup> General Assembly resolution 63/253 of 24 December 2008.

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*

The Sixth Committee considered the item at its 16th and 20th meetings, on 21 and 28 October 2014.<sup>528</sup> For its consideration of the item, the Committee had before it the reports of the Secretary-General on administration of justice at the United Nations,<sup>529</sup> and on the activities of the Office of the United Nations Ombudsman and Mediation Services,<sup>530</sup> and report the Internal Justice Council.<sup>531</sup>

At its 20th meeting, on 28 October 2014, the Sixth Committee decided that its Chair would address a letter to the President of the General Assembly, drawing 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 contained 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 (A/C.5/69/10).

#### (ii) *General Assembly*

On 18 December 2014, the General Assembly adopted resolution 69/203 entitled “Administration of justice at the United Nations”, without a vote, on the recommendation of the Fifth Committee. The General Assembly, *inter alia*, reaffirmed its decision, contained in paragraph 12 of its resolution 68/254, that the interim independent assessment shall examine the system of administration of justice in all its aspects, with particular attention to the formal system and its relation with the informal system, including an analysis of whether the aims and objectives of the system set out in resolution 61/261 are being achieved in an efficient and cost-effective manner. The Assembly decided that the panel shall be appointed from a pool of experts drawn from all regional groups and judicial systems, selected to ensure the independent nature of the assessment, taking into account geographical representation and gender balance, and that it shall have a broad mix of expertise, comprising members with knowledge of internal United Nations processes and United Nations intergovernmental legislation, as well as judicial experience, knowledge of internal labour dispute mechanisms and knowledge of different legal and justice systems, including expertise in employment and/or human rights law. The Assembly also decided that the objective of the interim assessment is the improvement of the current system and that the assessment should include consideration of, *inter alia*, elements set out in annex II to the report of the Secretary-General and in the letter from the Chair of the Sixth Committee and any other significant issues relevant to the assessment, such as the role of stakeholders in the system of administration of justice in the preparation of

<sup>528</sup> For the summary records, see A/C.6/69/SR.16 and 20.

<sup>529</sup> A/69/227.

<sup>530</sup> A/69/126.

<sup>531</sup> A/69/205.

relevant proposals. The General Assembly requested the Secretary-General to transmit the recommendations of the panel of experts, together with its final report and his comments, for consideration by the General Assembly at the main part of its seventy-first session. In the same resolution, the General Assembly decided to include the item in the provisional agenda of its seventieth session.

### **(m) 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.<sup>532</sup> In 2014, the Committee was composed of the following 19 Member States: Bulgaria, Canada, China, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, France, Honduras, Hungary, Iraq, Libya, Malaysia, Mali, Russian Federation, Senegal, Spain, United Kingdom of Great Britain and Northern Ireland and the United States of America.

In 2014, the Committee held the following meetings: the 265th meeting, on 6 February 2014; the 266th meeting, on 22 April 2014; the 267th meeting, on 31 July 2014; the 268th meeting, on 1 October 2014; and the 269th meeting, on 4 November 2014. During its meetings, the Committee considered a number of topics, namely (i) entry visas issued by the host country, (ii) question of privileges and immunities, (iii) host country activities: activities to assist members of the United Nations community, (iv) transportation: use of motor vehicles, parking and related matters; and (v) other matters. At its 269th meeting, the Committee approved a number of recommendations and conclusions, which are contained in chapter IV of its report.<sup>533</sup>

#### *(ii) Sixth Committee*

The Sixth Committee considered the item at its 29th meeting, on 14 November 2014.<sup>534</sup> The Vice-Chair of the Committee on Relations with the Host Country introduced the report of that Committee.<sup>535</sup>

At the 29th meeting, on 14 November, 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".<sup>536</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

#### *(iii) General Assembly*

In resolution 69/128 of 10 December 2014, the General Assembly adopted resolution 69/128 entitled "Report of the Committee on Relations with the Host Country".

<sup>532</sup> General Assembly resolution 2819 (XXVI) of 15 December 1971.

<sup>533</sup> *Official Records of the General Assembly, Sixty-ninth session, Supplement No. 26 (A/69/26)*.

<sup>534</sup> For the report of the Sixth Committee, see A/69/510. For the summary records, see A/C.6/69/SR.29.

<sup>535</sup> A/69/26.

<sup>536</sup> A/C.6/69/L.19.



The General Assembly decided to include the item in the provisional agenda of its seventieth session.

**(n) 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; for the International Chamber of Commerce; for the Developing Eight Countries Organization for Economic Cooperation; and for the Pacific Community at its 10th, 18th and 29th meetings on 14 and 23 October, and on 14 November 2014.<sup>537</sup>

At the 29th meeting, on 14 November, the Chair of the Committee recalled that, at the 10th meeting of the Committee, on 14 October 2014, France, the coordinating delegation, had indicated that it had decided not to pursue the request for observer status in the General Assembly for the International Chamber of Commerce, while reserving the right to present it at a future session.<sup>538</sup> At the same meeting, the Committee concluded its consideration of the item without taking action.

**(ii) *General Assembly***

In its resolutions 69/129 and 69/130, the General Assembly granted observer status to the Developing Eight Countries Organization for Economic Cooperation and the Pacific Community, respectively. In its decision 69/527, the General Assembly decided to defer a decision on the request for observer status for the Cooperation Council of Turkic-speaking States to its seventieth session.

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<sup>537</sup> For the reports of the Sixth Committee, see A/69/511, A/69/512, A/69/513 and A/69/514, respectively. For the summary records, see A/C.6/69/SR.10, 18 and 29.

<sup>538</sup> A/C.6/69/SR.10 and 29.

## 17. *Ad hoc* international criminal tribunals<sup>539</sup>

### (a) Organization of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda

#### (i) *Organization of the International Criminal Tribunal for the former Yugoslavia*<sup>540</sup>

Judge Theodor Meron (United States) and Judge Carmel Agius (Malta) continued to act as President and Vice-President of the Tribunal, respectively, throughout 2014.

By Security Council resolution 2193 (2014) of 18 December 2014, acting under Chapter VII of the Charter of the United Nations, and by General Assembly decision 69/416 of 23 December 2014, the term of office of the following permanent judge at the Tribunal, who was a member of the Appeals Chamber, was extended until 31 July 2015 or until the completion of the cases to which the judge was assigned, if sooner: Patrick Robinson (Jamaica). The term of office of the following permanent and *ad litem* judges at the International Tribunal, who were members of the Trial Chambers and the Appeals Chamber was also extended until 31 December 2015 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 of America), Fausto Pocar (Italy), Jean-Claude Antonetti (France), O-Gon Kwon (Republic of Korea), Burton Hall (The Bahamas), Howard Morrison (United Kingdom), Guy Delvoie (Belgium), Christoph Flügge (Germany), Alphons Orie (The Netherlands), Bakone Justice Moloto (South Africa), Melville Baird (Trinidad and Tobago), Flavia Lattanzi (Italy) and Antoine Kesia-Mbe Mindua (Democratic Republic of Congo).

In resolution 2193 (2014), the Security Council also decided to reappoint Mr. Serge Brammertz as Prosecutor of the International Tribunal, notwithstanding the provisions of Article 16, paragraph 4, of the Statute of the International Tribunal related to the length of office of the Prosecutor, for a term with effect from 1 January 2015 until 31 December 2015, which is subject to an earlier termination by the Security Council upon the completion of the work of the International Tribunal.

At the end of 2014, the Chambers were composed of 14 permanent judges, including six permanent judges from the International Criminal Tribunal for Rwanda serving in the Tribunal's Appeals Chamber, and three *ad litem* judges.

The permanent judges of the Tribunal were as follows: Theodor Meron (President, United States), Carmel Agius (Vice-President, Malta), Christoph Flügge (Germany),

<sup>539</sup> This section covers 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.

<sup>540</sup> For more information, see, for the period 1 August 2013 to 31 July 2014, the Twenty-first 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/69/225-S/2014/556); and for the period 1 August 2014 to 31 July 2015, the Twenty-second annual report (A/70/226-S/2015/585).

Alphons Orie (Netherlands), O-Gon Kwon (Republic of Korea), Patrick Robinson (Jamaica), Fausto Pocar (Italy), Liu Daqun (China), Jean-Claude Antonetti (France), Bakone Justice Moloto (South Africa), Burton Hall (Bahamas), Howard Morrison (United Kingdom), Guy Delvoie (Belgium) and Koffi Kumelio A. Afande (Togo). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber were William Hussein Sekule (United Republic of Tanzania), Mehmet Güney (Turkey), Arlette Ramaroson (Madagascar), Khalida Rachid Khan (Pakistan), Bakhtiyar Tuzmukhamedov (Russian Federation) and Mandiaye Niang (Senegal).

At the end of 2014, the *ad litem* judges of the Tribunal were as follows: Antoine Kesiame Mindua (Democratic Republic of the Congo), Flavia Lattanzi (Italy), and Melville Baird (Trinidad and Tobago).

(ii) *Organization of the International Criminal Tribunal for Rwanda*<sup>541</sup>

Judge Vagn Joensen (Denmark) continued to act as President of the Tribunal throughout 2014. By Security Council resolution 2194 (2014) of 18 December 2014, adopted acting under Chapter VII of the Charter of the United Nations, and by General Assembly decision 69/415 of 23 December 2014, his term of office was extended until 31 December 2015.

By Security Council resolution 2194 (2014) of 18 December 2014, adopted acting under Chapter VII of the Charter of the United Nations, and by General Assembly decision 69/415 of 23 December 2014, the term of office of the following permanent judges at the Tribunal, who were members of the Appeals Chamber, was extended until 31 July 2015 or until the completion of the cases to which they were assigned, if sooner: Mehmet Güney (Turkey) and William H. Sekule (United Republic of Tanzania). The term of office of the following permanent judges at the Tribunal, who were members of the Appeals Chamber, was also extended until 31 December 2015 or until the completion of the cases to which they were assigned, if sooner: Mandiaye Niang (Senegal), Khalida Rachid Khan (Pakistan), Arlette Ramaroson (Madagascar), and Bakhtiyar Tuzmukhamedov (Russian Federation).

In resolution 2194 (2014), the Security Council also decided to reappoint Mr. Hassan Bubacar Jallow as Prosecutor of the International Tribunal, notwithstanding the provisions of Article 15, paragraph 4, of the Statute of the International Tribunal related to the length of office of the Prosecutor, for a term with effect from 1 January 2015 until 31 December 2015, which is subject to an earlier termination by the Security Council upon the completion of the work of the International Tribunal.

At the end of 2014, the permanent judges were as follows: Vagn Joensen (President, Denmark), 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

<sup>541</sup> For more information see, period of 1 July 2013 to 30 June 2014, 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); and, for the period of 1 July 2014 to 30 June 2015, the Twentieth annual report (A/70/218–S/2015/577).

Republic of Tanzania), Bakhtiyar Tuzmukhamedov (Russian Federation) and Mandiaye Niang (Senegal).

At the end of 2014, the President, Vagn Joensen, was the only *ad litem* judge.

### (iii) *Composition of the Appeals Chamber*<sup>542</sup>

At the end of 2014, the composition of the Appeals Chamber was as follows: Theodor Meron (President, 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) *Organization of the International Residual Mechanism for Criminal Tribunals*<sup>543</sup>

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 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. By the same resolution, the Security Council also decided to adopt that Statute of the Mechanism, contained in the annex.

At the end of 2014, the President of the Mechanism was Judge Theodor Meron (United States), the Prosecutor was Hassan Bubacar Jallow (The Gambia), and the Registrar was John Hocking (Australia).

## (b) *General Assembly*

On 9 April 2014, the General Assembly adopted, without a vote, on the recommendation of the Fifth Committee, resolution 68/267 entitled “Construction of a new facility for the International Residual Mechanism for Criminal Tribunals, Arusha branch”.

On 29 December 2014, the General Assembly adopted, without a vote, on the recommendation of the Fifth Committee, three resolutions concerning the financing of the international tribunals and the Mechanism: resolution 69/254 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

<sup>542</sup> The Appeals Chamber consists of twelve permanent judges, six of whom are permanent judges of the ICTY and six of whom are permanent judges of the ICTR. These twelve judges constitute the Appeals Chamber of the ICTR and the ICTY.

<sup>543</sup> For more information on the Mechanism, see, for the period 1 July 2013 to 30 June 2015, the Second annual report of the International Residual Mechanism for Criminal Tribunals (A/69/226–S/2014/555); and, for the period 1 July 2014 to 30 June 2015, the Third annual report (A/70/225–S/2015/586).

Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 resolution”; resolution 69/255 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 resolution 69/256 entitled “Financing of the International Residual Mechanism for Criminal Tribunals”.

On 13 October 2014, the General Assembly adopted the following three decisions taking note of the annual reports of the ICTR,<sup>544</sup> the ICTY,<sup>545</sup> and the Mechanism,<sup>546</sup> respectively: decision 69/507 entitled “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”; and decision 69/508 entitled “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 decision 69/509 entitled “Report of the International Residual Mechanism for Criminal Tribunals”.

### (c) Security Council

On 18 December 2014, the Security Council adopted resolutions 2193 (2014) and 2194 (2014) concerning international criminal tribunals.

In resolution 2193 (2014), the Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, requested the International Tribunal for the former Yugoslavia to complete its work and facilitate the closure of the as expeditiously as possible with the aim of completing the transition to the Mechanism, and expressed its continued concern over delays in the conclusion of the Tribunal’s work, in light of resolution 1966 (2010), which requested the Tribunal to complete its trial and appeals proceedings by 31 December 2014.

In resolution 2194 (2014), also acting under Chapter VII of the Charter of the United Nations, the Council, *inter alia*, requested the International Criminal Tribunal for Rwanda to complete its work and facilitate the closure of the Tribunal as expeditiously as possible with the aim of completing the transition to the Mechanism, taking into account resolution 1966 (2010), which requested the Tribunal to complete its trial and appeals proceedings by 31 December 2014.

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<sup>544</sup> A/69/206–S/2014/546.

<sup>545</sup> A/69/225–S/2014/556.

<sup>546</sup> A/69/226–S/2014/555.

## B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

### 1. International Labour Organization<sup>1</sup>

#### (a) Conventions, recommendations and resolutions adopted by the International Labour Conference during its 103rd session (Geneva, June 2014)

The International Labour Conference of the International Labour Organization (ILO) adopted at its 103rd session one Protocol,<sup>2</sup> one Recommendation and amendments to a Convention, as well as five resolutions<sup>3</sup> of which one is highlighted below.

#### (i) *Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29) and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)*

On 11 June 2014, the International Labour Conference (the “Conference”) adopted the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), and the Forced Labour (Supplementary Measures) Recommendation (No. 203), 2014.<sup>4</sup> The Protocol and Recommendation, which were adopted with an overwhelming majority, give new impetus to the global fight against all forms of forced labour, including trafficking in persons and slavery-like practices.

The Preamble of the Protocol emphasizes the urgent need to eliminate forced and compulsory labour in all its forms and manifestations. It explains that the Protocol seeks to address gaps in the implementation of Convention No. 29 by reaffirming that measures of prevention, protection and remedies are necessary to achieve the effective and sustained suppression of forced or compulsory labour.

The 2014 Protocol to Convention No. 29 lays the obligation on Member States to take effective measures to prevent and eliminate forced labour, to provide victims with protection and access to appropriate and effective remedies, including compensation, and to penalize the perpetrators of forced labour. To this end, under article 1, Members must develop, in consultation with employers’ and workers’ organizations, a national policy and plan of action for the effective and sustained suppression of forced or compulsory

<sup>1</sup> For official documents and more information in the International Labour Organization, see <http://www.ilo.org>.

<sup>2</sup> In the ILO context Protocols are international treaties subject to ratification and linked to a Convention. Like Conventions, they are subject to ratification (however, the Convention to which they are linked also remains open for ratification). They are used for the purpose of partially revising Conventions.

<sup>3</sup> The following resolutions were also adopted at the 103rd session: “Resolution to place on the agenda of the next ordinary session of the Conference an item entitled ‘Facilitating transitions from the informal to the formal economy’”; “Resolution concerning the financial report and audited consolidated financial statements for the year ended 31 December 2013”; “Resolution concerning use of the 1992–93 and 2000–01 surpluses”; and “Resolution concerning appointments to the ILO Staff Pension Committee (United Nations Joint Staff Pension Board)”.

<sup>4</sup> ILO, *Provisional Record No. 9 (Rev.) of the 103rd Session of the International Labour Conference*.

labour involving specific action against trafficking in persons for the purposes of forced or compulsory labour. Article 2 lists the preventive measures that must be taken, referring in particular to education and information, protection of workers, in particular migrant workers from possible abusive and fraudulent practices, and strengthening of labour inspection services. In the area of protection, article 3 provides that effective measures must be taken for the identification, release, protection, recovery and rehabilitation of all victims of forced labour, and also for the provision of other forms of assistance. Victims must have access to appropriate and effective remedies, such as compensation, and must not be subjected to prosecution or penalties for involvement in any unlawful activities which they have been compelled to perform.

Recommendation No. 203 supplements both the Protocol and Convention No. 29. It contains 14 paragraphs providing Member States with guidance on possible measures to be taken to strengthen national law and policy on forced labour in the areas of prevention of forced labour, protection of victims, including remedies such as compensation and access to justice, enforcement and international cooperation.

(ii) *Amendments to the Maritime Labour Convention, 2006 (MLC, 2006)*

On 11 June 2014, the International Labour Conference approved the amendments to the Code of the Maritime Labour Convention (MLC), 2006, that were adopted on 11 April 2014 by the Special Tripartite Committee established under article XIII of the MLC, 2006.<sup>5</sup> The amendments approved by the Conference relate to two important issues: the abandonment of seafarers; and claims for compensation in the event of a seafarer's death or long-term disability due to an occupational injury, illness or hazard.

The amendments to the Code implementing Regulation 2.5 (Repatriation) are intended to better address the specific problems faced in cases of abandonment of seafarers. Although all seafarers are entitled to coverage for repatriation, which is secured by the requirement in the MLC, 2006, for financial security (a matter that must be included in the seafarers' employment agreement and also verified on flag State inspections), the Conference noted at the time of the adoption of the Convention in 2006 that, in practice, the needs of seafarers who are abandoned were not adequately covered under existing mechanisms and provisions. The amendments to the Code implementing Regulation 4.2 (Shipowners' liability) further elaborate the existing requirement in Standard A4.2, paragraph 1(b), for shipowners to provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard. Both amendments are based on the principles agreed upon at the ninth session of the Joint International Maritime Organization (IMO)-ILO Ad Hoc Expert Working Group and build on the text of the 2001 IMO-ILO Guidelines on shipowners' responsibilities in respect of contractual claims for personal injury to or death of seafarers.

The amendments approved by the Conference will be notified to Members whose ratification of the MLC, 2006, was registered prior to the date of the Conference's approval. Those Members will have a period of two years from that notification to express a formal disagreement to the amendments. The amendments will enter into force six months after the end of that period unless more than 40 per cent of ratifying Members, representing not

<sup>5</sup> ILO, *Provisional Record No. 2A of the 103rd Session of the International Labour Conference*.



less than 40 per cent of world gross tonnage, have formally expressed their disagreement with the amendments. A ratifying Member that expresses its formal disagreement within the prescribed period will not be bound by the amendments. After entry into force of the amendments, the Convention may only be ratified in its amended form.

(iii) *Resolution concerning the second recurrent discussion on employment*

At its 103rd session in June 2014, the International Labour Conference conducted the second recurrent discussion on the strategic objective of employment under the framework of the 2008 Declaration on Social Justice for a Fair Globalization. The Conference adopted the resolution and conclusions resulting from that discussion on 11 June 2014.

The conclusions which were reached through strong tripartite consensus state the resolve of the ILO and constituents to meet the challenge of sustainable recovery and development and underscore the importance of proactive, employment-centered, inclusive growth strategies and balanced, coherent policy frameworks both at the global and national levels to address the current employment challenge.

The conclusions identify nine principles that should guide action in pursuing the goal of full, productive, freely chosen and decent employment. These guiding principles underscore: (a) the need to promote the principles contained in the body of relevant ILO standards; (b) the need to take full advantage of the inseparable, interrelated and mutually supportive nature of the four strategic objectives of the Organization; (c) the need to promote both the quality and the quantity of employment through a combination of coherent macroeconomic, labour-market and social policies; (d) the need to build on the complementarity of, and coherence between, public policies and services and the role of the private sector in the promotion of decent work; (e) the need for balanced demand and supply side policies and measures; (f) the importance of realizing gender equality and enabling diversity; (g) the key role of social dialogue and tripartism in the formulation, implementation and monitoring of employment policies; (h) the key role of the private sector in job creation while also acknowledging the important role of public sector employment; and (i) the importance to combine universal approaches with targeted interventions to redress labour market disadvantages of specific population groups, in particular young people, and to address the issues of employment insecurity and inequality.

**(b) Guidance documents submitted to the Governing Body of the International Labour Office**

*IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units*

At its 322nd session in November 2014, the Governing Body of the International Labour Office authorized the publication of the IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units (CTU Code).<sup>6</sup> In accordance with the decision of the Governing Body at its 310th session, the CTU Code was elaborated by a Group of Experts, which had

<sup>6</sup> ILO, document GB.322/POL/4; and document GB.322/PV/Draft, para. 443.



been created to develop an IMO/ILO/UNECE code of practice through the revision of the IMO/ILO/UNECE Guidelines for Packing of Cargo Transport Units (1997 edition).<sup>7</sup>

The CTU Code provides advice on the safe packing of cargo transport units (CTUs) to those responsible for the packing and securing of the cargo and by those whose task it is to train people to pack such units. It also outlines theoretical details for packing and securing and comprises practical measures to ensure the safe packing of cargo onto or into CTUs. In addition to providing advice to the packer, the CTU Code also provides information and advice for all parties in the supply chain up to those involved in unpacking the CTUs.<sup>8</sup>

### (c) Legal Advisory Services and Training

With respect to international labour standards, in 2014, the ILO provided technical assistance in reporting and other international labour standards related obligations, including capacity building, assistance with implementation and reform of national legislation, to nearly 50 countries. Assistance included training on the content of selected international labour standards; research to generate information on the status of implementation of international labour standards, including legislative gap analyses; advice on elements that will enable tripartite constituents to take the relevant decisions aiming at full implementation; legal advice on the revision or drafting of legislation and regulations in the light of the supervisory bodies' comments; and strengthening the data collection and reporting capacity of tripartite constituents.<sup>9</sup> The ILO also organized approximately 38 legal training courses at the interregional, regional, subregional and national levels in collaboration with its Training Centre in Turin.

In 2014, technical assistance, advice and comments were provided to over 20 Member States on draft labour codes, amendments to labour legislation and other labour law reforms. As regards social security, the ILO provided legal advisory services and standards-related technical cooperation to 32 countries and territories on the basis of international standards and notably those of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and the Social Protection Floors Recommendation, 2012 (No. 202). In many cases, ILO legal advisory services are provided as part of broader package of technical advisory services that support countries in enhancing the design, implementation, financing and impact of their national social protection systems, including nationally-defined social protection floors.

In 2014, ILOAIDS continued to provide technical advisory support for the development of HIV-related legislation or workplace HIV and AIDS policies in a number of countries. ILOAIDS has also provided judicial training for labour judges and legal professionals on the basis of its Handbook on HIV and AIDS for Judges and Legal Professionals (2013) and developed and published A Handbook on HIV and AIDS for Labour Inspectors (2014). The Handbook highlights the central role of labour administrations and labour inspectorates in promoting rights-based responses to HIV and AIDS in workplaces.

<sup>7</sup> ILO, document GB.310/STM/3/4; and document GB.310/PV, para. 168.

<sup>8</sup> ILO, IOM, UN, *IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units* (2016).

<sup>9</sup> International Labour Conference, *Report of the Committee of Experts on the Application of Conventions and Recommendations: Report III, 2014—104th Session (Part 2)—Information document on ratifications and standards related activities*.

### **(d) Committee on Freedom of Association**

In 2014, the Committee on Freedom of Association had before it more than 189 cases concerning 78 countries for which it presented interim or final conclusions, or for which the examination was adjourned pending the arrival of information from governments. Many of these cases have been before the Committee on Freedom of Association on more than one occasion. The Committee on Freedom of Association drew the attention of the Committee of Experts to the legislative aspects of Cases Nos. 2963 (Chile), 2684 (Ecuador), 3013 (El Salvador), 2990 (Honduras) and 2892 (Turkey).

### **(e) Representations submitted under article 24 of the ILO Constitution and complaints made under article 26 of the ILO Constitution**

In 2014, the Governing Body considered the developments with respect to 22 representations filed under article 24 of the Constitution.<sup>10</sup> The Governing Body also considered the developments in relation to several complaints made under article 26 of the Constitution alleging that a member State that had ratified a Convention was not securing its effective observance.<sup>11</sup>

## **2. Food and Agriculture Organization of the United Nations<sup>12</sup>**

### **(a) Membership of the Food and Agriculture Organization (FAO)**

As of 31 December 2014, the membership of FAO consisted of 194 Member Nations, one Member Organization (the European Union) and two Associate Members (the Faroe Islands and Tokelau).

### **(b) Constitutional and general legal matters**

#### **(i) Governing Bodies**

The Governing Bodies of FAO comprise the Conference, the Council, the Programme Committee, the Finance Committee, the Committee on Constitutional and Legal Matters, the Technical Committees referred to in article V, paragraph 6 (b) of the Constitution and the Regional Conferences (*i.e.* for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East).

<sup>10</sup> These are complaints filed by industrial associations of employers or workers, alleging that a member State that has ratified a Convention has failed to secure within its jurisdiction the effective observance of that Convention. Once declared receivable, representations are examined by a tripartite committee established by the Governing Body. Their findings are followed up by the Committee of Experts.

<sup>11</sup> International Labour Conference, *Report of the Committee of Experts on the Application of Conventions and Recommendations: Report III, 2014—104th Session (Part 2)—Information document on ratifications and standards-related activities*.

<sup>12</sup> For official documents and more information on the Food and Agriculture Organization of the United Nations, see <http://www.fao.org>.

The Rules of Procedure of the Committee on Agriculture,<sup>13</sup> the Committee on Commodity Problems,<sup>14</sup> the Committee on Fisheries,<sup>15</sup> and the Committee on World Food Security<sup>16</sup> were amended in 2014.

### (ii) *Committee on Constitutional and Legal Matters*

The Committee on Constitutional and Legal Matters (CCLM) is a Governing Body of FAO, established by paragraph 6 of article V of the FAO Constitution.<sup>17</sup> During 2014, the FAO Legal Office supported the 98th and 99th sessions of the CCLM held in Rome from 17 to 19 March and 20 to 23 October, respectively. During the two sessions, the CCLM reviewed a number of substantive constitutional matters and draft resolutions that will be considered by the Conference at its session of 2015.

As regards matters considered by the CCLM which were the subject of final decisions by the relevant body in 2014, the CCLM reviewed the proposed amendments to the Agreement establishing the General Fisheries Commission for the Mediterranean at its 99th session.<sup>18</sup> At the same session, the CCLM also reviewed proposal to abolish the Caribbean Plan Protection Commission, which had been established in 1967 by Council Resolution No. 8/48. The resolution abolishing the Commission was subsequently adopted by the FAO Council at its 150th session in December 2014.

### (iii) *Statutory Bodies*

Statutory Bodies may be established under article VI and article XIV of the Constitution of FAO.

In 2014, the Rules of Procedure of two Statutory Bodies—the Indian Ocean Tuna Commission<sup>19</sup> and the Western Central Atlantic Fishery Commission<sup>20</sup>—were amended.

<sup>13</sup> At its 24th Session (29 September to 3 October 2014), the Committee on Agriculture amended its Rules of Procedure (Basic Texts, Part K). FAO, Report of the 24th Session of the Committee on Agriculture, para. 18.

<sup>14</sup> At its 70th Session (7 to 9 October 2014), the Committee on Commodity Problems amended its Rules of Procedure (Basic Texts, Part H). FAO, Report of the 70th Session of the Committee on Commodity Problems, para. 23 *et seq.*

<sup>15</sup> At its 31st Session (Rome, 9 to 13 June 2014), the Committee on Fisheries amended its Rules of Procedure (Basic Texts, Part I). Report of the 31st Session of the Committee on Fisheries, para. 90 *et seq.*

<sup>16</sup> At its 41st session (13 to 17 October 2014), the Committee on World Food Security amended its Rules of Procedure (Basic Texts, Part L). Report of the 41st Session of the Committee on World Food Security, para. 45.

<sup>17</sup> *Basic Texts of the Food and Agriculture Organization of the United Nations* (FAO Basic Texts), 2013, vol. I, section A. See also rule XXXIV of the General Rules of the Organization, *ibid.*, section B.

<sup>18</sup> See Section (e)(i) on Treaties concluded under the auspices of FAO.

<sup>19</sup> At its 18th Session (1 to 5 June 2014), the Indian Ocean Tuna Commission adopted the revised *Indian Ocean Tuna Commission: Rules of Procedure* (Report of the 18th Session of the Indian Ocean Tuna Commission, para. 98 and appendix XIV).

<sup>20</sup> At its 15th Session (26 to 28 March 2014), the Commission adopted amendments to its Rules of Procedure (Report of the 15th Session of the Western Central Atlantic Fishery Commission, para. 32).

The process for further revision of such rules was also initiated in respect of some other Statutory Bodies (e.g. the General Fisheries Committee for the Mediterranean).

Actions were also taken in respect of treaties concluded under article XIV of the FAO Constitution.<sup>21</sup>

**(c) Bodies and meetings co-hosted with other  
intergovernmental organizations**

*(i) The International Conference on Nutrition*

From 19 to 21 November 2014, the Second International Conference on Nutrition (ICN2) was jointly organized by FAO and the World Health Organization (WHO), in cooperation with the High Level Task Force on Global Food Security, the International Fund for Agricultural Development (IFAD), the International Food Policy Research Institute (IFPRI), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations International Children's Fund (UNICEF), the World Bank, the World Food Programme (WFP) and the World Trade Organization (WTO). As an outcome of the Conference, the representatives of the Members States of FAO and WHO adopted the Rome Declaration on Nutrition and the Framework for Action.<sup>22</sup> By the Rome Declaration, States reaffirmed "the commitments made at the first International Conference on Nutrition in 1992, and the World Food Summits in 1996 and 2002 and the World Summit on Food Security in 2009, as well as in relevant international targets and action plans, including the WHO 2025 Global Nutrition Targets and the WHO Global Action Plan for the Prevention and Control of Non-communicable Diseases 2013–2020". They also 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 consistent with the International Covenant on Economic, Social and Cultural Rights and other relevant United Nations instruments". The Rome Declaration addressed a wide variety of issues related to nutrition and food security, and set out actions to be taken in the context of, *inter alia*, international legal instruments and principles of international law, including international obligations deriving therefrom.<sup>23</sup>

*(ii) The United Nations System High-Level Task Force on Global Food Security*

The *United Nations System High-Level Task Force on Global Food Security* (HLTF)<sup>24</sup> was established by the Chief Executives Board of the United Nations System in April 2008 with the primary aim to promote a comprehensive and unified response to the challenge of achieving global food security. The HLTF brings together the heads of 23 different United Nations system agencies, funds, programmes and financial institutions.

<sup>21</sup> See subsection (e) below.

<sup>22</sup> Second International Conference on Nutrition, document ICN2/2.

<sup>23</sup> *Ibid.*, paras. 5(b), 14(d) and (g).

<sup>24</sup> The Task Force was originally named the "High-Level Task Force on the Global Food Security Crisis", and was renamed the "High Level Task Force on Global Food Security" in 2013. For more information, see <http://www.un.org/en/issues/food/taskforce/>.

The United Nations Secretary-General serves as the Chair of the HLTF and the Director-General of FAO as the Vice-Chair.

In accordance with paragraph 9 of the revised Terms of Reference of the HLTF adopted in 2013, “the primary hub of the HLTF support will be in Rome, with capacity in New York, Geneva, and links to Nairobi, Paris and Washington”. FAO offered to host the Coordination Team of the High-Level Task Force on Global Food Security at FAO Headquarters. For this purpose, in November 2014, the FAO Director-General issued *Operational Arrangements for the Hosting by FAO of the Coordination Team of the UN System High-Level Task Force on Global Food Security* (HLTF).

#### **(d) Information provided by FAO to other United Nations System entities**

FAO contributed to the “Report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia”,<sup>25</sup> presented to the Security Council at its 7309th meeting, held on 12 November 2014, referring, *inter alia*, to the support provided in strengthening national legal and institutional frameworks for sustainable fisheries.

FAO contributed to Part I and Part II of the “Report of the Secretary-General on Oceans and the Law of the Sea”. Part I of the Report related to the current role of seafood in global food security, and FAO highlighted, *inter alia*, relevant international legal instruments that support the contribution of seafood to global food security.<sup>26</sup> Part I of the Report was submitted to the Informal Consultative Process on Oceans and the Law of the Sea, at its fifteenth meeting, held from 27 to 30 May 2014. Part II of the Report addressed developments and issues relating to ocean affairs and the law of the sea, including the implementation of resolution 68/70 of 9 December 2013, and was submitted for consideration to the General Assembly at its sixty-ninth session.<sup>27</sup> FAO highlighted, *inter alia*, the submission to the FAO Committee on Fisheries of the Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication, and the Voluntary Guidelines for Flag State Performance, for endorsement. FAO also highlighted its regional capacity building activities in support of the implementation of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.<sup>28</sup> FAO also noted, in its contribution to Part II of the Report, the Global Oceans Actions Summit for Food Security and Blue Growth, held in The Hague, from 22 to 25 April 2014. In this respect, FAO highlighted that it will support countries to implement its Blue Growth Initiative, including strengthening regional fisheries management organizations and support the implementation of the Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication to ensure sustainable fisheries and aquaculture.

<sup>25</sup> S/2014/740.

<sup>26</sup> A/69/71.

<sup>27</sup> A/69/71/Add.1.

<sup>28</sup> United Nations, *Treaty Series*, I-54133.

The FAO Legal Office regularly reports to the Office of the High Commissioner for the Human Rights (OHCHR), in response to requests for information, on various issues relevant to the mandate of FAO, such as the right to food and the rights of rural women.

### (e) Treaties concluded under the auspices of FAO

As of 31 December 2014, a number of treaties have been adopted under the auspices of FAO.<sup>29</sup>

Seventeen multilateral treaties were concluded on the basis of article XIV of the FAO Constitution. These treaties are adopted by the Conference or the Council and submitted to the Member Nations for acceptance. The bodies established by these treaties are FAO Statutory Bodies.<sup>30</sup>

Nineteen multilateral treaties concluded outside the framework of FAO, in respect of which the FAO Director-General exercises depositary functions.<sup>31</sup>

#### (i) *Entry in force of treaties and amendments thereto*

The Agreement for the Establishment of the General Fisheries Commission for the Mediterranean (GFCM) was amended by the 38th session of the General Fisheries Commission and all these amendments were approved by the 150th session of the Council. The amended Agreement entered in force upon approval by the GFCM on 20 May 2014.<sup>32</sup>

#### (ii) *Depositary actions*

During 2014, a total of 22 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 Constitution of the European Commission for the Control of Foot-and-Mouth Disease, 1953,<sup>33</sup> the Plant Protection Agreement for the Asia and Pacific Region, 1955,<sup>34</sup> the Convention Placing the International Poplar Commission within the Framework of FAO, 1961,<sup>35</sup> the International Convention for the Conservation

<sup>29</sup> This does not include treaties that are no longer in force, the FAO Constitution, and bilateral agreements adopted under article 15 of the International Treaty on Plant Genetic Resources for Food and Agriculture (United Nations, *Treaty Series*, vol. 2400, p. 303).

<sup>30</sup> The text of the treaties concluded on the basis of article XIV of the FAO Constitution and their status is available at: <http://www.fao.org/legal/treaties/treaties-under-article-xiv/en/>.

<sup>31</sup> The text of treaties concluded outside the FAO framework in respect of which the FAO Director-General exercises depositary functions and their status is available at: <http://www.fao.org/legal/treaties/treaties-outside-fao-framework/en/>.

<sup>32</sup> Report of the 38th Session of the General Fisheries Commission for the Mediterranean, para. 68. Report of the 150th Session of the Council, document CL 150/REP, para. 21(d).

<sup>33</sup> United Nations, *Treaty Series*, vol. 191, p. 285.

<sup>34</sup> *Ibid*, vol. 247, p. 400.

<sup>35</sup> Information on depositary actions regarding multilateral treaties adopted pursuant to article XIV of the FAO Constitution is available at: <http://www.fao.org/legal/treaties/treaties-under-article-xiv/en/>. Information on depositary actions regarding multilateral treaties adopted outside of FAO's

of Atlantic Tunas, 1966,<sup>36</sup> the Agreement on the Network of Aquaculture Centres in the Asia and Pacific, 1988,<sup>37</sup> the 1991 Regional Convention on Fisheries Cooperation Among African States Bordering the Atlantic Ocean, 1991,<sup>38</sup> the Agreement for the Establishment of the Indian Ocean Tuna Commission, 1993, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993,<sup>39</sup> the Convention for the Establishment of the Lake Victoria Fisheries Organization, 1994,<sup>40</sup> the International Treaty on Plant Genetic Resources for Food and Agriculture, 2001,<sup>41</sup> the Southern Indian Ocean Fisheries Agreement, 2006,<sup>42</sup> and the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009.<sup>43</sup>

### (f) Legislative matters

#### (i) *Legislative assistance and advice*

In 2014, the FAO Legal Office provided legislative assistance to more than 80 countries to strengthen national legislation on topics related to, amongst others: agriculture, fisheries and aquaculture, forestry, natural resources, including land, as well as food security and food safety. By way of example, The FAO Legal Office contributed to the Hunger Free Latin America and the Caribbean 2025 Initiative (HFLACI), by conducting an analysis of legislation on food security and nutrition, school feeding and contract farming in four countries in Central America (El Salvador, Guatemala, Honduras and Nicaragua), and two countries in the Andean region (Ecuador and Peru). FAO provided technical assistance in the form of capacity building for lawyers and regulators in selected areas of agricultural legislation. Furthermore, FAO assisted in the drafting of national legislation on food security and nutrition, school feeding and contract farming.

In terms of capacity building, the FAO Legal Office contributed to a series of regional workshops aimed at raising awareness of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009.<sup>44</sup> Specifically, assistance was provided in the delivery of the “Workshop on implementing the 2009 FAO Agreement on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing”, organized by FAO and the Western Central Atlantic Fishery Commission, a FAO Statutory Body, in Port of Spain, Trinidad and Tobago from 24 to 28 March 2014,

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framework and deposited with the Director-General of FAO is available at: <http://www.fao.org/legal/treaties/treaties-outside-fao-framework/en/>.

<sup>36</sup> United Nations, *Treaty Series*, vol. 673, p. 63.

<sup>37</sup> *Ibid.*, vo. 1560, p. 201.

<sup>38</sup> *Ibid.*, vol. 1912, p. 53.

<sup>39</sup> *Ibid.*, vol. 2221, p. 91.

<sup>40</sup> *Ibid.*, vol. 1930, p. 127.

<sup>41</sup> *Ibid.*, vol. 2400, p. 303.

<sup>42</sup> *Ibid.*, vol. 2835, p. 409.

<sup>43</sup> *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.

<sup>44</sup> United Nations, *Treaty Series*, I-54133.



and in the delivery of the “FAO Workshop on Implementing the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing” held in Montevideo, Uruguay from 29 September to 3 October 2014.

The FAO Legal Office also provided legislative assistance and advice during a number of international meetings. In particular, it supported the celebrations in FAO of the 10th anniversary of the “Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security” (the “Right to Food Guidelines”), including by the preparation of background papers, participated in an event in Berlin to celebrate the 10 year anniversary of the Right to Food Guidelines on 11 November; and in a panel discussion in Bern on 9 December on access to land, human rights, and development, where the Right to Food Guidelines and the newer “Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security” (VGGT) were discussed.

The FAO Legal Office supported the resumed session of the “Technical Consultation on Voluntary Guidelines for Securing Small-scale Fisheries” (Rome, February 2014). During these consultations, FAO Members and interested organizations agreed on the text of the Guidelines, which was subsequently adopted by the FAO Committee on Fisheries at its 31st session, held from 9–13 June 2014.

The FAO Legal Office attended 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”, at its meeting, held from 16 to 19 June 2014, in which the Working Group discussed scope, parameters and feasibility of an international instrument under the United Nations Convention on the Law of the Sea.

FAO partnered with UNIDROIT and IFAD in the preparation of the “UNIDROIT/FAO/IFAD Legal Guide on Contract Farming Operations”. The Guide is the product of a Working Group set up by UNIDROIT, which brought together internationally-recognized legal scholars, partner multilateral organizations and representatives from the farming community and agribusiness. Invaluable input was received during consultation events held during 2014 with stakeholders in Buenos Aires (Argentina), Bangkok (Thailand), Addis Ababa (Ethiopia) and Rome (Italy), financed by a grant of IFAD, as well as through online consultations. As the last step in a two-year process, the UNIDROIT Governing Council will consider the adoption of the Guide at its 94th session, in May 2015.

FAO and the Secretariat of the Convention on International Trade in Endangered Species (CITES) signed an agreement in 2014 that enables the Legal Office of FAO to support implementation of the CITES in relation to relevant species through selected FAO legislative assistance projects.

## (ii) *Legislative research and publications*

In 2012, the FAO Legal Office published the following Legislative Study:<sup>45</sup>

- “When the law is not enough: Paralegals and natural resources governance in Mozambique”, Legislative Study 110.

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<sup>45</sup> Available at: <http://www.fao.org/legal/publications/legislative-studies/en/>.



The FAO Legal Office contributed to the following publications by other FAO divisions in 2014:<sup>46</sup>

- “Review of animal welfare legislation in the beef, pork, and poultry industries”;
- “Review of the legislative framework and jurisprudence concerning the right to adequate food in Nepal”;
- “Legal developments in the progressive realization of the right to adequate food”, Right to Food Guidelines + 10;
- “Natural resources governance and the right to adequate food”, Thematic study 4, Right to Food Guidelines + 10.

The Legal Office also provided research assistance by undertaking the preliminary evaluation of policy and legislation-related indicators for the Corporate Baseline Assessment exercise within the Organization’s Strategic Framework.

### (iii) *Collection, Translation and Dissemination of Legislative Information*

In 2014, the FAO Legal Office continued to collect, translate and disseminate legislative information on food, agriculture and natural resources management legislation through its free online databases, namely FAOLEX,<sup>47</sup> FISHLex,<sup>48</sup> WATERLEX<sup>49</sup> and WATER TREATIES.<sup>50</sup> During the year, 9,726 new legislative texts from 170 countries were indexed and incorporated into FAOLEX, bringing the grand total to some 124,000 database records encompassing global coverage.

FAO continues to support the use and development of the ECOLEX<sup>51</sup> environmental law platform, jointly operated with UNEP and IUCN, by providing weekly dataset updates (circa 200 records per week) from FAOLEX. Together with its partners, work is under way to upgrade the ECOLEX technical infrastructure in order to facilitate the integration of diverse data sources, improve the user experience and provide semantic interoperability.

Within FAO’s Strategic Framework, monitoring national policy and legal frameworks is key to the results-based assessment of progress at the Organizational Outcomes level. With the goal of better tracking indicators related to the Organization’s Strategic Objectives, the FAOLEX classification scheme (composed of some 450 keywords) was enhanced and indexed with the following new thematic keywords: family farming, rural employment, social protection, contract farming, food waste, traditional/indigenous knowledge, smallholders/peasants; food sovereignty; and rural youth.

One of FAO’s Strategic Objectives is to contribute to the eradication of hunger, food insecurity and malnutrition. A number of indicators have been established to monitor

<sup>46</sup> Available at: <http://www.fao.org/legal/publications/partner-publications/en/>.

<sup>47</sup> See <http://faolex.fao.org/faolex/>.

<sup>48</sup> See <http://faolex.fao.org/fishery/>.

<sup>49</sup> See <http://faolex.fao.org/waterlex/>.

<sup>50</sup> See <http://faolex.fao.org/watertreaties/>.

<sup>51</sup> See <https://www.ecolex.org/>.

countries' progress, including legal indicators. These legal indicators were largely derived from FAOLEX research as reflected in the "Right to Food Dataset".<sup>52</sup>

The FAO Legal Office also continued to support the Fisheries and Aquaculture Department in FAO in expanding the National Aquaculture Legislative Overview (NALO)<sup>53</sup> database, which provides the profile of the legal framework for aquaculture management of FAO Members, including overviews of the top twenty aquaculture producing countries.

### 3. United Nations Educational, Scientific and Cultural Organization<sup>54</sup>

#### (a) Conventions, agreements and other 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 2014.

##### (ii) *Revised Conventions adopted under the auspices of UNESCO*

On 11 to 12 December 2014, UNESCO convened a diplomatic conference of States in Addis Ababa, Ethiopia, inviting 54 Member States from the Africa region and the Holy See. The conference adopted the Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States (the "Addis Convention"), revising the Regional Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and other Academic Qualifications in Higher Education in the African States, which was adopted in Arusha on 5 December 1981.<sup>55</sup>

At the date of this communication, sixteen UNESCO Member States in the Africa region and the Holy See signed the Revised Convention. The Revised Convention has not yet entered into force.

##### (iii) *Proposals concerning the preparation of new instruments*

As requested by the General Conference at its 37th session (2013), the Director-General has undertaken preparatory works, in consultation with UNESCO Member States, regarding the preparation of drafts of two new instruments: a Draft Recommendation on the Promotion and Protection of Museums and Collections (37 C/Resolution 43); and a Draft Recommendation concerning the Preservation of, and Access to, Documentary Heritage in the Digital Era (37 C/Resolution 53).

The Director-General is expected to submit drafts of these new instruments to the General Conference at its 38th session taking place in November 2015.

<sup>52</sup> See <http://faolex.fao.org/RightToFood/RightToFood.html>.

<sup>53</sup> See <http://www.fao.org/fishery/nalo/search/en>.

<sup>54</sup> For official documents and more information on the United Nations Educational, Scientific and Cultural Organization, see <http://www.unesco.org>.

<sup>55</sup> United Nations, *Treaty Series*, vol. 1297, p. 101.

(iv) *Proposals concerning the preparation of revised instruments*

As requested by the General Conference at its 37th session (2013), the Director-General has undertaken preparatory works in consultation with UNESCO Member States regarding the revision of the 1976 Recommendation on the Development of Adult Education (37 C/Resolution 16); the 1978 UNESCO International Charter of Physical Education and Sport (37 C/Resolution 38); and the 2001 Revised Recommendation on Technical and Vocational Education (37 C/Resolution 17).

The Director-General is expected to submit revised drafts of these instruments to the General Conference at its 38th session taking place in November 2015.

The texts of all UNESCO standard-setting instruments, as well as the list of States parties to the conventions, are available on UNESCO's website.

(b) **Human Rights**

The Committee on Conventions and Recommendations met in private sessions at UNESCO Headquarters from 2 to 4 April 2014 and from 15 to 17 October 2014 in order to examine communications which had been transmitted to it in accordance with decision 104 EC/3.3 of the Executive Board.

At its April 2014 session, the Committee examined 29 communications of which 12 were examined with the view to determining their admissibility or otherwise, 16 were examined as to their substance and one was examined for the first time. Two communications were struck from the list because they were considered as having been settled. The examination of the remaining 27 was deferred. The Committee presented its report to the Executive Board at its 194th session.

At its October 2014 session, the Committee examined 32 communications of which 11 were examined with a view to determining their admissibility, 17 were examined as to their substance and four were examined for the first time. Three communications were struck from the list because they were considered as having been settled. The examination of the remaining 28 was deferred. The Committee presented its report to the Executive Board at its 195th session.

## 4. **World Health Organization**<sup>56</sup>

### (a) **Constitutional Developments**<sup>57</sup>

No new amendments to the Constitution were proposed or adopted, and neither of the two current amendments entered into force. The current amendments are the amendment to article 7 and the amendment to article 74 of the Constitution. The amendment to article 7 of the Constitution was adopted by the Eighteenth World Health Assembly by resolution WHA18.48 of 20 May 1965. The amendment to article 74 of the Constitution was adopted by the Thirty-first World Health Assembly by resolution WHA31.18 of

<sup>56</sup> For official documents and more information on the World Health Organization, see <http://www.who.int>.

<sup>57</sup> For the text of the WHO Constitution, see United Nations, *Treaty Series*, vol. 14, p. 185.

18 May 1978. The amendments have been accepted by 98 and 112 Member States, respectively. Amendments shall come into force for all members when adopted by two-thirds vote of the Health Assembly and accepted by two-thirds of the Members in accordance with their respective constitutional processes.

## (b) Other Normative Developments and Activities

### (i) *International Health Regulations (2005) (“IHR (2005)” or the “Regulations”)*

In 2014, the Director-General of the World Health Organization (WHO) determined twice that major events had reached and surpassed the threshold of a public health emergency of international concern (PHEIC) as defined under the International Health Regulations (2005). These two events were poliovirus, declared only 29 April 2014, and Ebola Virus Disease (EVD), declared on 7 August 2014. During that year, the WHO Director-General convened three meetings of the IHR Emergency Committee concerning cases of human infection with Middle East respiratory syndrome coronavirus (MERS-CoV), three for poliovirus and three for EVD. The MERS-CoV Committee was first convened in 2013 and in 2014 continued to consider that the conditions for a PHEIC had not been met. In line with the above-mentioned PHEIC determinations by the Director-General, corresponding temporary recommendations were issued to advise States parties on the necessary actions and response measures in relation to poliovirus and EVD. The recommendations were renewed by the Director-General, *mutatis mutandis*, following each of the respective Emergency Committee meetings.

In addition, a Review Committee on Second Extensions<sup>58</sup> for establishing national public health capacities and on IHR (2005) implementation met from 13 to 14 November 2014 at WHO Headquarters in Geneva, as mandated by articles 5 (Surveillance) and 13 (Response) of the Regulations. The meeting was open to all IHR (2005) States parties and to the United Nations and its specialized agencies and other relevant intergovernmental or nongovernmental organizations in official relations with WHO.

Additionally, the Executive Board, by resolution EB134.R10 of 24 January 2014, adopted an update to annex 7 of the IHR (2005) according to which the protection against infection by yellow fever and the validity of a certificate of vaccination extend for the life of the person vaccinated and are not limited anymore to ten years.

### (ii) *Amendments to Basic Documents and measures to improve decision making of governing bodies*

The Executive Board, by decision 134(3) of 24 January 2014, amended the Rules of Procedure of the Executive Board, with effect from the closure of its 134th session, by introducing two new rules, namely, rule 28 *bis* and rule 28 *ter*. The new rules relate to timing for introducing resolutions and decisions relating to items of the agenda and modalities relating to proposals and amendments related to items on the agenda, respectively.

Additionally, the Executive Board required that explanatory memoranda on any proposed item for inclusion on the agenda and supporting statements for proposals of

<sup>58</sup> For more information on IHR capacities extensions, see WHO, document EB13/22.

an urgent nature take into account the criteria established by the Executive Board in its resolution EB121.R1 of 24 May 2007 and be made available on the WHO web-based platform along with minutes of the meetings of the Officers of the Board. The Executive Board endorsed the steps taken by the Secretariat to improve capacity-building and training for members of the Executive Board and its Officers and approved the proposal to introduce webcasting for future public sessions of the Programme, Budget and Administration Committee, and of the Executive Board, to all internet users through a link on the WHO website. The Executive Board also endorsed the Secretariat's actions to minimize the use of paper documents and requested that the Director General continue to develop transparent means for the Secretariat to communicate with Member States.

The Executive Board, by resolution EB134.R9 of 23 January 2014, confirmed the amendment to the Rule III of the Financial Regulations on budget approval with immediate effect.

The Executive Board, by resolution EB135.R1 of 26 May 2014, confirmed amendments to the Staff Rules made by the Director-General with effect from 1 July 2014 concerning the effective date of amendments to the Staff Rules, assignment grant, appointment policies, determination of recognized place of residence, leave without pay, sick leave under insurance cover, and travel of spouse and children.

The World Health Assembly, by resolution WHA67.2 of 23 May 2014, adopted certain measures to improve decision-making by the governing bodies. These changes relate to (i) introducing webcasting of public meetings of the WHA; (ii) using electronic voting system for the nomination and appointment of the Director-General; (iii) altering the deadline and manner of submission of formal agenda proposals of the WHA; and (iv) deciding that the Health Assembly alone shall consider progress reports.

#### (iii) *Agreement with Jordan*

On 10 December 2014, WHO entered into an agreement with Jordan to establish a WHO Regional Centre for Health Emergencies and Polio Eradication in the country. The purpose of the office is to provide further technical and logistical support to countries in the Eastern Mediterranean region of WHO in the areas of emergency preparedness and response and effective administration of emergency programmes operations, including polio eradication. Specific provisions address the establishment of the WHO Regional Centre and govern its functioning, including the granting of privileges and immunities to the Organization and its staff.

#### (iv) *Agreement with Kazakhstan*

On 21 May 2014, the World Health Organization entered into an agreement with the Government of the Republic of Kazakhstan concerning the establishment of the Geographically Dispersed Office of the World Health Organization on Primary Health Care in Almaty. The agreement aims at strengthening the work on health service delivery, in particular in the area of development of Primary Health Care. Specific provisions address the establishment of the Geographically Dispersed Office and govern its functioning, including the granting of privileges and immunities to the Organization and its staff

(v) *Supporting National Law Reform Efforts on WHO Mandated Topics*

During 2014, Headquarters and Regional Offices of WHO provided technical co-operation to a number of Member States in connection with the development, assessment, or review of various areas of health legislation and WHO-mandated topics. Specific support was provided to countries for developing and/or revising national law and legislation on tobacco related issues, mental health, international recruitment of health personnel, infant nutrition, food safety, drinking water quality, medical records, road safety and pharmaceuticals.

## 5. International Monetary Fund<sup>59</sup>

### (a) Membership Issues

#### (i) *Accession to Membership*

No new countries became members of the International Monetary Fund (IMF) in 2014. As of 31 December 2014, the membership of the IMF consisted of 188 member countries.

#### (ii) *Status and Obligations under article VIII or article XIV of the IMF Articles of Agreement*

Under article VIII, sections 2, 3, and 4, of the IMF Articles of Agreement,<sup>60</sup> members of the IMF may not, without the IMF's approval, (i) impose restrictions on the making of payments and transfers for current international transactions; or (ii) engage in any discriminatory currency arrangements or multiple currency practices. Notwithstanding these provisions, pursuant to article XIV, section 2 of the IMF 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 Articles of Agreement that allow the member 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 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 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

<sup>59</sup> For documents and more information on the International Monetary Fund, see <http://www.imf.org>.

<sup>60</sup> United Nations, *Treaty Series*, vol. 2, p. 39.

technical assistance to help the member remove its exchange restrictions and multiple currency practices.

### (iii) *Overdue Financial Obligations to the IMF*

As of 31 December 2014, members with protracted arrears (*i.e.* financial obligations that are overdue by six months or more) involving the general resources of the IMF were Somalia and Sudan. Zimbabwe has arrears to the Poverty Reduction and Growth Trust (PRGT) administered by the IMF as Trustee. In addition, Somalia and Sudan have protracted overdue Trust IMF and/or Structural Adjustment Facility obligations not involving the general resources of the IMF.

Article XXVI, section 2(a), of the IMF 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-December 2014 with respect to Somalia and Sudan, whose arrears are subject to sanctions under article XXVI. In the case of Zimbabwe, its arrears to the PRGT are 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. From that time, the positions of the Governor and Alternate-Governor for Madagascar in the IMF remained vacant for several years. In March 2014, following the presidential and parliamentary elections and establishment of an internationally-recognized government, the IMF decided to deal with Madagascar’s government and Madagascar has appointed its Governor and Alternate-Governor at the IMF.

## (c) **Key Policy Decisions of the IMF**

In 2014, 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*

#### a. **Triennial Surveillance Review**

The activity known as IMF surveillance is a core mandate of the IMF. Article IV, section 3(a) requires the IMF to exercise oversight over members’ compliance with their obligations with respect to the conduct of their economic, financial and exchange rate policies under article IV, section I, while directing the IMF to give particular scrutiny to members’ exchange rate policies. This is known as bilateral surveillance. Article IV, section 3(a), also gives the IMF a specific mandate to “oversee the international monetary system in order to ensure its effective operation”. This is known as multilateral surveillance.



The IMF regularly reviews the effectiveness of its surveillance activities across its 188 member countries and the global economy. In September 2014, the IMF completed the latest Triennial Surveillance Review. The 2014 Review aimed to enhance IMF surveillance by building on the major reforms directed at detecting risks and spillovers that were implemented since the last review (2011) and the adoption of the 2012 Integrated Surveillance Decision. At the same time, in completing the Review, the Executive Board recognized further need to refine, adapt and reinforce surveillance to ensure its effectiveness and relevance in an interconnected post-crisis world.

Accordingly, and to ensure that IMF surveillance supports sustainable growth in an interconnected global economy, the Review identified the following operational priorities for IMF's surveillance activities for 2014 to 2019: integrate and deepen risk and spillover analysis; mainstream macro-financial surveillance; increase attention to structural policies, including labour market issues; deliver cohesive and expert policy advice; and a client-focused approach, supported by clear and candid communication. The IMF has also decided to move the frequency of the comprehensive surveillance reviews cycle from the current three to five years.

#### **b. Financial Sector Assessment Program Review**

In September 2014, the IMF completed a periodic review of the Financial Sector Assessment Program (FSAP). The FSAP, established in 1999, is a comprehensive and in-depth analysis of a country's financial sector. FSAP assessments are the joint responsibility of the IMF and World Bank. Since 2010, financial stability assessments (FSAs) under the FSAP have become a regular and mandatory part of bilateral surveillance under article IV for jurisdictions with financial sectors deemed by the IMF to be systemically important based on their size and cross-border banking linkages. In 2010, FSAs became mandatory for 25 jurisdictions, with another 4 jurisdictions added in 2013. For all other jurisdictions, FSAP participation remains voluntary.

The 2014 FSAP Review focused on the IMF's role and responsibilities in the FSAP, namely the financial stability assessment, the contributions of FSAPs to surveillance, and the programme's broader traction and impact. It assessed the impact of the preceding 2009 FSAP review and subsequent changes to the programme, drawing lessons from the experience of the last five years in order to strengthen the programme further.

The 2014 Review found that FSAPs conducted since 2009 have improved in all dimensions and featured stress tests that covered a broader set of risks, and, increasingly, analyse spillovers and macro-prudential frameworks. The Review acknowledged that as FSAPs in jurisdictions with financial sectors of systemic importance have proved to be much more challenging and resource intensive than other FSAPs, the number of FSAPs in non-systemic countries, particularly low-income countries, has declined. To address this problem, the 2014 FSAP Review suggested more extensive use of multi-topic technical assistance, spanning the various areas related to financial stability, to support financial sector surveillance in article IV consultations.



## (ii) *IMF Lending*

### a. **Reform of the Policy on External Debt Limits in IMF Arrangements**

In December 2014, the IMF reviewed its policy on external debt limits in IMF arrangements. Prior to the 2014 Review, the IMF had last reviewed and revised the policy in 2009. The policy on the use of debt conditionality in IMF arrangements applies across the membership but there was consensus on the need for reforms of aspects of the 2009 policy applying to countries that normally rely on official external financing, which are generally low-income countries (LICs).

In conducting the 2014 Review, the IMF assessed the experiences of implementation of 2009 policy and recognized that the maintenance of the then existing sharp dichotomy in the treatment of concessional versus non-concessional loans had become less tenable. This is due to the particular conjunction of large infrastructure financing needs in LICs combined with limited supply of concessional financing for such purposes and the increasing availability of alternative sources of financing.

To address these developments the IMF adopted a number of reforms to the guiding principles of the policy, including the following key components: (i) tight linkage of the use of debt conditionality to the presence of significant debt vulnerabilities, as identified by debt sustainability assessments; (ii) a unified treatment of public debt, encompassing both concessional and non-concessional borrowing; and (iii) the determination of debt limits as one component of a fiscal framework, appropriately adjusted to country conditions. The unified treatment of debt will provide low-income countries with greater flexibility to manage their financing needs. Under the revised policy, debt limits conditionality will not need to be included in programmes with members assessed as being at low risk of debt distress. However, IMF-supported programmes with Members assessed as being at moderate or high risk of debt distress or in actual debt distress, will continue to include conditionality on the accumulation of public and publicly guaranteed external debt. Further, for countries assessed as being at high risk of debt distress or in actual debt distress, non-concessional borrowing would be allowed only under exceptional circumstances, programme conditionality would include a performance criterion setting a limit on the nominal value of non-concessional borrowing, and a performance criterion or indicative limit would be set on the level of concessional borrowing. The new debt limits policy will take effect at the end of June 2015 and the review of the experience with its implementation would take place by the end of June 2018.

### b. **Review of Flexible Credit Line, Precautionary and Liquidity Line and Rapid Financing Instrument**

The Flexible Credit Line (FCL), the Precautionary and Liquidity Line (PLL) and the Rapid Financing Instrument (RFI) were created as part of the reform of the General Resources Account (GRA) lending toolkit in response to the 2008 financial crisis. The FCL and the PLL, are aimed at strengthening the IMF's crisis prevention and resolution toolkit while the RFI was created to broaden the IMF's emergency assistance with a streamlined and more flexible instrument within the credit tranches.

In 2014, the IMF conducted a periodic Review of FCL, PLL, and RFI instruments which resulted in a number of reforms aimed at improving the transparency and predictability of

qualification assessments and further informing access and exit discussions in the use of the FCL and PLL instruments. Specifically, the Board approved the reform proposals to: (i) align the FCL and PLL qualification criteria through the adoption of the nine specific FCL criteria to assess Hi qualification, while maintaining the different qualification standards for each of these instruments; (ii) strengthen the bank solvency qualification criterion for the FCL and the PLL; (iii) broaden the set of institutional indicators that could help inform qualification assessments for the FCL and the PLL; and (iv) operationalize the use of an external stress index to help strengthen the discussion of country-specific external environment. The review did not result in any change to the RFI. The next IMF review of the FCL, PLL and RFI instruments is expected within three years.

### (iii) *AML/CFT Strategy*

In March 2014, the IMF reviewed the IMF's strategy for anti-money laundering and combating the financing of terrorism (AML/CFT) and gave strategic directions for the work ahead. The Board notably: (i) endorsed the revised AML/CFT standard and assessment methodology of the Financial Action Task Force; (ii) encouraged staff to continue its efforts to integrate financial integrity issues into its surveillance and in the context of IMF-supported programmes, when financial integrity issues are critical to financing assurances or to achieve programme objectives; and (iii) decided that AML/CFT issues should continue to be addressed in all FSAPs but on a more flexible basis. In May 2014, the IMF also started the second five-year phase of a donor-supported trust fund that complements existing accounts financing AML/CFT capacity development activities in its member countries.

### (iv) *Review of Developments in Sovereign Debt Restructuring*

In recent years, there have been several important developments in sovereign debt restructuring, including the European sovereign debt crisis and the ruling of the New York courts in the litigation against Argentina with its potentially adverse implications for future sovereign debt restructurings. There have also been active discussions of sovereign debt restructuring issues in international fora with a view to facilitating orderly and speedy debt restructurings.

The IMF Executive Board agreed in May 2013 that these issues required follow-up work and endorsed a work programme focusing on four key areas: (i) the relationship between the IMF's lending framework and sovereign debt vulnerabilities; (ii) the effectiveness of the contractual, market-based approach to debt restructuring in overcoming collective action problems; (iii) the framework for official sector involvement; and (iv) the lending into arrears policy. In 2014, the Board discussed staff papers on the first two of these issues.

First, in June 2014 the Board discussed a staff paper setting out preliminary views for a possible direction of reform of the IMF's lending framework in the context of sovereign debt vulnerabilities. The primary focus of the paper was the design of the IMF's exceptional access policy (governing access above the normal financing limits). The preliminary considerations in the paper maintain a market-based approach and would envisage amending the IMF's lending framework to make it more flexible and calibrated to members' debt situations. The Board discussed staff's proposals in the following two

main areas: (i) Reforming the exceptional access framework to allow the IMF to provide exceptional access to a member on the basis of a debt re-profiling that would involve a limited extension of maturities, normally without any reduction of principal or interest, in circumstances where (a) the member has lost market access, and (b) debt is assessed to be sustainable but not with high probability; and (ii), with the introduction of debt re-profiling as an additional tool, removing the systemic exemption to the exceptional access framework, which had raised concerns about inequity and moral hazard associated with a large-scale bail-out. At the request of the Board, a follow-up staff paper further developing these considerations will be submitted for discussion in 2015.

Second, in October 2014 the IMF discussed a staff paper on contractual reforms designed to address collective action problems in sovereign debt restructurings. The Board supported staff proposals in the following three areas:

- (i) the widespread use of modified *pari passu* clauses in new international sovereign bonds to explicitly exclude the obligation to effect ratable payments so as to enhance legal certainty and consistency across jurisdictions.
- (ii) The inclusion of strengthened collective action clauses (CACs) in international sovereign bonds, which would include a single limb aggregated vote as part of a menu of voting procedures. In order to provide adequate safeguards to protect the interests of creditors, where the single limb voting procedure is used, the CAC should require all affected bondholders to be offered the same instrument or an identical menu of instruments (the “uniformly applicable” safeguard). In addition, the CAC should include robust disenfranchisement provisions consistent with those generally found in international sovereign bonds.
- (iii) The IMF’s active role in promoting the use of these enhanced contractual provisions in new international sovereign bond issues through: collection of information; engaging with its membership; and periodically informing the Executive Board and the public on the status of sovereign issuers’ inclusion of such provisions. The Board also noted that it would take time for the significant stock of outstanding international sovereign bonds to mature, posing a risk to orderly restructurings, though the magnitude of such risk remains uncertain. In this regard, it encouraged staff to engage in further discussions with stakeholders on ways to minimize this risk.

#### (v) *Communication Strategy*

In July 2014, the IMF’s Executive Board reviewed the IMF’s Communication Strategy. In this context, the Board concurred that the framework guiding the communications strategy, as endorsed in 2007, remains broadly appropriate and the overall strategy has allowed the IMF to communicate effectively and flexibly. The Board encouraged continued efforts to strengthen and adapt the IMF’s communication, with a view to deepening public understanding of the IMF’s work and policy advice. It was noted that evolving issues facing the membership, as well as new technologies, require continued flexibility and proactive engagement, including with new media. The Board also discussed the roles of the Board and management in public pronouncements and further clarification regarding

the issue of who is, and who can speak for, the IMF. The Board underlined the importance of ensuring that, in making public statements, the respective authority of each organ of the IMF is respected, and that the audience understands who is speaking for the IMF and in what capacity.

## 6. International Civil Aviation Organization<sup>61</sup>

### (a) Depositary actions in relation to multilateral air law instruments

A total of 74 depositary activities by States were recorded during 2014.<sup>62</sup>

#### (i) *Activities of ICAO in the legal field*

##### a. Promotion of Aviation Security Instruments

The International Civil Aviation Organization (ICAO) continued to promote the ratification of the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 2010 (the “Beijing Convention”),<sup>63</sup> and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, 2010 (the “Beijing Protocol”)<sup>64</sup> through a State letter,<sup>65</sup> visits to Member States by the President of the Council and/or the Secretary General, and seminars. As of 31 December 2014, the Beijing Convention had been signed by 30 States and ratified by or acceded to by ten States. As of the same date, the Beijing Protocol had been signed by 32 States and ratified by or acceded to by ten States. With regard to the promotion of aviation security instruments generally, the Organization contributed to the “Counter-Terrorism Legal Training Curriculum Module 5—Transport-related (civil aviation and maritime) Terrorism Offences”, sponsored by the United Nations Office on Drugs and Crime (UNODC).

#### (ii) *Safety Aspects of Economic Liberalization and article 83 bis*

The first meeting of the article 83 *bis* Task Force was held at ICAO Headquarters on 15 and 16 October 2014. The meeting was attended by experts from 11 States and three international organizations. The Task Force will assist the Secretariat in revising the Guidance on the Implementation of article 83 *bis* of the Convention on International Civil Aviation,<sup>66</sup> as well as in identifying options to be considered for the considered for the facilitation of registration of article 83 considered for the facilitation of registration of

<sup>61</sup> For official documents and more information on the International Civil Aviation Organization, see <http://www.icao.int>.

<sup>62</sup> A chronological record of States that signed, ratified, acceded, accepted or adhered to multilateral air law instruments during 2014 can be found on the ICAO website as part of the Legal Affairs and External Relations Bureau’s Treaty Collection, where status lists of international air law instruments are continually updated.

<sup>63</sup> ICAO, document 9960.

<sup>64</sup> ICAO, document 9959.

<sup>65</sup> ICAO, document LE 3/44, LE 3/45–14/69.

<sup>66</sup> ICAO document, Circular 295 LE/2.

article 83 *bis* Agreement. The principal outcome of the meeting was an agreement on the specific issues to be considered by the Task Force and the establishment of four groups. Between meetings of the Task Force each group will consider a category of topics and draft material for consideration by the Task Force. The Task Force plans to complete its work in time to report to the 36th session of the Legal Committee at the end of 2015.

(iii) *Consideration of Guidance on Conflicts of Interest*

A study on the consideration of guidance on conflicts of interest was initiated on 11 June 2014 when States were requested in a State Letter to complete, by 15 August 2014, a survey on the treatment of conflicts of interest in civil aviation in their respective jurisdictions.<sup>67</sup> Evaluation of the survey responses is ongoing in order to determine further work on this item, including the convening of a Task Force.

(iv) *General Work Programme of the Legal Committee*

Pursuant to the decision taken at the fifth meeting of its 203rd session, the Council amended the General Work Programme of the Legal Committee to read 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) Study of legal issues relating to remotely piloted aircraft; (e) Consideration, with regard to communications, navigation and surveillance/air traffic management (CNS/ATM) systems including global navigation satellite systems (GNSS), and the regional multinational organisms, of the establishment of a legal framework; (f) Promotion of the ratification of international air law instruments; and (g) Determination of the status of an aircraft.

(v) *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 on International Interests in Mobile Equipment (the “Cape Town Convention”).<sup>68</sup> At the third meeting of its 202nd session, the Council approved the reappointment of the current Registrar, Aviareto Ltd., for a third, five-year term commencing 1 March 2016; the Council also approved the Third Report of the Supervisory Authority of the International Registry to the Contracting States to the Cape Town Convention and Protocol, which was subsequently issued on 16 July 2014 by State Letter.<sup>69</sup> Pursuant to article 62 (2) (c) of the Cape Town Convention and article XXXVII (2) (c) of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (the “Cape Town Protocol”),<sup>70</sup> the Supervisory Authority regularly receives information

<sup>67</sup> ICAO document, LE 4/69-14/40.

<sup>68</sup> United Nations, *Treaty Series*, vol. 2307, p. 285.

<sup>69</sup> ICAO document, LE 3/41.2-IND/14/8.

<sup>70</sup> United Nations, *Treaty Series*, vol. 2367, p. 615.

from the Depositary on ratifications, declarations, denunciations and designations of entry points. As at 31 December 2014, there were 65 ratifications and accessions to the Cape Town Convention and 58 ratifications and accessions to the Cape Town Protocol.

(vi) *ICAO Relations with Third-Party Entities*

At the 38th session of the ICAO Assembly in 2013, Colombia presented A38-WP/338 (Policy on Third-Party Endorsements and Memoranda of Understanding (MOUs)), which analysed “the importance of interactions between ICAO and other international organizations, industry and academia, in the form of endorsements and memoranda of understanding, based on principles that prevent conflicts of interest and guarantee transparency, fairness and objective selection in such interactions.” The Assembly agreed to the actions requested therein, namely, to request the Council: (a) to provide guidelines and adopt policies for the interactions of ICAO with third parties in the form of endorsements and MOUs; and (b) in the interests of transparency, to publish the list of MOUs and endorsements in force. The Council approved these actions at the first meeting of its 201st session on 24 February 2014. The Council further considered the matter at the fifth and eighth meetings of its 203rd session on 5 and 12 November 2014. The Council approved the ICAO Policy on Interactions with Third Parties and the publication of the list of endorsements, agreements, MOUs, recognitions and similar arrangements in force.

(vii) *Committee on Relations with the Host Country*

The Committee on Relations with the Host Country (RHCC), established during the third meeting of the 199th session of the Council on 24 May 2013, held its second, third and fourth meetings on 28 January, 5 June, and 3 October, respectively.

During these meetings, the RHCC reviewed progress achieved since its first meeting held on 22 October 2013, and considered the pending issues on its agenda, such as: improvement of Canadian visa procedures for national delegates attending ICAO meetings at ICAO Headquarters in Montreal; granting of diplomatic status to consular officers appointed as Representatives or Alternate Representatives to ICAO and their family members; work authorizations and exemption from work permit for dependent family members; procedures related to the educational and health systems; facilitation of banking procedures for resident delegations and their members.

In addition, the RHCC was informed about the processing of visa applications from foreign nationals in Ebola-affected countries, on new restrictions applied by Canada on the hiring of domestic workers, and on the decision of the City of Montreal to change the address of ICAO Headquarters, *i.e.* University Street to be renamed “Robert-Bourassa Boulevard” (effective 15 March 2015 with a grace period of an additional six months granted by Canada Post). Finally, the Committee was advised that the “ICAO Yellow Book: Information for members of national delegations regarding their arrival and residence in Canada” had been updated in coordination with Protocols Ottawa and Quebec, for a new 2015 edition to be posted on the Secure Portal by the beginning of the year. The 2015 edition of the Yellow Book will also comprise additional features as requested by the RHCC, including on temporary medical coverage for national delegates attending meetings at ICAO Headquarters.

## 7. International Maritime Organization<sup>71</sup>

### (a) Membership of the Organization

As at 31 December 2014, the membership of the International Maritime Organization (IMO) stood at 171.

### (b) Review of the legal activities work undertaken by the IMO Legal Committee

The Legal Committee ("the Committee") held its 101st session from 28 April to 1 May 2014.<sup>72</sup>

#### (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)*<sup>73</sup>

The Committee noted that, with the entry into force of the Nairobi International Convention on the Removal of Wrecks, on 14 April 2015, the 2010 HNS Convention would be the remaining gap in the global framework of liability and compensation conventions. The Committee acknowledged the need for a concerted effort to implement and coordinate the entry into force of the 2010 HNS Convention. Therefore, the Committee agreed to reconstitute the HNS Correspondence Group in order to facilitate dialogue among States and assist the International Oil Pollution Compensation (IOPC) Funds in its task to facilitate the entry into force of the Convention. The Committee also agreed that the HNS Protocol Blog would be the means of communication of the Correspondence Group which should report at its next session. The Committee further agreed that States parties to the 2010 HNS Convention could not in their domestic law distinguish between shipowners from States parties and those from States not parties to the Convention.

#### (ii) *Fair treatment of seafarers in the event of a maritime accident*

The outcome of a survey commissioned by the International Transport Workers' Federation (ITF) and the International Federation of Shipmasters' Associations (IFSMA), and conducted by Seafarers' Rights International (SRI), concerning the implementation of the 2006 Guidelines on fair treatment of seafarers in the event of a maritime accident,<sup>74</sup> was presented during the Committee session.

<sup>71</sup> For official documents and more information on the International Maritime Organization, see <http://www.imo.org>.

<sup>72</sup> The report of the Legal Committee is contained in document LEG 101/12.

<sup>73</sup> IMO, documents LEG 101/3, LEG 101/3/1 and LEG 101/3/2.

<sup>74</sup> IMO document, LEG 101/4/1.



(iii) *Review of the Status of Conventions and other Treaty Instruments emanating from the Legal Committee*

In light of this year's theme for World Maritime Day, "IMO conventions: effective implementation", the Committee discussed a number of issues relating to the effective implementation of treaty instruments, in particular, barriers at the national level where domestic implementing legislation is required, the significance of uniformity of implementation, and the scope for the Organization as a whole and/or the Integrated Technical Cooperation Programme (ITCP) to assist and support Governments in the implementation process.<sup>75</sup>

With regard to the Athens Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (the "Athens Protocol"),<sup>76</sup> the Committee emphasised that the Reservation and Guidelines, as endorsed by IMO resolution A.988(24), had been developed and agreed with the express intention of facilitating entry into force of the Athens Protocol. The Committee urged States to include the reservation of 2006 when depositing their instruments of ratification of the 2002 Athens Protocol to ensure its uniform application and allow operators of passenger ships to obtain the necessary insurance cover and certification to trade.<sup>77</sup> The Committee considered the implications of not extending the 2007 Nairobi Wreck Removal (WRC) Convention, 2007, within the territory, including the territorial sea, with regard to insurance certification,<sup>78</sup> and encouraged States to apply the Convention within their territory, including their territorial sea.

(iv) *Other matters*

a. **Liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities**

Indonesia and Denmark initiated the intersessional consultative group to develop guidance on bilateral and/or regional agreements or arrangements.

b. **Extension of the scope of the Guidelines for accepting documentation from insurance companies, financial security providers and P&I Clubs, adopted in respect of the Bunkers Convention, to CLC, HNS Convention and Nairobi WRC certificates**

The Committee approved the extension of the Guidelines for accepting documentation from insurance companies, financial security providers and P&I Clubs, adopted in respect of the Bunkers Convention,<sup>79</sup> to International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC),<sup>80</sup> HNS Convention and Nairobi WRC certificates.<sup>81</sup>

<sup>75</sup> IMO, document LEG 101/8/1.

<sup>76</sup> IMO, document LEG/CONF.13/20.

<sup>77</sup> IMO, document LEG/101/8/3.

<sup>78</sup> IMO, document LEG 101/8/4.

<sup>79</sup> IMO, Circular Letter No.3145.

<sup>80</sup> United Nations, *Treaty Series*, vol. 973, p. 3.

<sup>81</sup> IMO, Circular Letter No.3464 of 2 July 2014.



The Committee considered the issue related to the procedure for accepting P&I Clubs' certificates and certificates from clubs outside the International Group of P&I Associations and from insurance companies. During the implementation process of the 2001 Bunkers Convention, it had been discovered that States parties to the Convention had had different standards for accepting adequate documentation necessary to fulfil the requirements of the Convention. A Blue Card issued by a P&I Club was generally accepted by States with no further requirements.

### (c) Other items

The Committee made progress on other items including technical cooperation activities related to maritime legislation.<sup>82</sup>

### (d) Adoption of amendments to conventions and protocols

#### (i) *Legal framework for the implementation of the mandatory IMO Member States Audit Scheme completed*

Amendments to the following treaties were adopted to complete the legal framework for the implementation of the mandatory IMO Member States Audit Scheme. These amendments make mandatory the use of the IMO Instruments Implementation Code (III Code) and auditing of States Parties to the following: amendments to the International Convention for the Safety of Life at Sea, 1974,<sup>83</sup> as amended (addition to SOLAS of a new chapter XIII), by resolution MSC.366(93); amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, by resolution MSC.373(93); amendments to the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended, by resolution MSC.375(93); 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, II, III, IV and V), by resolution MEPC.246(66); and amendments to the annex of the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, by MEPC.247(66).

#### (ii) *International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk revised*

The Maritime Safety Committee (MSC), at its 93rd session, adopted the revised International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (the "IGC Code"), by resolution MSC.370(93)). The completely revised and updated Code has been developed following a comprehensive five-year review and is intended to take into account the latest advances in science and technology. It will enter into force on 1 January 2016, with an implementation/application date of 1 July 2016. The Code was

<sup>82</sup> IOM, document LEG 101/12, paras. 7.1 to 7.4.

<sup>83</sup> United Nations, *Treaty Series*, vol. 1184, p. 2.

adopted in 1983 and has been amended since; however, the new draft represents the first major revision of the IGC Code.

(iii) *Safety related provisions of the Polar Code adopted*

The MSC, at its ninety-fourth session, adopted the safety related provisions of the International Code for Ships Operating in Polar Waters (the “Polar Code”) by resolution MSC.385(94), and related amendments to the International Convention for the Safety of Life at Sea (SOLAS), by resolution MSC.386(94) to make it mandatory, marking an historic milestone in the Organization’s work to protect ships and people aboard them, both seafarers and passengers, in the harsh environment of the waters surrounding the two poles. The Polar Code covers the full range of design, construction, equipment, operational, training, search and rescue and environmental protection matters relevant to ships operating in waters surrounding the two poles. Ships trading in the polar regions already have to comply with all relevant international standards adopted by IMO, but the newly adopted SOLAS chapter XIV “Safety measures for ships operating in polar waters”, adds additional requirements, by making the Polar Code mandatory. The Marine Environment Protection Committee (MEPC) is expected to adopt the Code and associated MARPOL amendments to make the environmental provisions mandatory at its next session in May 2015.

(iv) *SOLAS amendments*

The MSC, at its 94th session, also adopted the following amendments: (a) amendments to SOLAS chapter VI to require mandatory verification of the gross mass of containers, either by weighing the packed container; or weighing all packages and cargo items, using a certified method approved by the competent authority of the State in which packing of the container was completed, by resolution MSC.380(94)); (b) amendments to add a new SOLAS regulation XI-1/7 on Atmosphere testing instrument for enclosed spaces, to require ships to carry an appropriate portable atmosphere testing instrument or instruments, capable of measuring concentrations of oxygen, flammable gases or vapours, hydrogen sulphide and carbon monoxide, prior to entry into enclosed spaces, by resolution MSC.380(94)); and (c) amendments to update the International Code on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers (the “2011 ESP Code”), including revisions to the minimum requirements for cargo tank testing at renewal survey and addition of a new paragraph on rescue and emergency response equipment in relation to breathing apparatus, by resolution MSC.381(94)).

(v) *MARPOL amendments*

The Marine Environment Protection Committee (MEPC), at its 66th and 67th Sessions, adopted, among others, the following amendments:

(a) MARPOL Annex VI, regulation 13, on Nitrogen Oxides (NO<sub>x</sub>), concerning the date for the implementation of “Tier III” standards within emission control areas (ECAs) (resolution MEPC.251(66)). The amendments provide for the Tier III NO<sub>x</sub> standards to be applied to a marine diesel engine that is installed on a ship constructed on or after

1 January 2016 and which operates in the North American Emission Control Area or the U.S. Caribbean Sea Emission Control Area that are designated for the control of NOx emissions.

(b) NOx Technical Code guidelines: The MEPC further adopted amendments to the NOx Technical Code, 2008, concerning the use of dual-fuel engines (by resolution MEPC.251(66)).

(c) MARPOL Annex I regulation 43 concerning special requirements for the use or carriage of oils in the Antarctic area, to prohibit ships from carrying heavy grade oil on board as ballast (resolution MEPC.256(67)).

(d) MARPOL Annex III, concerning the appendix on criteria for the identification of harmful substances in packaged form (by resolution MEPC.257(67)); and

(e) MARPOL Annex VI, concerning regulation 2 (Definitions), regulation 13 (Nitrogen Oxides (NOx) and the Supplement to the International Air Pollution Prevention Certificate (IAPP Certificate), in order to include reference to gas as fuel and to gas-fuelled engines (by resolution MEPC.258(67)).

## 8. Universal Postal Union<sup>84</sup>

On 26 March 2014 the Universal Postal Union (UPU) signed a memorandum of understanding with the International Telecommunications Union (ITU), through which the two organizations intend to pursue common goals to ensure the facilitation and coordination of the right of all people to communicate through access to Infrastructure as well as Information and communication services. In particular, the memorandum aims to intensify activities regarding the establishment of a non-exclusive partnership to spread access to affordable and accessible physical, electronic and financial postal services.

On 4 September 2014 the UPU signed an agreement with United Nations Global Pulse to establish a framework of cooperation aimed at encouraging and facilitating joint innovative approaches for using “Big Postal Data”, including the development of projects and tools arising from the analysis of such “Big Postal Data” and the provision of services for statistical, technical cooperation and development purposes.

On 3 November 2014 a memorandum of understanding was signed between the UPU and the International Air Transport Association (IATA) in order to ensure the safe and secure movement of mail within the boundaries of air transportation. In this regard, the organizations agreed to jointly work on the development of mutually relevant guidelines for the handling and reporting procedures of international mail, the improvement of standardized security and safety procedures in accordance with the framework set by the International Civil Aviation Organization (ICAO) as well as to endorse standardized procedures on automated processing of electronic data.

On 20 November 2014 the UPU signed a memorandum of understanding with UN Women regarding the promotion of joint projects and activities related to gender equality and the economic empowerment of women In the context of the postal sector.

<sup>84</sup> For official documents and more information on the Universal Postal Union, see <http://www.upu.int>.

## **9. World Meteorological Organization<sup>85</sup>**

### **(a) Membership**

On 31 December 2014, World Meteorological Organization (WMO) has a membership of 185 Member States and six Territories.

### **(b) Agreements and other arrangements concluded in 2014**

#### **(i) *Agreements with States***

##### **France**

Memorandum of Understanding between the WMO and Meteo-France regarding the Establishment of Fellowships for Training of Experts, signed on 31 December 2013 and 14 February 2014.

##### **Germany**

Agreement between the WMO and the Federal Republic of Germany regarding the arrangements for the sixteenth session of the WMO Commission for Climatology (CCI), signed on 27 June 2014.

##### **Haiti**

Protocol of agreement between the WMO and the Government of the Republic of Haiti for completion of a project on climate services to reduce the vulnerability in Haiti, signed on 19 February 2014.

##### **Indonesia**

Agreement between the WMO and the Government of Indonesia regarding the arrangements for the sixteenth session of WMO Regional Association V (South-West Pacific), signed on 21 April 2014.

##### **Italy**

Cooperation Agreement between the WMO and the Italian Civil Protection Department regarding cooperation for the transfer, installation and customization of the DEWETRA platform to countries that request it, signed on 25 March 2014.

##### **Paraguay**

Agreement between the WMO and the Government of Paraguay regarding the arrangements for the extraordinary session of the WMO Commission for Basic Systems (CBS) and the sixteenth session of the WMO Regional Association III (South America). The Agreement was signed on 2 September 2014.

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<sup>85</sup> For official documents and more information on the World Meteorological Organization, see <https://public.wmo.int/en>.

### **Russian Federation**

Memorandum of Understanding between the WMO and the Government of the Russian Federation regarding arrangements for the sixteenth session of the WMO Commission for instruments and methods of observation (CIMO-16), Saint Petersburg, Russian Federation, 10–16 July 2014, signed on 5 June 2014.

### **Turkey**

Agreement between the WMO and the Government of Turkey regarding the arrangements for the sixteenth session of the WMO Commission for Agricultural Meteorology (CAgM), signed on 26 February 2014.

### *(ii) Agreements with the United Nations*

#### **United Nations Economic Commission for Africa (UNECA)**

Memorandum of Understanding between the WMO and UNECA concerning the implementation of Climate Research for Development (CR4D) Agenda in Africa, signed on 29 April 2014 and 21 May 2014.

#### **United Nations Institute for Training and Research (UNITAR)**

Memorandum of Understanding between the WMO and UNITAR in the area of institutional, scientific and technical collaboration on climate information, signed on 7 March 2014.

### *(iii) Agreements with other intergovernmental organizations*

#### **Economic Interest Grouping EUMETNET**

Memorandum of Understanding between the WMO and the Economic Interest Grouping EUMETNET concerning cooperation in joint cooperation programmes and projects, signed on 19 March 2014.

#### **European Centre for Medium-Range Weather Forecasts (ECMWF)**

Memorandum of understanding between the WMO and the European Centre for Medium-Range Weather Forecasts regarding Fellowships Education Programme for Targeted Experts from Least Developed and Developing Countries, signed on 23 December 2014.

### **Indian Ocean Commission**

Memorandum of Understanding between the WMO and the Indian Ocean Commission concerning cooperation in matters of mutual interest, signed on 3 September 2014.

(iv) *Agreements with non-governmental organizations*

**Abdus Salam International Centre for Theoretical Physics (ICTP)**

Memorandum of Understanding between the WMO and the Abdus Salam International Centre for Theoretical Physics concerning cooperation in matters of mutual interest, signed on 7 and 8 October 2014.

**Economic Interest Grouping for National and Hydrological Services in Europe (ECOMET)**

Memorandum of Understanding between the WMO and Economic Interest Grouping for National and Hydrological Services in Europe to establish cooperation in matters of mutual interest, signed on 26 June 2014.

**Hohai University, China**

Memorandum of Understanding between the WMO and Hohai University, China, regarding Fellowships Education Programme, signed on 5 May 2014.

**International Environmental Data Rescue Organization (IEDRO)**

Memorandum of Understanding between the WMO and the International Environmental Data Rescue Organization to support climate data rescue and digitization throughout the world with particular emphasis on developing countries by providing a coordinating mechanism for managing and implementing the technical and administrative aspects of relevant activities, signed on 26 June 2014 and 14 July 2014.

**Korea Institute of Civil Engineering and Building Technology (KICT)**

Memorandum of understanding between the WMO and the Korea Institute of Civil Engineering and Building Technology concerning cooperation in the area of hydrometry, signed on 16 June 2014.

**Russian State Hydrometeorological University (RSHU)**

Memorandum of Understanding between the WMO and the Russian State Hydrometeorological University, Russian Federation, regarding RSHU-WMO Fellowships Education Programme, signed on 23 December 2014.

## **10. The World Intellectual Property Organization<sup>86</sup>**

### **(a) Introduction**

In 2014, the World Intellectual Property Organization (WIPO) focused its efforts on four areas of operation: (a) service, by administering and maintaining systems to facilitate global IP protection through patents, trademarks, designs, appellations of origin, and

<sup>86</sup> For official documents and more information on the World Intellectual Property Organization, see <http://www.wipo.int>.

alternative dispute resolution mechanisms; (b) law, by promulgating progress of international IP laws and standards; (c) development, by encouraging the use of IP to help not only protect but act as a catalyst toward economic, social, and cultural growth, especially in developing nations, and (d) reference, by providing the public with access to IP and IP information through developing and improving networks and databases. The following is a summary of the actions taken by WIPO in 2014 to advance global IP law and policy with respect to the four aforementioned areas of operation.

### **(b) Service: Global 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 while offering additional support through fast, flexible, and cost-effective arbitration and mediation services.

#### *(i) Patent Cooperation Treaty (PCT)*<sup>87</sup>

The Patent Cooperation Treaty (PCT) allows applicants to seek patent protection in 148 different countries through filing one international patent application.<sup>88</sup> There were 214,500 applications filed in 2014, up 4.5% from 2013.<sup>89</sup> This represents a continued growth in applications since the last yearly decline in filings in 2009.

#### *(ii) Madrid System for Trademarks*

The Madrid System allows applicants to seek trademark protection in 94 different countries, all members of the Madrid Union, through filing one international trademark application.<sup>90</sup> It also provides for easier subsequent management of the mark through a single step process to take actions such as change ownership of a mark that will have effect in all Member States of the Madrid System. During 2014, there were 42,430 trademarks registered under the Madrid System.<sup>91</sup> The International Bureau of WIPO received 47,885 international applications, which was a record high in the history of WIPO. Similar to the PCT, this showed the continued growth since 2009.

<sup>87</sup> United Nations, *Treaty Series*, vol. 1160, p. 231.

<sup>88</sup> See WIPO, PCT—The International Patent System, available at <http://www.wipo.int/pct/en/>.

<sup>89</sup> See WIPO, *Patent Cooperation Treaty Yearly Review 2014*, p. 10, available at [http://www.wipo.int/edocs/pubdocs/en/patents/901/wipo\\_pub\\_901\\_2014.pdf](http://www.wipo.int/edocs/pubdocs/en/patents/901/wipo_pub_901_2014.pdf).

<sup>90</sup> See WIPO, Madrid System for Trademarks, available at <http://www.wipo.int/madrid/en/>.

<sup>91</sup> See WIPO, *The Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement Objectives, Main Features, Advantages* (Madrid: WIPO publication, 2016), p. 15, available at <http://www.wipo.int/publications/en/details.jsp?id=4045>.

### (iii) *Hague System for Industrial Designs*

The Hague System allows applicants to seek industrial design protection in over 62 territories through filing a single international application<sup>92</sup>, which also provides easier management of registered designs by simplifying recording changes or renewals to a single step.<sup>93</sup> 13,504 industrial designs were registered under the Hague System in 2014, showing an increase of 5.5% from 2013. Growth in industrial design registrations has continued since 2011.

### (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 in countries other than the country of origin by means of a single registration at the International Bureau of WIPO.<sup>94</sup> In 2014, 80 applications for the international registration of appellations of origin were received under the Lisbon System. This brings the total number of appellations of origin in the International Register of the Lisbon system at the end of 2014 to 896, up from 816 in 2013.

### (v) *WIPO Arbitration and Mediation Centre*

WIPO offers fast, flexible, and cost-effective services for settling IP and technology disputes outside the court system. The WIPO Arbitration and Mediation Centre is a neutral, international, and non-profit dispute resolution provider that offers alternative dispute resolution (ADR) options that enable private parties to efficiently settle their domestic or cross-border IP technology disputes out of court.<sup>95</sup>

WIPO is the leading international service-provider for disputes relating to Internet domain names.<sup>96</sup> The Uniform Domain Name Dispute Resolution Policy (UDRP) is the basis for the majority of ADR cases regarding trademark infringement in domain names.<sup>97</sup> In 2014, there were 2,634 cases filed under the UDRP,<sup>98</sup> a 1.9% increase compared to the 2585 cases filed in 2013.<sup>99</sup>

<sup>92</sup> See WIPO, Hague—The International Design System, available at <http://www.wipo.int/hague/en/>.

<sup>93</sup> See WIPO, IP Services, available at <http://www.wipo.int/services/en/>.

<sup>94</sup> See WIPO, Objectives and Main Features of the Lisbon Agreement, available at <http://www.wipo.int/lisbon/en/general/>.

<sup>95</sup> See WIPO, Alternative Dispute Resolution, available at <http://www.wipo.int/amc/en/>.

<sup>96</sup> See WIPO, IP Services Domain Name Disputes, available at <http://www.wipo.int/amc/en/domains/>.

<sup>97</sup> *Ibid.*

<sup>98</sup> The total number of cases per month for the year 2014 is available at [http://www.wipo.int/amc/en/domains/statistics/cases\\_yr.jsp?year=2014](http://www.wipo.int/amc/en/domains/statistics/cases_yr.jsp?year=2014).

<sup>99</sup> The total number of cases per month for the year 2013 is available at [http://www.wipo.int/amc/en/domains/statistics/cases\\_yr.jsp?year=2013](http://www.wipo.int/amc/en/domains/statistics/cases_yr.jsp?year=2013).



### (c) Law: Global IP Laws and Standards

As the central organization for international IP law, WIPO administers 26 treaties including the WIPO Convention.<sup>100</sup>

#### (i) *Treaty to be administered by WIPO*

The Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled (the “Marrakesh Treaty”), which was adopted in 2013,<sup>101</sup> will enter into force three months after twenty eligible parties (any Member State of WIPO, an intergovernmental organization with certain characteristics, or the European Union) ratify or accede to it.<sup>102</sup> The Marrakesh Treaty seeks to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired or otherwise print disabled.<sup>103</sup> In 2014, a total of five countries ratified or acceded to the treaty.<sup>104</sup> Including the five countries that ratified the Marrakesh Treaty, there were 28 instances in which a Member State ratified or acceded to a WIPO-administered treaty in 2014.<sup>105</sup>

#### (ii) *Standing Committee on the Law of Patents (SCP)*

The twentieth session of the SCP was held from 27 to 31 January 2014.<sup>106</sup> The discussions included the five exceptions and limitations to patent rights private and/or non-commercial use, experimental use and/or scientific research, preparation of medicines, prior use, and use of articles on foreign vessels, aircrafts, and land vehicles.<sup>107</sup> The session further evaluated the quality of patents, including opposition systems, through a series of proposals, but the Committee concluded that no proposal led to harmonization of substantive patent law. The Committee conducted a sharing session on countries’ use of health-related patent flexibilities. The Committee then discussed confidentiality of communications between clients and their patent advisors, not reaching any decisive consensus and highlighting the struggle between international harmonization and domestic legal autonomy. The Committee ultimately discussed the SCP’s role in transfer of technology.<sup>108</sup>

The twenty-first session of the SCP was held from 3 to 7 November 2014.<sup>109</sup> These discussions covered the same five topics exceptions and limitations to patent rights, quality of

<sup>100</sup> See WIPO, WIPO-Administered Treaties, available at <http://www.wipo.int/treaties/en/>.

<sup>101</sup> WIPO, document TRT/MARRAKESH/001.

<sup>102</sup> Articles 18 and 19 of the Marrakesh Treaty.

<sup>103</sup> Summary of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (MVT) (2013), available at [http://www.wipo.int/treaties/en/ip/marrakesh/summary\\_marrakesh.html](http://www.wipo.int/treaties/en/ip/marrakesh/summary_marrakesh.html).

<sup>104</sup> *Ibid.*

<sup>105</sup> See WIPO, WIPO-Administered Treaties, available at <http://www.wipo.int/treaties/en/>.

<sup>106</sup> WIPO, Standing Committee on the Law of Patents, Twentieth Session, meeting code SCP/20.

<sup>107</sup> *Ibid.*, summary by the Chair of the twentieth session of the Standing Committee on the Law of Patents, document SCP/20/12.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*, Standing Committee on the Law of Patents, twenty-first session, meeting code SCP/21.

patents, patents and health, confidentiality of communications between clients and their patent advisors, and transfer of technology.<sup>110</sup> The outcome of much of the discussion was the same as the twentieth session, with a free exchange of ideas, hopes, and concerns surrounding each topic.

(iii) *Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications (SCT)*

The thirty-first session of the SCT was held from 16 to 21 March 2014.<sup>111</sup> The Chair concluded that the SCT had made enough progress on the Design Law Treaty (DLT) to be considered by the General Assembly,<sup>112</sup> but the General Assembly was unable to convene a diplomatic conference for adoption of the DLT.<sup>113</sup> The Committee discussed the proposal by the delegation of Jamaica concerning the protection of country names.<sup>114</sup> The Committee also discussed a proposal by the delegation of Hungary related to the protection of geographical indications and country names in the Domain Name System.<sup>115</sup> The thirty second session of the SCT was held from 24 to 26 November 2014.<sup>116</sup> The Committee revisited discussions on the DLT after a failed proposal before the General Assembly in May 2014 and included revisions to the disclosure requirement proposed by the African Group.<sup>117</sup> The Committee continued discussions on the delegation of Jamaica's revised proposal concerning the protection of country names and the delegation of Hungary's proposal related to the protection of geographical indications.<sup>118</sup>

(iv) *Standing Committee on Copyright and Related Rights (SCCR)*

The twenty-seventh session of the SCCR was held from 28 April to 2 May 2014.<sup>119</sup> The Committee considered the Proposal on a Treaty on the Protection of Broadcasting and Cablecasting Organizations.<sup>120</sup> The Committee discussed the appropriate legal instrument referenced in the 2012 General Assembly mandate to the SCCR, debating the merits of

<sup>110</sup> WIPO, summary by the Chair of the twenty-first session of the Standing Committee on the Law of Patents, document SCP/21/11 REV.

<sup>111</sup> *Ibid.*, summary by the Chair of the thirty-first session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographic Locations, document SCT/31/9.

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*, summary by the Chair of the thirty-second session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographic Locations, document SCT/32/5.

<sup>114</sup> *Ibid.*, Standing Committee on the Law of Trademarks, Industrial Designs and Geographic Locations, thirty-first session, proposal by the delegation of Jamaica, document SCT/31/4.

<sup>115</sup> *Ibid.*

<sup>116</sup> *Ibid.*, Standing Committee on the Law of Trademarks, Industrial Designs and Geographic Locations, thirty-first session, proposal by the delegation of Jamaica, document SCT/32/2.

<sup>117</sup> *Ibid.*, summary by the Chair of the thirty-second session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographic Locations, document SCT/32/5.

<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.*, Conclusions by the Chair of the twenty-seventh session of the Standing Committee on Copyright and Related Rights, document SCCR/27/REF/CONCLUSIONS.

<sup>120</sup> *Ibid.*, Standing Committee on Copyright and Related Rights, document SCCR/27/6.

both binding and nonbinding instruments that relate to both “libraries and archives” and “educational and research institutions and persons with other disabilities.”

The twenty-eighth session of the SCCR was held from 30 June to 4 July 2014.<sup>121</sup> There was continued discussion resulting in no agreement on recommendations to the WIPO General Assembly regarding the protection of broadcasting organizations.<sup>122</sup> The Committee continued debate on binding and nonbinding instruments in proposing limitations and exceptions to the General Assembly, with no consensus on final recommendations.

The twenty-ninth session of the SCCR was held from 8 to 12 December 2014.<sup>123</sup> Technical non-papers prepared by the Chair on “concepts,” “object of protection” and “rights to be granted” and their application to the protection of broadcasting organizations were discussed. The Committee heard from a presentation (SCCR/27/8) by the delegate of the United States on limitations and exceptions for educational and research institutions and for persons with other disabilities, which encouraged nations to adopt national laws consistent with their international obligations that also allow certain uses of copyrighted works for non-profit educational purposes.<sup>124</sup>

(v) *Intergovernmental Committee on Intellectual Property and Genetic Resources (GRs), Traditional Knowledge (TK) and Folklore (IGC)*

There were three IGC sessions that took place in 2014, namely the twenty-sixth, twenty-seventh, and twenty-eighth sessions.<sup>125</sup> The Committee addressed the protection of genetic resources, traditional knowledge, and traditional cultural expressions and transmitted their respective draft articles to the 2014 WIPO General Assembly. The 2014 WIPO General Assembly did not make a decision on the work programme for the IGC for 2015.

(d) **Development: IP to Support Economic Development**

*Committee on Development and Intellectual Property (CDIP)*

The CDIP was established by the WIPO General Assembly in 2008 with a mandate to monitor, assess, discuss, and report on implementation of recommendations and discuss IP and development issues in developing nations.<sup>126</sup>

<sup>121</sup> WIPO, Conclusions by the Chair of the twenty-eighth session of the Standing Committee on Copyright and Related Rights, document SCCR/28/REF/CONCLUSIONS.

<sup>122</sup> *Ibid.*

<sup>123</sup> *Ibid.*, summary by the Chair of the twenty-ninth session of the Standing Committee on the Law of Copyright and Related Rights, meeting code SCCR/29.

<sup>124</sup> *Ibid.*, Standing Committee on Copyright and Related Rights, document SCCR/27/8.

<sup>125</sup> Assemblies of the Member States of WIPO: Fifty-fourth series of meeting, available at [http://www.wipo.int/about-wipo/en/assemblies/2014/a\\_54/](http://www.wipo.int/about-wipo/en/assemblies/2014/a_54/).

<sup>126</sup> WIPO, General Overview, Development Agenda for WIPO, available at <http://www.wipo.int/policy/en/cdip/>.

The thirteenth session of the CDIP was held from 19 to 23 May 2014.<sup>127</sup> The Committee considered various project evaluation reports from 2013, including the Project on Intellectual Property and Product Branding for Business Development in Developing Countries and Least-Developed Countries, the Project on Enhancing South-South Cooperation on IP and Development among Developing Countries and Least Developed Countries, the Project on IP and the Informal Economy, the Project on IP and Brain Drain, and the Project on Patents and the Public Domain.<sup>128</sup> The Committee also discussed a Project on Intellectual Property and Tourism focusing on supporting development objectives and protecting cultural heritage in Egypt and other developing nations, and approved Phase II of the Project on Capacity Building in the Use of Appropriate Technology.<sup>129</sup>

The fourteenth session of the CDIP was held from 10 to 14 November 2014.<sup>130</sup> The committee considered project evaluation reports from 2014, including the Project on Intellectual Property and Socio-Economic Development, the Pilot Project for Establishment of “Start-Up” National IP Academies—Phase II, the Project on Specialized Databases’ Access and Support—Phase II, and the Project on Developing Tools for Access to Patent Information—Phase II. The Committee also discussed the upcoming International Conference on Intellectual Property and Development.<sup>131</sup>

### (e) Reference: Access to IP and IP Information

#### (i) *Global Design Database*

In 2014, WIPO prepared the launch of the Global Design Database.<sup>132</sup> This database is free of charge and includes access to over 185,000 records, allowing simultaneous search across the international designs registered under the WIPO-administered Hague System as well as the national collections of industrial design registrations of Canada.<sup>133</sup> Additionally, WIPO’s Hague Express Database, which includes bibliographic data and reproductions of industrial designs relating to international registrations,<sup>134</sup> was updated with new technology to offer users improved, detailed views of industrial designs registered internationally under the Hague System.<sup>135</sup>

<sup>127</sup> WIPO, summary by the Chair of the thirteenth session of the Committee on Development and Intellectual Property, document CDIP/13/SUMMARY.

<sup>128</sup> *Ibid.*

<sup>129</sup> *Ibid.*

<sup>130</sup> *Ibid.*, summary by the Chair of the thirteenth session of the Committee on Development and Intellectual Property, document CDIP/14/SUMMARY.

<sup>131</sup> *Ibid.*

<sup>132</sup> WIPO, Launch of the Global Design Database, available at [http://www.wipo.int/reference/en/designdb/news/2015/news\\_0001.html](http://www.wipo.int/reference/en/designdb/news/2015/news_0001.html).

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*

<sup>135</sup> *Ibid.*

(ii) *WIPO Lex*

WIPO Lex is a one-stop search facility that provides access to national laws and treaties on intellectual property of WIPO, WTO, and United Nations Members.<sup>136</sup> WIPO Lex contains more than 12,000 national legal texts, including available translations in various languages, and more than 700 bilateral, regional, and multilateral treaties.<sup>137</sup>

(iii) *Global Innovation Index (GII) 2014—The Human Factor in Innovation*

The GII seeks to provide a bench-marking tool to facilitate discussion on the role of innovation and to assist policy-makers, business leaders, and other stakeholders identify strengths and weaknesses in national innovation incentive systems.<sup>138</sup> The theme of GII 2014 was “The Human Factor in Innovation”. The GII 2014 Conference took place in Sydney, Australia—the first GII launch outside of Geneva, aimed at attracting and including a wider geographic audience.<sup>139</sup>

**11. International Fund for Agricultural Development<sup>140</sup>****(a) Membership**

At its 37th session from 19 to 20 February 2014, the Governing Council approved the non-original membership in International Fund for Agricultural Development (IFAD) of the Russian Federation.<sup>141</sup>

**(b) Establishment of the Consultation on the Tenth Replenishment of IFAD’s Resources**

The Governing Council, by resolution 180/XXXVII, decided that: (a) a Consultation on the Tenth Replenishment of IFAD’s Resources (“the Consultation”) should be established, chaired by an independent chair, to review the adequacy of the Fund’s resources and to report to the Governing Council. The tasks of the chair of the Consultation were annexed to the resolution; (b) the first session of the Consultation would be held on 20 to 21 February 2014; (c) the Consultation would consist of all Member States from Lists A and B and 18 Member States from List C, the latter to be appointed by the members of List C and communicated to the President no later than 19 February 2014; (d) the Consultation would submit a report on the results of its deliberations and any recommendations thereon to the thirty-eighth session and, if required, subsequent sessions of the Governing Council, with a view to adopting such resolutions as might be appropriate;

<sup>136</sup> See WIPO Lex, available at <http://www.wipo.int/wipolex/en/>.

<sup>137</sup> *Report of the Director General to the WIPO Assemblies—The Year in Review (2014)*, p. 17 (Global Reference Sources), available at [http://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_1050\\_14.pdf](http://www.wipo.int/edocs/pubdocs/en/wipo_pub_1050_14.pdf).

<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> For official documents and more information on the International Fund for Agricultural Development, see <http://www.ifad.org>.

<sup>141</sup> IFAD, GC resolution 179/XXXVII.

(e) the President was requested to keep the Executive Board informed of the progress of the deliberations of the Consultation; and (f) the President and the staff were requested to provide such assistance to the Consultation as might be necessary for the effective and efficient discharge of its functions.

### **(c) Revision to the IFAD Evaluation Policy**

With a view to ensuring clarity with respect to IFAD disciplinary procedures relative to the staff and Director of the Independent Office of Evaluation (IOE) and maintaining IOE's independence, the Executive Board, at its 111th session from 8 to 9 April 2014, approved the recommendation that paragraphs 64 and 82 of the IFAD Evaluation Policy be amended as set out in paragraphs 16(a) and (b) of document EB 2014/111/R.4.<sup>142</sup>

### **(d) Review of the General Conditions for Agricultural Development Financing**

To further harmonize IFAD's legal instruments and procedures with those of other IFIs and allow IFAD the flexibility to offer financing in specific currencies rather than denominating all loans in special drawing rights, the Executive Board, at its 111th session, approved and adopted the revisions to the General Conditions for Agricultural Development Financing presented in the table contained in document EB 2014/111/R.11, for application to all financing agreements for agricultural development projects and programmes submitted for approval to the Executive Board during and subsequent to its 112th session from 17 to 18 September 2014.

### **(e) IFAD's Social, Environmental and Climate Assessment Procedures**

Revised Social, Environmental and Climate Assessment Procedures (SECAP)<sup>143</sup> were shared with the Executive Board at its 113th session from 15 to 16 December 2014 for input and suggestions.

The procedures are designed to enable IFAD to: (i) improve its decision-making and promote the sustainability of project outcomes; (ii) ensure greater harmonization with similar procedures of other multilateral financial institutions and with its own environment and natural resource management policy and climate change strategy, and; (iii) continue to access environmental and climate financing such as the Global Environmental Facility and the Green Climate Fund.

SECAP are the product of a broad consultation process that involved staff from IFAD and selected resource persons from multilateral and bilateral development agencies.

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<sup>142</sup> The updated IFAD Evaluation Policy is contained in document EB 2011/102/R.7/Rev.2.

<sup>143</sup> IFAD, document EB 2014/113/R.14/Rev.1.

**(f) Revision of IFAD's approach to the cancellation of approved loans and grants**

With a view to ensuring greater efficiency in the use of funds dedicated to operations, the Executive Board considered and agreed to revise IFAD's approach to the cancellation of approved loans and grants. According to the revised approach cancelled funds can be used for recommitment in the same country subject to the conditions set out in document EB 2014/111/R.12/Rev.1.

**(g) Partnership agreements and memoranda of understanding**

**(i) *Framework Agreement with KfW Development Bank***

At its 112th session the Executive Board approved that IFAD enter into a Framework Agreement with KfW (Kreditanstalt fuer Wiederaufbau) Development Bank for the granting of individual loans to IFAD up to an aggregate principal amount of EUR 400 million. The Executive Board also approved that Management enter into the Individual Loan Agreements, provided that each such individual loan is financially sustainable.

The Framework Agreement with the KfW Development Bank was signed by the President of IFAD on 24 November 2014. The loan represents a source of funding for the Ninth Replenishment of IFAD's Resources. The first Individual Loan Agreement, as provided for by the Framework Agreement, was signed on the same date by the President. The amount of that Individual Loan Agreement was EUR 100 million.

**(ii) *New hosting agreement with the International Land Coalition***

At its 112th session the Executive Board reviewed document EB 2014/112/R.18 pertaining to the new hosting arrangements with the Secretariat of the International Land Coalition and approved the execution of the new agreement for the period 2016 to 2020.<sup>144</sup>

**(iii) *Memorandum of Understanding with the Cooperation Council of the Arab States of the Gulf***

The Executive Board approved the provisions of the Memorandum of Understanding entered into by the Cooperation Council for the Arab States of the Gulf (GCC) and IFAD on 19 February 2014.<sup>145</sup> The Memorandum of Understanding is intended to build on and supersede the cooperation agreement between the GCC and IFAD signed on 2 August 1989 to jointly pursue shared development goals on agricultural and rural development, nutrition and related research.

<sup>144</sup> IFAD document EB 2014/112/R.18, annex.

<sup>145</sup> *Ibid.*, document EB 2014/112/R.19, annex II.

(iv) *Memorandum of Understanding with the European Bank for Reconstruction and Development*

In accordance with article 8, section 2 of the Agreement Establishing IFAD, the Executive Board at its 112th session authorized the President to negotiate and finalize a Memorandum of Understanding with the European Bank for Reconstruction and Development (EBRD) to pursue innovative financing mechanisms and partnership, leverage private-sector investments in agriculture and collaborate on multilateral initiatives on development and financial effectiveness. The signed Memorandum was submitted to the Board for information at its 113th session.<sup>146</sup>

(v) *Memorandum of Understanding with Unilever PLC and Memorandum of Understanding with Intel Corporation*

In order to deepen the engagement with the private sector, two proposals for partnership had been presented to the Board at its 110th session from 10 to 12 December 2013: one concerning Unilever PLC and the other Intel Corporation. During the session, the Executive Board authorized the President to negotiate and finalize a Memorandum of Understanding with each entity.

The Memorandum of Understanding between IFAD and Unilever PLC was signed on 20 February 2014 and submitted to the Board for information in April 2014.<sup>147</sup>

The Memorandum of Understanding between IFAD and Intel was signed on 22 September 2014 and submitted to the Board for information at its 113th session.<sup>148</sup>

(vi) *Memorandum of Understanding with the Export-Import Bank of Korea*

The Executive Board approved the Memorandum of Understanding between the Export-Import Bank of Korea and IFAD.<sup>149</sup> The purpose of the Memorandum is to establish collaboration on activities of common interest such as: the financing of country-level investments; national capacity strengthening; policy dialogue; knowledge management; and advocacy at national, regional and global levels.

(vii) *Partnership agreement with Agreenium*

At its 111th session, the Executive Board reviewed and approved the partnership agreement entered into between Agreenium and IFAD on 3 February 2014, for the purpose of providing a framework for enhancing collaboration on activities of common interest and fostering joint action to achieve greater impact on food security and poverty reduction.

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<sup>146</sup> IFAD document EB 2014/113/INF.4.

<sup>147</sup> *Ibid.*, document EB 2014/111/INF.5.

<sup>148</sup> *Ibid.*, document EB 2014/113/INF.3.

<sup>149</sup> *Ibid.*, document EB 2014/113/R.31, annex II.



This collaboration focuses, among other things, on developing operational synergies at the country level and promoting knowledge management and exchange.<sup>150</sup>

## **12. United Nations Industrial Development Organization<sup>151</sup>**

### **(a) Constitutional matters**

On 2 December 2014, the Government of Belgium deposited with the Secretary-General of the United Nations an instrument of denunciation of the above Constitution of the United Nations Industrial Development Organization (UNIDO).<sup>152</sup> In accordance with article 6(2) of the Constitution, the denunciation will take effect on the last day of the fiscal year following that during which such instrument was deposited, *i.e.* on 31 December 2015.

### **(b) Agreements and other arrangements concluded in 2014**

For more information on this aspect, attention is drawn to Appendix F to UNIDO's 2014 Annual Report.<sup>153</sup>

## **13. Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization<sup>154</sup>**

### **(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).<sup>155</sup> By the end of 2014, the CTBT had 183 States signatories.

During 2014, two States (Niue and Congo) 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 eight States is needed: China, Democratic People's Republic of Korea, Egypt, India, Israel, Islamic Republic of Iran, Pakistan, and United States of America.

<sup>150</sup> IFAD document EB 2014/111/R.27.

<sup>151</sup> For official documents and more information on the United Nations Industrial Development Organization, see <http://www.unido.org>.

<sup>152</sup> United Nations, *Treaty Series*, vol. 1401, p. 3.

<sup>153</sup> The 2014 annual report is available at <https://www.unido.org/resources/publications/flagship-publications/annual-report/annual-report-2014>.

<sup>154</sup> For official documents and more information on the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, see <http://www.ctbto.org>.

<sup>155</sup> A/50/1027. See also *United Nations Juridical Yearbook 1996* (United Nations Publications Sales No. 01.V.10), p. 311.

### **(b) Legal status, privileges and immunities and international agreements**

In addition to the Headquarters Agreement, legal status, privileges and immunities are granted to the Commission through “Facility Agreements” concluded with each of the 89 States which are hosting one or more of the 337 monitoring facilities comprising the International Monitoring System (IMS) foreseen to be established under the CTBT. In 2014, a facility agreement was concluded with Chile and the facility agreements with Israel and Tunisia entered into force. As of 2014, a total of forty-six facility agreements have been concluded out of which 38 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.<sup>156</sup> In 2014 the Preparatory Commission concluded with Greece and Myanmar, respectively, 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. Fourteen such agreements have now been concluded: the above two and also with Australia, France, Greece, Indonesia, Japan, Malaysia, Myanmar, Philippines, Republic of Korea, Russian Federation, Thailand, Turkey and two with the United States of America.

To provide for the necessary privileges and immunities and arrangements for the conduct of workshops or training courses outside of Austria, four Exchanges of Letters were concluded with host States, including the Hashemite Kingdom of Jordan for the hosting of a large-scale simulated inspection of a suspected nuclear test explosion.

### **(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 2014 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 States signatories 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: (i) promoting understanding and raising awareness of the measures needed to implement the CTBT; (ii) providing legal assistance to participating States in drafting CTBT implementing legislation; (iii) facilitating the exchange of information among participating States; and (iv) contributing to comparative analysis of existing national provisions and approaches for CTBT implementation.

<sup>156</sup> See *United Nations Juridical Yearbook 2006* (United Nations Publications Sales No. E.09.V.1), p. 256.

In 2014, a panel discussion on implementing Treaty obligations and the role of the National Authority was held in Vienna as part of the CTBT Public Policy Course with 514 participants, of which 130 were present in Vienna. Among the participants were government and non-governmental representatives from all but one of the remaining Annex 2 States, as well as government representatives from several other non-ratifying States. Panelists included experts from Argentina, Japan, Kenya and the Organisation for the Prohibition of Chemical Weapons (OPCW). The objectives of the panel discussion were to increase awareness of the important role National Authorities have in treaty implementation and to identify measures ensuring their continuing effectiveness.

The above-mentioned panel completed a series of outreach activities which commenced in 2011 with the aim of providing States with diverse tools for national self-assessment and legislative drafting assistance. The workshops were also designed to facilitate the exchange of information and the identification of the elements necessary for implementing legislation or other national measures in different legal systems while respecting different legal cultures. The results of these outreach activities have provided valuable input for the further development of the PTS programme of legal assistance.

The Secretariat continued to provide comments and assistance in 2014 on legal assistance requests from States parties or from within the Secretariat. It also maintains 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.

## **14. International Atomic Energy Agency<sup>157</sup>**

### **(a) Membership**

In 2014, Bahamas and Brunei Darussalam became Member States of the International Atomic Energy Agency (IAEA). By 31 December 2014, there were 162 Member States.

### **(b) Treaties under IAEA Auspices**

#### **(i) *Convention on the Physical Protection of Nuclear Material*<sup>158</sup>**

In 2014, Iraq, Malawi and Singapore became parties to the Convention. By the end of the year, there were 151 parties.

#### **(ii) *Amendment to the Convention on the Physical Protection of Nuclear Material*<sup>159</sup>**

In 2014, Burkina Faso, Colombia, Djibouti, Dominican Republic, Ireland, Jamaica, Japan, Republic of Korea, Peru, Qatar, Singapore and Tajikistan adhered to the Amendment. By the end of the year, there were 83 Contracting States.

<sup>157</sup> For official documents and more information on the International Atomic Energy Agency, see <http://www.iaea.org>.

<sup>158</sup> United Nations, *Treaty Series*, vol. 1456, p. 101.

<sup>159</sup> 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*<sup>160</sup>

In 2014, Burkina Faso and Venezuela became parties to the Convention. By the end of the year, there were 119 parties.

(iv) *Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency*<sup>161</sup>

In 2014, Burkina Faso became party to the Convention. By the end of the year, there were 112 parties.

(v) *Convention on Nuclear Safety*<sup>162</sup>

In 2014, Paraguay became party to the Convention. By the end of the year, there were 77 parties.

(vi) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*<sup>163</sup>

In 2014, Vietnam became party to the Joint Convention. By the end of the year, there were 69 parties.

(vii) *Vienna Convention on Civil Liability for Nuclear Damage*<sup>164</sup>

In 2014, Jordan became party to the Convention. By the end of the year, there were 40 parties.

(viii) *Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage*<sup>165</sup>

In 2014, Jordan became party to the Protocol. By the end of the year, there were 12 parties.

(ix) *Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention*<sup>166</sup>

In 2014, France became party to the Protocol. By the end of the year, there were 28 parties.

<sup>160</sup> United Nations, *Treaty Series*, vol. 1439, p. 275.

<sup>161</sup> *Ibid.*, vol. 1457, p. 133.

<sup>162</sup> *Ibid.*, vol. 1963, p. 293.

<sup>163</sup> *Ibid.*, vol. 2153, p. 303.

<sup>164</sup> *Ibid.*, vol. 1063, p. 265.

<sup>165</sup> *Ibid.*, vol. 2241, p. 270.

<sup>166</sup> *Ibid.*, vol. 1672, p. 293.

(x) *Convention on Supplementary Compensation for Nuclear Damage*<sup>167</sup>

In 2014, the United Arab Emirates signed and ratified the Convention. By the end of the year there were 18 signatories and 5 Contracting States.

(xi) *Optional Protocol Concerning the Compulsory Settlement of Disputes*<sup>168</sup>

In 2014, the status of the Protocol remained unchanged with two parties.

(xii) *Revised Supplementary Agreement Concerning the Provision of Technical Assistance by the IAEA (RSA)*<sup>169</sup>

In 2014, Azerbaijan, Lao People's Democratic Republic and Rwanda concluded an RSA Agreement. By the end of the year, there were 124 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)*<sup>170</sup>

In 2014, Cambodia and Fiji became parties to the Agreement. By the end of the year, there were 16 parties to the Agreement.

(xiv) *African Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA) (Fourth Extension)*<sup>171</sup>

In 2014, Zambia became a party to the Agreement. By the end of the year, there were 36 parties.

(xv) *Co-operation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL)*<sup>172</sup>

In 2014, the status of the Agreement remained unchanged with 21 parties.

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<sup>167</sup> IAEA, document INFCIRC/567.

<sup>168</sup> United Nations, *Treaty Series*, vol. 2086, p. 94.

<sup>169</sup> Model text available from <http://ola.iaea.org>.

<sup>170</sup> IAEA, document INFCIRC/167/Add.23.

<sup>171</sup> *Ibid.*, document INFCIRC/377 and INFCIRC/377/Add.19 (Fourth extension).

<sup>172</sup> United Nations, *Treaty Series*, vol. 2338, p. 337.

(xvi) *Co-operative Agreement for Arab States in Asia for Research, Development and Training Related to Nuclear Science and Technology (ARASIA) (Second Extension)*<sup>173</sup>

The Second Extension of the Agreement entered into force on 29 July 2014, upon the expiration of the first extension, and will remain in force for an additional period of six years, *i.e.* through 28 July 2020. In 2014, the following States became party to the Second Extension: Iraq, Jordan, Lebanon, Oman, Saudi Arabia, Syrian Arab Republic, United Arab Emirates and Yemen. By the end of the year, there were eight parties.

(xvii) *Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*<sup>174</sup>

In 2014, the status of the Agreement remained unchanged, with seven parties.

(xviii) *Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*<sup>175</sup>

In 2014, the status of the Agreement remained unchanged, with six parties.

### (c) IAEA legislative assistance activities

In 2014, the Agency continued to provide legislative assistance to Member States through its technical cooperation programme. Country specific bilateral legislative assistance was provided to 15 Member States through written comments and advice on drafting national nuclear legislation. The Agency also reviewed the legislative framework of a number of newcomer countries as part of its Integrated Nuclear Infrastructure Review missions. Short-term scientific visits to Agency Headquarters were organized for a number of individuals, allowing fellows to gain further practical experience in nuclear law.

The Agency organized the fourth session of the Nuclear Law Institute in Baden, Austria, from 6 to 17 October 2014. The comprehensive two-week course, which uses modern teaching methods based on interaction and practice, is designed to meet the increasing demand by IAEA 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 national nuclear legislation. Sixty representatives from 51 IAEA Member States participated in this year's 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 sponsoring participants through appropriate technical cooperation projects.

Two workshops on nuclear law for Member States in the Latin American region were organized in Jamaica (March 2014) and the Dominican Republic (December 2014).

<sup>173</sup> United Nations, *Treaty Series*, vol. 2203, p. 355.

<sup>174</sup> IAEA, document INFCIRC/703.

<sup>175</sup> *Ibid.*

Altogether forty participants from 20 Member States attended these workshops which addressed all aspects of nuclear law and created a forum for an exchange of views on topics relating to relevant international legal instruments. They also allowed for the planning of future legislative assistance activities in participating Member States based on an assessment of their needs.

The fourth IAEA Treaty Event took place during the 58th 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. The special focus of this year's Treaty Event was the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material (CPPNM).<sup>176</sup> Representatives from several Member States were also briefed on the conventions adopted under IAEA auspices.

The Agency continued to dispatch "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

##### (i) *Convention on Nuclear Safety*<sup>177</sup>

During the Sixth Review Meeting of Contracting Parties to the Convention on Nuclear Safety (CNS) held from 24 March to 4 April 2014, Contracting Parties considered a set of proposals to amend the CNS guidance documents, namely the Guidelines regarding the Review Process under the CNS,<sup>178</sup> the Guidelines regarding National Reports under the CNS,<sup>179</sup> and the Rules of Procedure and Financial Rules,<sup>180</sup> and made a number of Recommendations for actions to the Secretariat, the Contracting Parties and other organisations. Also, during the final plenary of the Review Meeting, a special session was held to report on actions carried out by Contracting Parties in the light of the Fukushima Daiichi accident.

Finally, Contracting Parties attending the meeting decided by a two-thirds majority to convene a Diplomatic Conference within one year to consider a proposal by Switzerland to amend article 18 of the CNS (the "Swiss Proposal").

To facilitate preparations for the Diplomatic Conference, an Informal Working Group (IWG) was established. The IWG met eight times in Vienna at the Agency's Headquarters during the period from July 2014 to February 2015. During these meetings, the Contracting Parties discussed draft rules of procedure, related organizational issues, and the substance of the Swiss Proposal.

<sup>176</sup> IAEA, document INFCIRC/274/Rev.1/Mod.1.

<sup>177</sup> United Nations, *Treaty Series*, vol. 1963, p. 293.

<sup>178</sup> IAEA, document, INFCIRC/571/Rev.6.

<sup>179</sup> *Ibid.*, document INFCIRC/ 572/Rev.4.

<sup>180</sup> *Ibid.*, document INFCIRC/573/Rev.5.

The Diplomatic Conference was convened at IAEA Headquarters in Vienna, Austria on 9 February 2015 and was attended by 71 Contracting Parties. The Conference thoroughly considered the Swiss Proposal and concluded that it would not be possible to reach consensus on the proposed amendment. Instead, in order to achieve the same objective as the proposed amendment, Contracting Parties unanimously adopted the “Vienna Declaration on Nuclear Safety” which includes principles for the implementation of the objective of the Convention to prevent accidents and mitigate radiological consequences should they occur.

(ii) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*<sup>181</sup>

During the Second Extraordinary Meeting of Contracting Parties to the Joint Convention held on 12 to 13 May 2014, Contracting Parties agreed on a number of changes to the Rules of Procedure and Financial Rules for the Joint Convention,<sup>182</sup> the Guidelines regarding the Review Process,<sup>183</sup> and the Guidelines regarding the Form and Structure of National Reports.<sup>184</sup> The Organizational Meeting for the Fifth Review Meeting of Contracting Parties to the Joint Convention was also held in May 2014. The Fifth Review Meeting of the Joint Convention will be held at the IAEA Headquarters in Vienna from 11 to 22 May 2015.

(e) **Civil Liability for Nuclear Damage**

The International Expert Group on Nuclear Liability (INLEX) continues to serve as the Agency’s main forum for questions related to nuclear liability. At its 14th regular meeting held in May 2014, INLEX discussed, *inter alia*, the revision of the Board decision excluding small quantities of nuclear material from the scope of the nuclear liability conventions following the adoption of the 2012 edition of the IAEA Transport Regulations; liability issues in the context of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency; whether there is a need to establish a special liability regime covering radioactive sources; the scope of application of the IAEA liability conventions as regards shutdown reactors or reactors being decommissioned; the revision of the model provisions on nuclear liability in the *Handbook on Nuclear Law* (vol. II); and outreach activities.

A Workshop on Civil Liability for Nuclear Damage was held in May 2014 at IAEA Headquarters and was attended by 54 participants from 39 Member States. The workshop provided diplomats and experts from Member States with an introduction to the international legal regime of civil liability for nuclear damage.

Joint IAEA/INLEX missions were conducted in Nigeria (February 2014) and Saudi Arabia (April 2014) aimed at raising awareness among policy-makers and senior officials of the international legal instruments relevant for achieving a global nuclear liability

<sup>181</sup> IAEA, document INFCIRC/546.

<sup>182</sup> *Ibid.*, document INFCIRC/602/Rev.5.

<sup>183</sup> *Ibid.*, document INFCIRC/603/Rev.6.

<sup>184</sup> *Ibid.*, document INFCIRC/604/Rev.3.



regime. In addition, a sub-regional workshop on civil liability for nuclear damage was held in Vietnam in March 2014 which provided participants with information on the existing international nuclear liability regime and to advise on the development of national implementing legislation. The event was attended by 35 participants from 12 Member States.

In its November 2014 meetings, the IAEA Board of Governors adopted the resolution on the “Establishment of Maximum Limits for the Exclusion of Small Quantities of Nuclear Material from the Application of the Vienna Conventions on Nuclear Liability”, which established new maximum limits in line with the current edition (2012) of the Agency’s Transport Regulations for the exclusion of small quantities of nuclear material from their respective scope of application.

#### (f) Safeguards Agreements

A Safeguards Agreement with Cambodia pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was approved by the IAEA Board of Governors in 2014.<sup>185</sup> In 2014, Protocols Additional to the Safeguards Agreements between the IAEA and India,<sup>186</sup> and Saint Kitts and Nevis,<sup>187</sup> entered into force. An Additional Protocol was signed by the Lao People’s Democratic Republic but had not entered into force as of 31 December 2014.<sup>188</sup>

### 15. Organization for the Prohibition of Chemical Weapons<sup>189</sup>

#### (a) Membership

In 2014, the number of States parties to the Chemical Weapons Convention (“the Convention” or “CWC”) remained unchanged at 190.

#### (b) Legal Status, Privileges and Immunities and International Agreements

During 2014, the Organization for the Prohibition of Chemical Weapons (OPCW) continued to actively 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 approved a privileges and immunities agreement with Georgia. This agreement is yet to enter into force.<sup>190</sup>

During 2014, the OPCW also concluded a number of international agreements, including, *inter alia*, facility agreements, arrangements governing on-site inspections at commercial facilities, voluntary contribution agreements, exchange of letters, agreements regarding the conduct of workshops, exercises, seminars and trainings, and memoranda

<sup>185</sup> IAEA, documents INFCIRC/586/Mod.1 and INFCIRC/586/Add.1.

<sup>186</sup> *Ibid.*, document INFCIRC/754/Add.6.

<sup>187</sup> *Ibid.*, document INFCIRC/514/Add.1.

<sup>188</sup> *Ibid.*, document INFCIRC/599.

<sup>189</sup> For official documents and more information on the Organisation for the Prohibition of Chemical Weapons, see <http://www.opcw.org>.

<sup>190</sup> OPCW, document EC-77/DEC.6, dated 9 October 2014.

of understanding, that entail substantial undertakings at the policy level or that are intended to facilitate the day-to-day work of the Technical Secretariat in support of the objectives of the Convention. The OPCW, the United Nations and the Syrian Arab Republic concluded the following agreements: a Memorandum of Understanding for the Provision of Medical Services and Emergency Medical Evacuation Services; and an Agreement concerning the Status of the Joint OPCW-United Nations Mission for the Elimination of Syrian Chemical Weapons.<sup>191</sup>

Furthermore, the OPCW and the United Nations concluded the following agreements: a Technical Arrangement for the Provision of Mutual Support within the Framework of the Cooperation Established under the Supplementary Arrangement of 16 October 2013;<sup>192</sup> an Agreement for the Transfer of Equipment; a Supplementary Arrangement in relation to the OPCW Fact-Finding Mission in the Syrian Arab Republic; and an Exchange of Letters on the Proposed Modalities for the Financial Reimbursement for the provision of Security and Logistical Support by the United Nations to the OPCW within the Framework of the Supplementary Arrangement in relation to the OPCW Fact-Finding Mission in the Syrian Arab Republic.

Additionally, a Tripartite Agreement was concluded between the OPCW, United Nations Office for Project Services (UNOPS) and the Syrian Arab Republic for the provision of equipment and services for the destruction of 12 Chemical Weapons Production Facilities by the Syrian Arab Republic and for the OPCW operations in the Syrian Arab Republic.

### (c) Legislative Assistance Activities

Throughout 2014, 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 tailor-made assistance on national implementation of the Convention to the requesting States parties, pursuant to: (a) subparagraph 38(e) of article VIII of the Convention; (b) the decision on national implementation measures of article VII obligations adopted by the Conference of the States Parties ("the Conference") at its fourteenth session;<sup>193</sup> and (c) 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.<sup>194</sup>

In its implementation support efforts, the Technical Secretariat of the OPCW also acted in accordance with the Conference's decisions regarding the implementation of article VII obligations.<sup>195</sup> These decisions focused on, amongst other things, the obligations of States parties to designate or establish a National Authority to serve as national focal point

<sup>191</sup> The text of the agreement is reproduced in Chapter II.A.

<sup>192</sup> 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).

<sup>193</sup> OPCW, document C-14/DEC.12, dated 4 December 2009.

<sup>194</sup> *Ibid.*, document RC-3/3\*, dated 19 April 2013.

<sup>195</sup> *Ibid.*, document C-8/DEC.16, dated 24 October 2003; document C-10/DEC.16, dated 11 November 2005; document C-11/DEC.4, dated 6 December 2006; document C-12/DEC.9, dated

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 I of article VII of the Convention.

In the course of 2014, the number of National Authorities remained unchanged, namely 188. There remain only two States parties that have 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 134 States parties (70%) have submitted the full text of their implementing legislation. Furthermore, regarding legislation covering all initial measures, as at the end of 2014, 114 States parties (60%) have 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 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, the Technical Secretariat participated and/or organised events to promote national legislative and/or administrative implementation of the Convention, such as global and regional annual meetings for National Authorities, legal workshops, on-site bilateral technical assistance visits, and the Internship Programme for Legal Drafters and National Authorities' Representatives.

## 16. World Trade Organization<sup>196</sup>

### (a) Membership

#### (i) General

One new Member formally joined the World Trade Organization (WTO) in 2014: Yemen (26 June 2014). As of 31 December 2014, the WTO Membership counted 160 Members.

On 10 December 2014, the General Council adopted the Decision on the Accession of the Republic of Seychelles. Formal membership will occur following ratification of Seychelles' Accession Protocol by the Parliament of the Seychelles and the subsequent notification and deposit with the WTO Director-General of the 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. As a result of bilateral and multilateral negotiations with WTO Members, acceding States/separate customs territories undertake

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9 November 2007; document C-13/DEC.7, dated 5 December 2008; and document C-14/DEC.12, dated 4 December 2009.

<sup>196</sup> For official documents and more information on the World Trade Organization, see <http://www.wto.org>.

trade liberalizing commitments on market access; specific commitments on WTO rules; and agree to comply with the WTO Agreement.

(ii) *On-going accessions in 2014*

In 2014, the following States/separate customs territories were in the process of acceding to the WTO (in alphabetical order):

- |                              |                            |
|------------------------------|----------------------------|
| 1. Afghanistan*              | 14. Lebanese Republic      |
| 2. Algeria                   | 15. Liberia, Republic of*  |
| 3. Andorra                   | 16. Libya                  |
| 4. Azerbaijan                | 17. Sao Tomé and Príncipe* |
| 5. Belarus                   | 18. Serbia                 |
| 6. Bhutan*                   | 19. Seychelles**           |
| 7. Bosnia and Herzegovina    | 20. Sudan*                 |
| 8. Comoros, Union of the*    | 21. Syrian Arab Republic   |
| 9. Equatorial Guinea*        | 22. The Bahamas            |
| 10. Ethiopia*                | 23. Uzbekistan             |
| 11. Islamic Republic of Iran |                            |
| 12. Iraq                     |                            |
| 13. Kazakhstan               |                            |

\* LDCs (8)

\*\* The Accession Working Party completed its mandate on 17 October 2014. The Decision on the Accession of the Republic of Seychelles was adopted by the General Council on 10 December 2014. The Republic of Seychelles will become a WTO Member 30 days after notifying the WTO Director-General of the domestic ratification of its Protocol of Accession.

In the year under review, progress in various accession processes was registered as follows:

- draft Reports were revised and circulated by the Secretariat for the Working Parties on the Accessions of Afghanistan (one revision); Algeria (one revision); Kazakhstan (three revisions); Seychelles (two revisions);
- two draft Accession Packages were prepared by the Secretariat and circulated on the Accessions of Afghanistan and Seychelles; and
- one Accession Working Party (Seychelles) completed its mandate and the Decision on the Accession was adopted by the General Council on 10 December 2014.<sup>197</sup>

<sup>197</sup> WTO, documents WT/ACC/SYC/64; WT/ACC/SYC/64/Add.1; WT/ACC/SYC/64/Add.2; WT/L/944.

### (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, 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.<sup>198</sup>

#### (i) *Requests for consultations received and panels established*

During 2014, the DSB received 14 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). The DSB established 13 new panels to adjudicate 13 new cases. The DSB established panels in the following disputes:

- Australia—Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging (WT/DS441)—complaint by the Dominican Republic;
- India—Certain Measures Relating to Solar Cells and Solar Modules (WT/DS456);
- Australia—Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging (WT/DS458)—complaint by Cuba;
- United States—Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea (WT/DS464);
- Australia—Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging (WT/DS467)—complaint by Indonesia;
- Ukraine—Definitive Safeguard Measures on Certain Passenger Cars (WT/DS468);
- European Union—Measures on Atlanto-Scandian Herring (WT/DS469);
- United States—Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China (WT/DS471);
- European Union—Anti-Dumping Measures on Biodiesel from Argentina (WT/DS473);
- European Union—Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia (WT/DS474);
- Russian Federation—Measures on the Importation of Live Pigs, Pork and other Pig Products from the European Union (WT/DS475);

<sup>198</sup> Further information on WTO dispute settlement in 2014 can be found in the WTO Annual Report 2015.

- Russia—Anti-Dumping Duties on Light Commercial Vehicles from Germany and Italy (WT/DS479);
- Brazil—Certain Measures Concerning Taxation and Charges (WT/DS472).

(ii) *Appellate Body and Panel reports adopted by the DSB*

The DSB adopted the following five panel reports covering eight disputes and four Appellate Body reports covering seven disputes during 2014:

- European Communities—Measures Prohibiting the Importation and Marketing of Seal Products (WT/DS400, WT/DS401) (Appellate Body and Panel Reports);
- China—Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum (WT/DS431, WT/DS432, WT/DS433) (Appellate Body and Panel Reports);
- United States—Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (WT/DS436) (Appellate Body and Panel Reports);
- China—Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States (WT/DS440) (Panel Report);
- United States—Countervailing and Anti-Dumping Measures on Certain Products from China (WT/DS449) (Appellate Body and Panel Reports).

**(c) Acceptance of the protocols amending the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Government Procurement Agreement (GPA)**

The amended GPA, which streamlines and modernizes the 1994 WTO agreement on Government Procurement, entered into force on 6 April 2014. As of 31 December 2014, the following Members had deposited instruments of acceptance of the amended agreement: Liechtenstein, Norway, Canada, Chinese Taipei, United States, Hong Kong, China, European Union, Iceland, Singapore, Israel, and Japan.

The amended TRIPS Agreement incorporating a decision on patents and public health will enter into force when two-thirds of the WTO Members have accepted the change. During 2014, the Central African Republic, Turkey, Botswana, and Uruguay accepted the amended agreement.

**(d) Protocol amending the Marrakesh Agreement establishing the World Trade Organization**

In December 2013, WTO Members concluded negotiations on a Trade Facilitation Agreement at the Bali Ministerial Conference, as part of a wider “Bali Package”. The Trade Facilitation Agreement contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and capacity building in this area.

On 27 November 2014, in line with the decision adopted in Bali and following a legal review of the text, WTO Members adopted a Protocol of Amendment to insert the new Trade Facilitation Agreement into the WTO Agreement Establishing the World Trade Organization,<sup>199</sup> and opened it for acceptance by Members. As stipulated in the Protocol, it shall enter into force in accordance with article X:3 of the WTO Agreement. Specifically, the Protocol shall take effect upon acceptance by two thirds of the Members for those Members that have accepted the Protocol; thereafter, the Protocol shall take effect for each other Member upon acceptance by that Member. Also on 27 November 2014, WTO Members adopted other decisions related to the Bali Ministerial outcomes: a Decision on Public Stockholding for Food Security Purposes,<sup>200</sup> and a decision on Post-Bali Work.<sup>201</sup>

As of 31 December 2014, Hong Kong, China has accepted the Protocol of Amendment.

## 17. International Criminal Court<sup>202</sup>

The International Criminal Court (ICC) is an independent permanent court established by the Rome Statute of the International Criminal Court in 1998,<sup>203</sup> which entered into force on 1 July 2002. The ICC, although is not part of the United Nations, was born under its auspices and brought into relationship with it pursuant to the Rome Statute and the Negotiated Relationship Agreement between the International Criminal Court and the United Nations.<sup>204</sup>

### (a) Mandate

The ICC was 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 and 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.

### (b) Location

The ICC headquarters are located in The Hague (The Netherlands) and it has opened six field offices, in Kinshasa and Bunia (Democratic Republic of the Congo, “DRC”); Kampala (Uganda); Bangui (Central African Republic, “CAR”); Nairobi (Kenya); and Abidjan (Côte d’Ivoire).

<sup>199</sup> WTO, document WT/L/940.

<sup>200</sup> *Ibid.*, document WT/L/939.

<sup>201</sup> *Ibid.*, document WT/L/941.

<sup>202</sup> For official documents and more information on the International Criminal Court, see <http://www.icc-cpi.int>.

<sup>203</sup> United Nations, *Treaty Series*, vol. 2187, p. 3.

<sup>204</sup> *Ibid.*, vol. 2283, p. 195.

### **(c) Structure**

The ICC is composed of four organs: the Presidency, the Judicial Divisions (Chambers), the Office of the Prosecutor and the Registry. The ICC also includes a number of semi-autonomous offices such as the Office of the Public Counsel for Victims and the Office of Public Counsel for Defence. The Court's 18 judges are elected for nine years by the Assembly of States Parties. The ICC currently counts 800 staff members from approximately 100 States.

### **(d) Assembly of States Parties**

The Assembly of States Parties is the management oversight and legislative body of the ICC that decides on various items, such as the adoption of normative texts, the budget and the election of the judges and of the Prosecutor.

The Rome Statute of the International Criminal Court had 123 parties by the end of 2014. To date, 23 States have ratified the amendments on the crime of aggression and 24 States have ratified the amendments on war crimes.

### **(e) Investigations**

Nine investigations by the Office of the Prosecutor of the ICC are currently in process: Uganda, the DRC, Central African Republic (CAR and CAR II), Darfur (Sudan), Kenya, Libya, Côte d'Ivoire and Mali.

### **(f) Preliminary examinations**

The Office of the Prosecutor is currently conducting preliminary examinations relating to Afghanistan, Colombia, Georgia, Guinea, Honduras, Iraq, Nigeria, Palestine and Ukraine.

### **(g) Situations and case updates<sup>205</sup>**

Up to date, 22 cases have been brought before the ICC of which 8 are currently at the trial stage and 2 at the appeals stage; 8 persons are in custody while 12 suspects are still at large; 27 arrest warrants have been issued, 13 of which have been implemented whereas 2 warrants were withdrawn following the death of the suspects. The ICC relies on the cooperation of states and international organisations in the implementation of its arrest warrants.

#### **(i) *The situation in Uganda***

The situation in UGANDA was referred to the Court by the government of Uganda in December 2003. The Prosecutor opened an investigation in July 2004.

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<sup>205</sup> For a complete list of situations and cases before the Court, see chapter VII of this publication.



In *The Prosecutor v. Joseph Kony, Vincent Otti, and Okot Odhiambo (Pre-trial stage)*,<sup>206</sup> Joseph Kony, Vincent Otti, and Okot Odhiambo, as top members of the Lord's Resistance Army (LRA), are suspected of crimes against humanity and war crimes allegedly committed in Uganda since July 2002. The three suspects are not in the Court's custody.

(ii) *The situation in the Democratic Republic of the Congo*

The situation in the Democratic Republic of the Congo was referred to the Court by the Government of the Democratic Republic of the Congo in April 2004. The Prosecutor opened an investigation in June 2004.

In *The Prosecutor v. Thomas Lubanga Dyilo (Reparations stage)*,<sup>207</sup> Thomas Lubanga Dyilo, founder of the *Union des patriotes congolais* [Union of Congolese Patriots] (UPC) and the *Force patriotiques pour la libération du Congo* [Patriotic Force for the Liberation of Congo] (FPLC), former Commander-in-Chief of the FPLC and president of the UPC, was found guilty on 14 March 2012 by Trial Chamber I, as co-perpetrator, 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. On 10 July 2012, he was sentenced to a total period of 14 years of imprisonment. The time he spent in the ICC's custody will be deduced from his total sentence. On 1 December 2014, the Appeals Chamber confirmed, by majority, the verdict declaring Mr. Lubanga guilty and the decision sentencing him to 14 years of imprisonment. On 7 August 2012, Trial Chamber I issued a decision on the principles and the process to be implemented for reparations to victims in the case. On 3 March 2015, the Appeals Chamber amended the Trial Chamber's order for reparations and instructed the Trust Fund for Victims to present a draft implementation plan for collective reparations to the newly constituted Trial Chamber I no later than six months from the 3 March 2015 judgment. At this stage, Mr. Lubanga Dyilo remains in the Court's custody.

In *The Prosecutor v. Germain Katanga (Reparations stage)*,<sup>208</sup> on 7 March 2014, Trial Chamber II found Germain Katanga guilty as an accessory of one count of crime against humanity (murder) and four counts of war crimes (murder, attacking a civilian population, destruction of property and pillaging) committed on 24 February 2003 during the attack on the village of Bogoro, in the Ituri district of the DRC. The Chamber acquitted Germain Katanga of the other charges that he was facing. On 23 May 2014, Trial Chamber II, ruling in the majority, sentenced Germain Katanga to a total of 12 years' imprisonment. On 25 June 2014, the Defence for Germain Katanga and the Office of the Prosecutor discontinued their appeals against the judgment in the Katanga case. The judgment is now final. The time spent in detention at the ICC—between 18 September 2007 and 23 May 2014—will be deducted from the sentence. Decisions on possible reparations to victims will be rendered later.

<sup>206</sup> *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*, Case No. ICC-02/04-01/05.

<sup>207</sup> *The Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06.

<sup>208</sup> *The Prosecutor v. Germain Katanga*, Case No. ICC-01/04-01/07.

In *The Prosecutor v. Mathieu Ngudjolo Chui (Acquittal final)*,<sup>209</sup> Mathieu Ngudjolo Chui, alleged former leader of the *Front des nationalistes et intégrationnistes* [National Integrationist Front] (FNI), was acquitted, on 18 December 2012, 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) allegedly committed on 24 February 2003 during the attack on the village of Bogoro, in the Ituri district of the DRC. On 21 December 2012, Mathieu Ngudjolo Chui was released from custody. On 20 December 2012, the Office of the Prosecutor appealed the verdict.

In *The Prosecutor v. Bosco Ntaganda (Trial stage)*,<sup>210</sup> Bosco Ntaganda, former alleged Deputy Chief of the General Staff of the *Force Patriotiques pour la Libération du Congo* [Patriotic Force for the Liberation of Congo] (FPLC), is accused of 13 counts of war crimes (murder and attempted murder; attacking civilians; rape; sexual slavery of civilians; pillaging; displacement of civilians; attacking protected objects; destroying the enemy's property; and rape, sexual slavery, enlistment and conscription of child soldiers under the age of fifteen years and using them to participate actively in hostilities) and five crimes against humanity (murder and attempted murder; rape; sexual slavery; persecution; forcible transfer of population) allegedly committed in Ituri (DRC). On 9 June 2014, Pre-Trial Chamber II unanimously confirmed the charges against Bosco Ntaganda and committed him for trial before a Trial Chamber. The trial is scheduled to open on 2 June 2015 and will be conducted before Trial Chamber VI. Mr. Ntaganda is in the Court's custody.

In *The Prosecutor v. Callixte Mbarushimana (Charges declined)*,<sup>211</sup> Callixte Mbarushimana, alleged Executive Secretary of the *Forces Démocratiques pour la Libération du Rwanda—Forces Combattantes Abacunguzi* (FDLR-FCA), was charged with five counts of crimes against humanity (murder, torture, rape, inhumane acts and persecution) and six counts of war crimes (attacks against the civilian population, destruction of property, murder, torture, rape and inhuman treatment) allegedly committed in the Kivus in 2009. On 16 December 2011, Pre-Trial Chamber I decided by majority to decline to confirm the charges against Mr. Mbarushimana. On 23 December 2011, he was released from custody. On 30 May 2012, the Appeals Chamber rejected the Prosecutor's appeal against this decision.

In *The Prosecutor v. Sylvestre Mudacumura (Pre-trial stage)*,<sup>212</sup> Sylvestre Mudacumura, alleged Supreme Commander of the *Forces démocratiques de libération du Rwanda—Forces Combattantes Abacunguzi* (FDLR-FOCA), is charged with nine counts of war crimes (attacking civilians, murder, mutilation, cruel treatment, rape, torture, destruction of property, pillaging and outrages against personal dignity) allegedly committed from 20 January 2009 to the end of September 2010, in the context of the conflict in the Kivus. Mr. Mudacumura is not in the Court's custody.

<sup>209</sup> *The Prosecutor v. Mathieu Ngudjolo Chui*, Case No. ICC-01/04-02/12.

<sup>210</sup> *The Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06.

<sup>211</sup> *The Prosecutor v. Callixte Mbarushimana*, Case No. ICC-01/04-01/10.

<sup>212</sup> *The Prosecutor v. Sylvestre Mudacumura*, Case No. ICC-01/04-01/12.

(iii) *The situation in Darfur, Sudan*

The situation in Darfur, Sudan, was referred to the Court by the United Nations Security Council in its resolution 1593 of 31 March 2005. The Prosecutor opened an investigation in June 2005.

In *The Prosecutor v. Ahmad Muhammad Harun* (“Ahmad Harun”) and *Ali Muhammad Ali Abd-Al-Rahman* (“Ali Kushayb”) (*Pre-trial stage*),<sup>213</sup> former Minister of State for the Interior, Ahmad Harun, and the alleged leader of *Janjaweed* militia, Ali Kushayb are charged with 20 counts of crimes against humanity (including, *inter alia*, murder, forcible transfer of population, imprisonment or severe deprivation of liberty and torture) and 22 counts of war crimes (including, *inter alia*, murder, attacks against the civilian population, outrage upon personal dignity, destruction of property and pillaging) allegedly committed in Darfur, Sudan, in 2003 and 2004. The two suspects are not in the Court’s custody.

In *The Prosecutor v. Omar Hassan Ahmad Al Bashir* (*Pre-trial stage*),<sup>214</sup> Sudanese President Omar Al Bashir is charged with five counts of crimes against humanity (murder, extermination, forcible transfer, torture and rape), two counts of war crimes (intentionally directing attacks against a civilian population as such or against individual civilians not taking part in hostilities, and pillaging), and three counts of genocide allegedly committed against the Fur, Masalit and Zaghawa ethnic groups in Darfur, Sudan, from 2003 to 2008. The suspect is not in the Court’s custody.

In *The Prosecutor v. Bahar Idriss Abu Garda* (*Charges declined*),<sup>215</sup> Bahar Idriss Abu Garda, chairman and general coordinator of military operations of the United Resistance Front, was charged with three counts of war crimes (violence to life, intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission, and pillaging) allegedly committed during an attack carried out on 29 September 2007, against the African Union Peacekeeping Mission in Sudan. He appeared voluntarily before the Court following a summons to appear and the confirmation of charges hearing in the case took place from 19 to 29 October 2009. On 8 February 2010, Pre-Trial Chamber I declined to confirm the charges due to insufficient evidence.

In *The Prosecutor v. Abdallah Banda Abakaer Nourain* (*Trial stage*),<sup>216</sup> Abdallah Banda faces three charges of war crimes (violence to life in the form of murder, whether committed or attempted; intentionally directing attacks against personnel, installations, material, units or vehicles involved in a peacekeeping mission; and pillaging). These crimes were allegedly committed in an attack carried out on 29 September 2007, against African Union Peacekeeping Mission in Sudan, at the Haskanita Military Group Site, in the Umm Kadada locality of North Darfur, Sudan. While the case initially involved Saleh Mohammed Jerbo Jamus, Trial Chamber IV terminated the proceedings against him on 4 October 2013, upon receiving evidence pointing towards his death. On 11 September 2014, Trial Chamber IV issued an arrest warrant against Abdallah Banda Abakaer Nourain. The Chamber also vacated the trial date—previously scheduled for 18 November 2014—and directed the ICC

<sup>213</sup> *The Prosecutor v. Ahmad Muhammad Harun* (“Ahmad Harun”) and *Ali Muhammad Ali Abd-Al-Rahman* (“Ali Kushayb”), Case No. ICC-02/05-01/07.

<sup>214</sup> *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Case No. ICC-02/05-01/09.

<sup>215</sup> *The Prosecutor v. Bahar Idriss Abu Garda*, Case No. ICC-02/05-02/09.

<sup>216</sup> *The Prosecutor v. Abdallah Banda Abakaer Nourain*, Case No. ICC-02/05-03/09.

Registry to transmit the new requests for arrest and surrender to any State, including the Sudan, on whose territory Mr. Banda may be found.

In *The Prosecutor v. Abdel Raheem Muhammad Hussein (Pre-trial stage)*,<sup>217</sup> Abdel Raheem Muhammad Hussein, current Minister of Sudan National Defence and former Minister of the Interior and former Sudanese President's Special Representative in Darfur, is charged with seven counts of crimes against humanity (persecution, murder, forcible transfer, rape, inhumane acts, imprisonment or severe deprivation of liberty and torture) and six counts of war crimes (murder, attacks against civilian population, destruction of property, rape, pillaging and outrage upon personal dignity) allegedly committed in Darfur, Sudan, from 2002 on. The suspect is not in the Court's custody.

#### (iv) *The situation in the Central African Republic*

The situation in the Central African Republic was referred to the Court by the CAR government in December 2004. The Prosecutor opened an investigation in May 2007.

In *The Prosecutor v. Jean-Pierre Bemba Gombo (Trial stage)*,<sup>218</sup> Jean-Pierre Bemba Gombo, alleged President and Commander-in-chief of the *Mouvement de libération du Congo* [Movement for the Liberation of Congo] (MLC), faces two counts of crimes against humanity (rape and murder) and three counts of war crimes (rape, murder and pillaging). His trial started on 22 November 2010. Closing oral statements in the case took place on 12 and 13 November 2014. The judges have commenced their deliberations and the judgment will be pronounced in due course. Mr. Bemba is in the Court's custody.

In *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido (Trial stage)*,<sup>219</sup> Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido are accused of offences against the administration of justice allegedly committed in connection with the case *The Prosecutor v. Jean-Pierre Bemba Gombo*, consisting of corruptly influencing witnesses before the ICC and presenting evidence that they knew to be false or forged. On 11 November 2014, Pre-Trial Chamber II partially confirmed the charges of offences against the administration of justice for the five suspects and committed them to trial before a Trial Chamber. On 21 October 2014, Pre-Trial Chamber II ordered the interim release from the ICC detention center of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido. Jean-Pierre Bemba, the fifth suspect in this case, remains in detention in connection with ongoing proceedings in his original case before the Court, *The Prosecutor v. Jean-Pierre Bemba Gombo*.

In the situation in the Central African Republic II (CAR II), the ICC Prosecutor received a referral from the Central African authorities on 30 May 2014, regarding crimes allegedly committed on CAR territory since 1 August 2012. On 24 September 2014, following an independent and comprehensive preliminary examination, the Office of the

<sup>217</sup> *The Prosecutor v. Abdel Raheem Muhammad Hussein*, Case No. ICC-02/05-01/12.

<sup>218</sup> *The Prosecutor v. Jean-Pierre Bemba Gombo*, Case No. ICC-01/05-01/08.

<sup>219</sup> *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.

Prosecutor announced the opening of a second investigation in the Central African Republic with respect to crimes allegedly committed since 2012. The situation is assigned to Pre-Trial Chamber II.

(v) *The situation in Kenya*

On 31 March 2010, Pre-Trial Chamber II authorised the Prosecutor to open an investigation *proprio motu* in the situation in the Republic of Kenya, in relation to the 2007/2008 post-election violence in the country.

In *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang (Trial stage)*,<sup>220</sup> William Samoei Ruto and Joshua Arap Sang face three counts of crimes against humanity (murder, deportation or forcible transfer of population and persecution) allegedly committed in the context of the 2007–2008 post-election violence in Kenya. The trial in this case started on 10 September 2013. The accused are not in the Court's custody as they are facing trial under summonses to appear.

In *The Prosecutor v. Uhuru Muigai Kenyatta (Charges withdrawn)*,<sup>221</sup> Uhuru Kenyatta faced five counts of crimes against humanity (murder, deportation or forcible transfer of population, rape, persecution and other inhumane acts) allegedly committed in the context of the 2007–2008 post-election violence in Kenya. On 19 September 2014, Trial Chamber V(b) vacated the trial commencement date, which had been provisionally scheduled for 7 October 2014. On 3 December 2014, ICC Trial Chamber V(b) rejected the Prosecution's request for further adjournment and directed the Prosecution to indicate either its withdrawal of charges or readiness to proceed to trial. Subsequently, on 5 December 2014, the Prosecutor filed a notice to withdraw charges against Mr. Kenyatta.

In *The Prosecutor v. Walter Osapiri Barasa (Pre-trial stage)*,<sup>222</sup> Walter Osapiri Barasa is charged with three counts of offences against the administration of justice consisting in corruptly or attempting to corruptly influencing three ICC witnesses. Mr. Barasa is not in the Court's custody.

(vi) *The situation in Libya*

On 26 February 2011, the United Nations Security Council decided unanimously in its resolution 1970 to refer the situation in Libya since 15 February 2011 to the ICC. On 3 March 2011, the ICC Prosecutor opened an investigation in the Libya situation.

In *The Prosecutor v. Saif Al-Islam Gaddafi (Pre-trial stage)*,<sup>223</sup> Saif Al-Islam Gaddafi is charged with two counts of crimes against humanity (murder and persecution) allegedly committed across Libya from 15 until at least 28 February 2011. 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. On 21 May 2014, the ICC Appeals Chamber confirmed the decision of Pre-Trial Chamber I

<sup>220</sup> *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Case No. ICC-01/09-01/11.

<sup>221</sup> *The Prosecutor v. Uhuru Muigai Kenyatta*, Case No. ICC-01/09-02/11.

<sup>222</sup> *The Prosecutor v. Walter Osapiri Barasa*, Case No. ICC-01/09-01/13.

<sup>223</sup> *The Prosecutor v. Saif Al-Islam Gaddafi*, Case No. ICC-01/11-01/11.

declaring the case against Saif Al-Islam Gaddafi admissible. The suspect is not in the Court's custody. While an arrest warrant was initially issued against Abdullah Al-Senussi, on 11 October 2013, Pre-Trial Chamber I decided that the case against Mr. Al-Senussi was inadmissible before the ICC as it was currently subject to domestic proceedings conducted by the Libyan competent authorities and that Libya is willing and able genuinely to carry out such investigation. On 24 July 2014, the Appeals Chamber unanimously confirmed Pre-Trial Chamber I's decision, declaring the case against Abdullah Al-Senussi inadmissible before the ICC and proceedings against Abdullah Al-Senussi before the ICC came to an end. An arrest warrant had also been issued for Muammar Mohammed Abu Minyar Gaddafi but his case was terminated on 22 November 2011, due to his death.

(vii) *The situation in Côte d'Ivoire*

On 3 October 2011, Pre-Trial Chamber III granted the Prosecutor's request for authorisation to open investigations *proprio motu* into the situation in Côte d'Ivoire with respect to alleged crimes within the Court's jurisdiction, committed since 28 November 2010, as well as with regard to crimes that may be committed in the future in the context of this situation. On 22 February 2012, Pre-Trial Chamber III expanded its authorisation to include crimes within the Court's jurisdiction allegedly committed between 19 September 2002 and 28 November 2010. Côte d'Ivoire had accepted the Court's jurisdiction on 18 April 2003 and this was reconfirmed by the Ivoirian Presidency on 14 December 2010 and 3 May 2011. On 15 February 2013, Côte d'Ivoire ratified the Rome Statute.

In *The Prosecutor v. Laurent Gbagbo (Trial stage)*,<sup>224</sup> Laurent Gbagbo is accused of four counts of crimes against humanity (murder, rape, other inhumane acts or—in the alternative—attempted murder, and persecution) allegedly committed in the context of post-electoral violence in Côte d'Ivoire between 16 December 2010 and 12 April 2011. On 12 June 2014, Pre-Trial Chamber I confirmed by majority the charges against Laurent Gbagbo and committed him for trial. The trial is scheduled to open on 7 July 2015 before Trial Chamber I. Mr. Gbagbo is in the Court's custody.

In *The Prosecutor v. Simone Gbagbo (Pre-trial stage)*,<sup>225</sup> Simone Gbagbo is charged with four charges of crimes against humanity (murder, rape and other sexual violence, persecution, and other inhuman acts) allegedly committed in the context of post-electoral violence in Côte d'Ivoire between 16 December 2010 and 12 April 2011. Mrs. Gbagbo is not in the Court's custody. On 11 December 2014, Pre-Trial Chamber I rejected the Republic of Côte d'Ivoire's challenge to the admissibility of the case against Simone Gbagbo before the Court, and reminded Côte d'Ivoire of its obligation to surrender Simone Gbagbo to the Court without delay. The decision is currently subject to appeal.

In *The Prosecutor v. Charles Blé Goudé (Trial stage)*,<sup>226</sup> Charles Blé Goudé is accused of four counts of crimes against humanity (murder, rape and other sexual violence, persecution, and other inhuman acts) allegedly committed in Côte d'Ivoire between 16 December 2010 and 12 April 2011. On 11 December 2014, Pre-Trial Chamber I confirmed four charges

<sup>224</sup> *The Prosecutor v. Laurent Gbagbo*, Case No. ICC-02/11-01/11.

<sup>225</sup> *The Prosecutor v. Simone Gbagbo*, Case No. ICC-02/11-01/12.

<sup>226</sup> *The Prosecutor v. Charles Blé Goudé*, Case No. ICC-02/11-02/11.

of crimes against humanity against Charles Blé Goudé and committed him to trial. On 20 December 2014, the ICC Presidency referred the case to Trial Chamber I, which will be in charge of the trial. Mr. Blé Goudé is in the Court's custody.

(viii) *The situation in Mali*

The situation in Mali was referred to the Court by the Government of Mali on 13 July 2012. On 16 January 2013, the Prosecutor opened an investigation into alleged crimes committed on the territory of Mali since January 2012.





## Chapter IV

### **TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS<sup>1</sup>**

#### **A. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS**

In 2014, the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration, New York, 10 December 2014, was concluded under the auspices of the United Nations.<sup>2</sup>

#### **B. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS**

##### **International Labour Organization**

##### **Protocol of 2014 to the Forced Labour Convention, 1930 Geneva, 11 June 2014<sup>\*</sup>**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 103rd Session on 28 May 2014, and

Recognizing that the prohibition of forced or compulsory labour forms part of the body of fundamental rights, and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and

Recognizing the vital role played by the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as “the Convention”, and the Abolition of Forced Labour Convention, 1957 (No. 105), in combating all forms of forced or compulsory labour, but that gaps in their implementation call for additional measures, and

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<sup>1</sup> In light of the large number of treaties concluded, only a selection of the relevant treaties is reproduced herein.

<sup>2</sup> Not reproduced herein. The text of the Convention is in an annex to the General Assembly resolution 69/116, adopted on 10 December 2014.

<sup>\*</sup> Adopted by the General Conference of the International Labour Organization at its 103rd session from 28 May to 12 June 2014.

Recalling that the definition of forced or compulsory labour under article 2 of the Convention covers forced or compulsory labour in all its forms and manifestations and is applicable to all human beings without distinction, and

Emphasizing the urgency of eliminating forced and compulsory labour in all its forms and manifestations, and

Recalling the obligation of Members that have ratified the Convention to make forced or compulsory labour punishable as a penal offence, and to ensure that the penalties imposed by law are really adequate and are strictly enforced, and

Noting that the transitional period provided for in the Convention has expired, and the provisions of article 1, paragraphs 2 and 3, and articles 3 to 24 are no longer applicable, and

Recognizing that the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination, and

Noting that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour, especially migrants, and

Noting that the effective and sustained suppression of forced or compulsory labour contributes to ensuring fair competition among employers as well as protection for workers, and

Recalling the relevant international labour standards, including, in particular, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), the Worst Forms of Child Labour Convention, 1999 (No. 182), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), the Private Employment Agencies Convention, 1997 (No. 181), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), as well as the ILO Declaration on Fundamental Principles and Rights at Work (1998), and the ILO Declaration on Social Justice for a Fair Globalization (2008), and

Noting other relevant international instruments, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Slavery Convention (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), the United Nations Convention against Transnational Organized Crime (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Elimination of All Forms of

Discrimination against Women (1979), and the Convention on the Rights of Persons with Disabilities (2006), and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Convention, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Convention; adopts this eleventh day of June two thousand and fourteen the following Protocol, which may be cited as the Protocol of 2014 to the Forced Labour Convention, 1930.

#### *Article 1*

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.

2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.

3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

#### *Article 2*

The measures to be taken for the prevention of forced or compulsory labour shall include:

- (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- (c) undertaking efforts to ensure that:
  - (i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
  - (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;
- (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and

(f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

### *Article 3*

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

### *Article 4*

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.

2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

### *Article 5*

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

### *Article 6*

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

### *Article 7*

The transitional provisions of article 1, paragraphs 2 and 3, and articles 3 to 24 of the Convention shall be deleted.

### *Article 8*

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force twelve months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member twelve months after the date on which its ratification is registered and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

*Article 9*

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its article 30, by an act communicated to the Director-General of the International Labour Office for registration.

2. Denunciation of the Convention in accordance with its articles 30 or 32 shall *ipso jure* involve the denunciation of this Protocol.

3. Any denunciation in accordance with paragraphs 1 or 2 of this article shall not take effect until one year after the date on which it is registered.

*Article 10*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

*Article 11*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications, declarations and denunciations registered by the Director-General.

*Article 12*

The English and French versions of the text of this Protocol are equally authoritative.



## Chapter V

### DECISIONS OF THE ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS<sup>1</sup>

#### A. UNITED NATIONS DISPUTE TRIBUNAL

In 2014, the United Nations Dispute Tribunal in New York, Geneva and Nairobi issued a total of 148 judgments. Summaries of seven selected judgments are reproduced below.

1. *Judgment No. UNDT/2014/040 (14 April 2014): Yakovlev v. Secretary-General of the United Nations*<sup>2</sup>

LATE CLAIM FOR SEPARATION ENTITLEMENTS—PERSONAL STANDING OF FORMER STAFF MEMBER—PROPER AND LAWFUL EXERCISE OF DISCRETION TO DENY A REQUEST FOR AN EXCEPTION UNDER STAFF RULE 12.3(B)—AWARD OF COSTS FOR ABUSE OF PROCESS

The Applicant, a former staff member who had served as a procurement officer in the Secretariat, challenged the decision of the administration to dismiss his request, made six years after the expiry of the applicable time limit, to proceed with payment of several entitlements he claimed were due to him upon separation. The Applicant asserted that exceptional circumstances beyond his control had made it impossible for him to claim those entitlements in a timely manner. The administration denied the request for an exception but indicated that it might consider paying for tickets for the Applicant and his spouse if the Applicant could prove that he had no financial means to return to his home country. The Applicant did not respond or provide any proof. The issues before the Tribunal were whether the Applicant had standing to bring his application; whether the administration's discretion to deny the request for an exception was properly and lawfully exercised; and whether the Applicant had manifestly abused the proceedings and, if so, whether costs should be ordered under article 10.6 of the UNDT Statute.

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<sup>1</sup> In view of the large number of judgments which were rendered in 2014 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/2014/001 to UNDT/2014/148 of the United Nations Dispute Tribunal, Judgments Nos. 2014-UNAT-395 to 2014-UNAT-494 of the United Nations Appeals Tribunal, and Judgment Nos. 2014-1 to 2014-2 of the International Monetary Fund Administrative Tribunal, see, respectively, see the websites of the United Nations Dispute Tribunal (<http://www.un.org/en/oaj/dispute/judgments.shtml>), the United Nations Appeals Tribunal (<http://www.un.org/en/oaj/appeals/judgments.shtml>) and the Administrative Tribunal of the International Monetary Fund (<https://www.imf.org/external/imfat/jdgmnts.htm>).

<sup>2</sup> Judge Goolam Meeran (New York).

The Tribunal found that the Applicant had standing to bring his application, but failed to establish that the administration's decision to refuse to grant him an exception to the two-year time limit under staff rule 12.3(b) and proceed with payment was unlawful. The Tribunal further found that the Applicant manifestly abused the proceedings before it.

With regard to the issue of standing, the Tribunal referred to article 3, paragraph 1, of its Statute which provides that an application under the Statute may be filed by "any former staff member of the United Nations". The Tribunal also referred to staff rule 12.3(b) and the absence of language therein that would limit the application of the rule to current or former staff members in respect of entitlements that had not expired, and found that the rule encompassed exceptions that allowed the waiver of time limits provided for in the Staff Rules.

With respect to the exercise of discretion, the Tribunal observed that the Applicant asserted his own turpitude against the Organization as a ground for not having been able to comply with the Rules. The Tribunal noted that the Applicant had had ample opportunity to request a deferment of payment of his separation entitlements but had opted not to do so. The Tribunal also noted that the Applicant had effectively refused to prove that he was impecunious and thus obtain payment of the cost of return travel home. The Tribunal found that the Applicant failed to establish that the administration's decision to refuse to grant him an exception under staff rule 12.3(b) was unlawful.

With respect to abuse of process, the Tribunal considered that the Applicant chose deliberately to omit disclosing information with respect to the very same factors that led the administration to exercise its discretion to refuse his request, and chose to ignore the administration's willingness to consider, for humanitarian reasons, payment of his travel back home prior to filing his application with the Tribunal. By choosing to bring the matter before the Tribunal while the administration stood ready to reconsider its decision at least in part, the Applicant used up valuable resources and time that would otherwise have been devoted to other more urgent matters pending before the Tribunal. The Tribunal also rejected the Applicant's reliance on his incarceration (following his arrest and conviction for financial crimes he committed against the Organization) as *force majeure* and found it to be disingenuous, frivolous and unreasonable. There were no unpredictable or uncontrollable events that would have prevented the Applicant from filing his claim for separation entitlements. As a result, the Tribunal found that the Applicant had manifestly abused the proceedings before it and ordered the Applicant to pay costs in the sum of USD 5,000 for abuse of process.



2. *Judgment No. UNDT/2014/051 (14 May 2014): Nartey v. Secretary-General of the United Nations*<sup>3</sup>

REFUSAL TO GRANT A LIEN ON A POST—PROHIBITED CONDUCT OF HARASSMENT, ABUSE OF AUTHORITY AND RETALIATION FOR TESTIFYING AS A WITNESS BEFORE THE TRIBUNAL IN ANOTHER CASE—RECEIVABILITY OF APPLICATION WITHOUT PRIOR RESORT TO MANAGEMENT EVALUATION—AWARD OF COMPENSATION FOR PROCEDURAL IRREGULARITIES AND MORAL DAMAGES—REFERRAL TO THE SECRETARY-GENERAL PURSUANT TO ARTICLE 10, PARAGRAPH 8, OF THE STATUTE OF THE TRIBUNAL

The Applicant contested, *inter alia*, the decision by the United Nations Office at Nairobi (“UNON”) not to grant a lien on his post to enable him to undertake a mission assignment to the African Union/United Nations Hybrid Operation in Darfur (“UNAMID”). The Applicant asserted that the decision was taken as part of a series of prohibited conduct and retaliatory actions against him for having testified as a witness before the Tribunal in the case of *Kasmani* (UNDT/NBI/2009/67).

The Tribunal first considered whether the application was receivable. The Tribunal observed that it was clear that the administration’s objection to the receivability of the case had at its core the failure of the Applicant to request management evaluation of each of his allegations of prohibited conduct and/or retaliation. It referred to ST/SGB/2008/5 and observed that prohibited conduct of harassment and abuse of authority against a staff member would most often be seen to have occurred over a period of time and involve a series of incidents. To argue that a victimized staff member must make a request to the Management Evaluation Unit (“MEU”) on every occasion on which alleged prohibited conduct took place was untenable. Having regard to the peculiar characteristics and elements of prohibited conduct, the Tribunal held that the application was receivable.

The Tribunal then considered whether the Applicant was a victim of harassment and/or retaliation following his testimony in the *Kasmani* case. After considering the evidence and examining whether there were any actions, inactions, utterances and/or series of incidents which supported the Applicant’s claim that he was a victim of prohibited conduct and retaliation at UNON, the Tribunal found that the administration had acted based on motives bent on exacting retaliation and forcing the Applicant out of UNON.

The Tribunal recalled that in the *Kasmani* case it made an order of protection from retaliation in favour of the witnesses in that case, which included the Applicant, and found that testifying before a Tribunal amounted to an “activity protected by the present policy” within the scope of section 1.4 of ST/SGB/2005/21.

The order in the *Kasmani* case also had directed that the Ethics Office be seized of the matter and monitor the situation for further action should there arise allegations of violations of the order. Subsequently, the Applicant submitted a complaint of discrimination, harassment, abuse of authority and retaliation by UNON to the Ethics Office. The Tribunal considered that the Ethics Office did not adequately act upon the report of retaliation filed by the Applicant in accordance with the provisions of ST/SGB/2005/21, failed to protect him, and failed to obey the order made in the *Kasmani* case.

The Tribunal awarded the Applicant six months’ net base salary as compensation for procedural irregularities resulting from the failure of the administration to follow its

<sup>3</sup> Judge Nkemdilim Izuako (Nairobi).

own guidelines and its rules and procedures, together with moral damages in the sum of USD 10,000 for the stress caused to the Applicant over a period of years. The Tribunal also referred an official from UNON and an official from the Ethics Office for accountability under article 10.8 of the UNDT Statute.

3. *Judgment No. UNDT/2014/059 (5 June 2014): Ogorodnikov v. Secretary-General of the United Nations*<sup>4</sup>

PROPORTIONALITY OF DISCIPLINARY MEASURE—INSUFFICIENT CONSIDERATION OF MITIGATING CIRCUMSTANCES—RESCISSION AND REPLACEMENT OF DISCIPLINARY MEASURE—AWARD OF COMPENSATION FOR LOSS OF EARNINGS

The Applicant, a civil affairs officer with the United Nations Assistance Mission in Afghanistan (“UNAMA”), sought rescission of a decision to separate him from service, with compensation in lieu of notice and with termination indemnities, as a disciplinary measure. Apparent irregularities in documents relating to his re-entry date to Afghanistan from leave prompted an investigation, on the basis of which it was found that the Applicant had forged a stamp in a copy of his United Nations *Laissez-Passer* (“UNLP”) and provided false information in his annual leave report. The Applicant did not contest the facts but rather the proportionality of the disciplinary measure.

The Tribunal examined whether the procedure followed was regular, whether the facts in question were established, whether those facts constituted misconduct and whether the sanction imposed was proportionate to the misconduct committed. Upon review, the Tribunal concluded that the Applicant did not commit the misconduct of providing false information in his annual leave report but that the facts with regard to the remaining charge of misconduct were correctly established. However, the administration did not fully or correctly take into account all the mitigating circumstances when determining the appropriate disciplinary sanction.

The Tribunal identified as mitigating factors the fact that the Applicant never sought to obtain any personal gain or to prejudice the Organization, had continued to work with UNAMA for two more years after the conclusion of the investigation, had received a positive performance appraisal for the 2008–2009 and 2009–2010 cycles, was selected and appointed to a new position with the United Nations Stabilization Mission in Haiti (“MINUSTAH”) starting in early 2011 and the delay between the initiation of the disciplinary process and the application of the sanction. The Tribunal found that the continued employment of the Applicant with UNAMA and his performance evaluations clearly contradicted the conclusion that his conduct was incompatible with further service and that the trust between the Applicant and the Organization was not temporarily or irremediably affected by his misconduct.

The Tribunal held that the disciplinary measure was disproportionate to the misconduct and unlawful. The Tribunal rescinded the disciplinary measure of separation from service with compensation in lieu of notice and with termination indemnities and replaced it with a written censure plus a fine of one month’s net base salary. The administration was ordered to pay compensation for loss of earnings starting from 2 February 2011 until the date of expiration of the contract of the Applicant with MINUSTAH on 2 January 2012,

<sup>4</sup> Judge Alessandra Greceanu (New York).

less the fine of one month's net base salary and the amount of termination indemnity already paid to the Applicant. In the event that the administration decided not to reinstate the Applicant, the Tribunal ordered compensation in the amount of USD 5,000 plus compensation for loss of one year's net base salary and entitlements.

4. *Judgment No. UNDT/2014/112 (20 August 2014): Cocquet v. Secretary-General of the United Nations*<sup>5</sup>

ELIGIBILITY FOR AFTER-SERVICE HEALTH INSURANCE—LACK OF CONTINUOUS SERVICE—LITERAL INTERPRETATION OF ST/AI/2007/3—RETROACTIVE ENROLMENT

The Applicant contested the administration's decision that she was ineligible for After-service health insurance ("ASHI"). The Applicant had held fixed-term appointments with the International Criminal Tribunal for the former Yugoslavia ("ICTY") from October 2006 to August 2009 and with the United Nations Assistance to the Khmer Rouge Trials ("UNAKRT") from October 2009 to November 2013, with a two-month voluntary break-in-service in between. Pursuant to section 2.1 of ST/AI/2007/3, if the Applicant was deemed to have been recruited before 1 July 2007 she would need to have been a participant in the contributory health insurance plan of the United Nations common system for a minimum of five years in order to qualify for ASHI, while if recruited on or after that date, the requisite period of time would be a minimum of 10 years. Relying on staff rule 4.17(a), the administration took the position that the effective recruitment date of the Applicant was that of her most recent re-employment with UNAKRT.

The Tribunal explained that the principal issue in this case was the determination of the applicable date of recruitment in the United Nations under section 2.1 of ST/AI/2007/3 on After-service health insurance in order to ascertain whether the Applicant qualifies for ASHI. The Tribunal observed that ST/AI/2007/3 was silent on the situation where a staff member had been employed by the United Nations before 1 July 2007 and again subsequently after that date, with a voluntary break-in-service in between. The Tribunal stated that the case was best resolved by the literal or plain meaning rule of construction, i.e., by establishing the plain meaning of the words in the context of the document as a whole, and that only if the wording was ambiguous should recourse be had to other documents or external sources to aid in the interpretation. The Tribunal found that the intended consequence of ST/AI/2007/3 was apparent from its face, and required cumulative contributory participation and not continuous service or continuous contributory participation. The Tribunal found that the administration's reliance on staff rule 4.17 was misguided, as it was not applicable to the question of ASHI.

As a result, the Tribunal held that since the Applicant entered into the United Nations common system in October 2006, she satisfied the eligibility criteria for ASHI. The Tribunal rescinded the administrative decision and directed the administration to enroll the Applicant in ASHI retroactively from 1 December 2013.

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<sup>5</sup> Judge Ebrahim-Carstens (New York).

5. *Judgment No. UNDT/2014/115 (28 August 2014): Jansen v. Secretary-General of the United Nations*<sup>6</sup>

NON-RENEWAL OF FIXED-TERM APPOINTMENT—RECEIVABILITY OF APPLICATION FOLLOWING RELIANCE ON ERRONEOUS ADVICE FROM MANAGEMENT EVALUATION UNIT REGARDING STATUTORY TIME LIMITS—LAWFUL EXERCISE OF DISCRETION TO DISCONTINUE FIXED-TERM APPOINTMENT

The Applicant, a staff member at the P-5 level at the United Nations Economic Commission for Europe (“UNECE”), challenged the non-renewal of his fixed-term-appointment (“FTA”) beyond its expiry. He was working as project manager on an extra-budgetary project funded exclusively by one member state. His FTA was limited to the particular post and department.

In July 2012, the Applicant was informed that his appointment would not be extended beyond 30 November 2012 because the donor no longer supported funding of the project. He filed a first request for management evaluation with the Management and Evaluation Unit (“MEU”). In early November 2012, the Applicant was informed that the donor had indicated it would discontinue the project by 1 June 2013 and the Applicant signed a FTA effective 1 December 2012 that provided it would expire without notice on 31 May 2013. On 15 November 2012, the Applicant contacted the MEU, referred to his pending case and requested the MEU to incorporate the decision not to extend his contract beyond 31 May 2013 in his first request for management evaluation, but to hold the entire request in abeyance until 28 February 2013, as informal resolution efforts were ongoing. The MEU extended the abeyance but did not acknowledge the inclusion of the new decision in the first request. On 19 February 2013, the Applicant requested the MEU to continue to hold his case in abeyance until 31 May 2013, since he had secured funding for the extension of his contract beyond 31 May 2013 but finalization of the funding was taking some time. The MEU responded to the effect that the November 2012 decision superseded the July 2012 decision, rendering his first case moot, and closed the file without having reviewed the November 2012 decision not to extend his contract beyond 31 May 2013.

On 29 May 2013, the Applicant was informed that, having exhausted all possible options, his contract would not be renewed beyond 31 May 2013. The Applicant submitted a new request for management evaluation on 31 May 2013 in respect of what he considered a new decision not to renew his contract beyond 31 May 2013 or, alternatively, not to request his exceptional placement on a temporary vacancy announcement (“TVA”) against a vacant post. He was separated that same day.

The issues before the Tribunal were whether the application was receivable and whether the non-renewal decision was unlawful. With respect to receivability, the Tribunal found that an application could be considered receivable when, following erroneous advice from the MEU and good faith reliance on it, the Applicant failed to comply with the statutory time-limits.

With regard to the nature of the decision, the Tribunal stated that a decision which only repeated the original administrative decision without additional contents or grounds did not reset the clock for appeal. A legitimate expectation for renewal of appointment could only be created through an express promise, which had to be in writing. A decision not to renew a FTA, if based on legitimate grounds supported by evidence, constituted a lawful exercise of discretion. The administration did not have an obligation to place a staff

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<sup>6</sup> Judge Thomas Laker (Geneva).

member whose FTA was limited to a specific post and department in another department or to otherwise secure his continued employment. It therefore rejected the application on the merits since the non-renewal decision was based on legitimate grounds and constituted a lawful exercise of discretion on the part of the administration.

6. *Judgment No. UNDT/2014/122 (13 October 2014): Tshika v. Secretary-General of the United Nations*<sup>7</sup>

SUMMARY DISMISSAL FOR FRAUD—ROLE OF THE TRIBUNAL IN DISCIPLINARY MATTERS—WELL-FOUNDEDNESS OF THE REPORT OF MISCONDUCT—FAILURE TO SATISFY THE BURDEN AND STANDARD OF PROOF FOR TAKING THE DISCIPLINARY MEASURE—COMPENSATION FOR MONETARY LOSS ARISING OUT OF THE UNFAIR DISMISSAL AND FOR LOSS OF OPPORTUNITY TO SECURE ANOTHER JOB—AWARD OF MORAL DAMAGES

The Applicant, a former staff member of the United Nations Organization in the Democratic Republic of the Congo (“MONUC”), contested the decision to summarily dismiss her from service for attempting to defraud the Organization by making a false claim for medical expenses.

The Tribunal commenced its consideration of the case with a review of the Tribunal’s role in disciplinary matters. The role of the Tribunal was to consider the facts of the investigation, the nature of the charges, the response of the staff member, oral testimony if available, and draw its own conclusions. In other words, the Tribunal was entitled to examine the entire case before it and to determine whether a proper investigation into the allegations of misconduct had been conducted.

With respect to the conduct of the investigation, the Tribunal referred to its jurisprudence and stressed that an investigation must be thorough and disclose an adequate evidential basis before a view is formed that a staff member may have committed misconduct. The Tribunal found that the investigation was poorly conducted.

The Tribunal then turned to the recommendation that disciplinary proceedings be initiated against the Applicant and considered what evidence should satisfy a head of office or responsible officer that a report of misconduct was well-founded. The Tribunal noted that under ST/AI/371, it was the responsibility of the head of office or responsible officer to undertake a preliminary investigation where there was reason to believe that a staff member had engaged in unsatisfactory conduct and that the head of office or responsible officer appeared to be vested with wide discretion at the initial stage of a disciplinary matter. That discretion was to be exercised judiciously in the light of what the investigation had revealed. The head of office or responsible officer was compelled to carefully scrutinize the facts gathered during the investigation; see if there were any flaws or omissions in the facts gathered that needed to be remedied; assess whether all available and relevant witnesses had been interviewed; and call for supplementary investigation or clarification if need be. In this case, the Tribunal found that the responsible officers had not carefully scrutinized the investigation report so as to identify the flaws in the facts gathered and that, as a consequence, the threshold of “well-founded” was not reached because the conclusion was based on an investigation report that was flawed.

<sup>7</sup> Judge Vinod Boolell (Nairobi).

The Tribunal recalled that the administration had the burden of establishing that the alleged misconduct for which a disciplinary measure had been taken against a staff member occurred. An accused staff member could not be made to shoulder the flaws of a badly conducted investigation. The Tribunal stated that the whole investigation centered on the fact that no surgery was ever performed on the husband of the Applicant, and the charge against the Applicant was that she was claiming reimbursement for a surgery that never took place. At the oral hearing, the administration attempted to rely on hearsay evidence in support of the charge. The Tribunal indicated that caution should be exercised before acting on such evidence, especially in a disciplinary matter. The Tribunal held that the evidence was not clear and convincing so as to warrant an adverse finding against the Applicant. At the hearing, the Administration also attempted to establish that the amounts of the invoices and receipts produced by the Applicant and her husband had been manipulated, which was a charge that had never been put to the Applicant specifically in the charge sheet. After considering the evidence, the Tribunal was not persuaded that the administration had discharged the standard of proof required to establish that invoices and receipts were fraudulent and indicated that it would not embark on an analysis of what clearly appeared to be a new charge that had not the subject of an investigation.

As a result, the Tribunal concluded that the established facts did not legally amount to misconduct and that the disciplinary measure imposed on the Applicant was unlawful *ab initio* and therefore a violation of her rights. The Applicant was awarded one year's net base salary for monetary loss arising out of the unfair dismissal and for loss of opportunity to secure another job owing to the dismissal. The Tribunal also awarded the sum of USD 5,000 as moral damages based on the Applicant's testimony of harm.

7. *Judgment No. UNDT/2014/130 (30 October 2014): Karseboom v. Secretary-General of the United Nations*<sup>8</sup>

CLAIM FOR COMPENSATION UNDER APPENDIX D OF THE STAFF RULES—APPEALS OF THE DETERMINATION BY THE SECRETARY-GENERAL OF THE EXISTENCE OF AN INJURY OR ILLNESS ATTRIBUTABLE TO THE PERFORMANCE OF OFFICIAL DUTIES—FAILURE TO FOLLOW THE PROCEDURE UNDER ARTICLE 17 OF APPENDIX D OF THE STAFF RULES—LOCUS OF BURDEN OF PROOF—AWARD OF COMPENSATION IN EXCESS OF TWO YEARS' NET BASE SALARY PURSUANT TO ARTICLE 10, PARAGRAPH 5(B), OF THE STATUTE OF THE TRIBUNAL—AWARD OF MORAL DAMAGES

The Applicant, a security guard at the United Nations Organization in the Democratic Republic of the Congo ("MONUC"), had a bicycle accident while on leave in Spain in April 2006 and suffered an injury to his lower back diagnosed as lytic spondylolisthesis. He received medical treatment in Spain and, following medical clearance, returned to full duty in September 2006. The Applicant had a second accident while on duty in October 2006, suffered severe injury to his left leg and did not return to his duties again. Following medical evacuation to Spain, an x-ray and an MRI of his back were performed. The Applicant was diagnosed with persisting low back pain secondary to lytic spondylolisthesis and told that his vertebrae required surgical repair. The Applicant underwent surgery twice in 2008.

The Applicant filed a claim for compensation under Appendix D of the Staff Rules. The Advisory Board on Compensation Claims ("ABCC") found that only the injury to his

<sup>8</sup> Judge Coral Shaw (Geneva).



left leg and knee was service-incurred. The Applicant filed a request for reconsideration under article 17 of Appendix D, to have his spinal back injury recognized as service-incurred and to be awarded compensation for permanent loss of function under article 11.3(c) of Appendix D. The ABCC, upon the advice of the Medical Director, recommended to the Secretary-General that the spine injury not be recognized as service-incurred and that the Applicant not receive compensation for permanent loss of function. The advice of the Medical Director was based on the medical report of an independent practitioner prepared in connection with the request by the Applicant for a disability benefit that was being considered by the United Nations Staff Pension Committee under the United Nations Joint Staff Pension Fund ("UNJSPF") Regulations. The Secretary-General approved the recommendation by the ABCC.

The Tribunal found that article 17 of Appendix D provided for a specific process to determine a request for reconsideration of a claim for compensation and that it was mandatory to convene a medical board if the appealed touched on medical aspects. The administration failed to follow the correct procedure when it did not convene a medical board and could not rely on the independent medical evaluation as an alternative thereto. The Tribunal further stressed that the independent medical evaluation failed to address the issue of causation of the spinal injury and that the administration could not rely on the absence of evidence in that report to support a conclusion that the October 2006 accident had no impact on the back injury of the Applicant.

The Tribunal rejected the administration's submission that it was for the Applicant to prove that his spinal injuries were attributable to the work-related accident; rather, it was for the administration to establish that the advice given by the ABCC was based on well-founded evidence. The obligation of the Applicant was to demonstrate that the process provided for in the relevant article was disregarded. The Tribunal found that the ABCC made its recommendations based on uncertain facts and inferences which were derived, improbably, from the absence of evidence. As a result, the ABCC recommendations and consequent administrative decision were not well-founded.

The Tribunal considered it was not competent to make an award under Appendix D, as this would have involved making findings on medical matters, but could award compensation for material damage resulting from a violation of a staff member's rights and for moral damages for the impact of the breach on the Applicant. When there were no alternative means of assessing material damage under Appendix D, it was necessary to consider the likelihood that, but for the procedural errors, the ABCC would have reached a different conclusion about the cause of a claimant's permanent injuries. That was not a medical assessment, but an evaluation of the claimant's loss of opportunity. Where the medical evidence about causation was in dispute, the probability that a claimant would have succeeded in his claim for compensation could be estimated at 50 per cent, which was the basis on which material damage had to be assessed.

The Tribunal, referring to *Mmata* 2010-UNAT-092, considered that the case was an exceptional one under article 10.5(b) of its Statute, justifying an award greater than two years' net base salary. On the balance of probabilities that the ABCC would have reached a different conclusion had the proper procedure been followed, and since the medical issue of causation was in dispute, the Tribunal awarded USD 150,104 as material damages, corresponding to 50 per cent of the maximum amount the Applicant would have obtained

under article 11.3 of Appendix D for permanent loss of function. The Tribunal also awarded three months' net base salary as moral damages. The Tribunal reiterated that the purpose of compensation was to place a staff member in the same position he/she would have been in had the Organization complied with its contractual obligations. To deprive the Applicant of the appropriate level of compensation for loss of chance measured against the compensation he may have received under Appendix D and of any compensation for moral damage would have been unjust and warranted an exception under article 10.5(b) of its Statute.

## B. DECISIONS OF THE UNITED NATIONS APPEALS TRIBUNAL

The United Nations Appeals Tribunal (UNAT) held its first session in 2014 from 24 March to 2 April in New York. It held its second session in 2014 in Vienna from 16 to 27 June. Its third session was held in New York from 6 to 17 October. The Appeals Tribunal issued a total of 100 judgments in 2014. The summaries of nine of those judgments are reproduced below.

### 1. *Judgment No. 2014-UNAT-410 (2 April 2014): Igbiniedion v. Secretary-General of the United Nations*<sup>9</sup>

SUSPENSION OF THE IMPLEMENTATION OF A CONTESTED DECISION PENDING MANAGEMENT EVALUATION—PRINCIPLE OF *STARE DECISIS* REGARDING JURISPRUDENCE BY THE APPEALS TRIBUNAL—OBLIGATION TO RESPECT AN ORDER BY THE DISPUTE TRIBUNAL UNTIL OVERTURNED BY THE APPEALS TRIBUNAL—INHERENT AUTHORITY TO CONDUCT CONTEMPT PROCEEDINGS—REFERRAL FOR ACCOUNTABILITY IN PURSUANT TO ARTICLE 10, PARAGRAPH 8, OF THE UNDT STATUTE

The Applicant was a staff member of the United Nations Human Settlements Programme ("UN-Habitat") who had requested management evaluation of the decision not to extend his appointment. At the same time, the Applicant had requested that the United Nations Dispute Tribunal ("UNDT") order the suspension of the implementation of the contested decision, which the UNDT granted. Following the decision of the Management Evaluation Unit ("MEU") that the request of the Applicant was time-barred, the Secretary-General filed a motion to vacate the order to suspend the decision not to extend the appointment. The UNDT ordered to keep the decision suspended until the case was reviewed on the merits. The Secretary-General filed an appeal against this order and UN-Habitat did not extend Applicant's appointment based on its view that the MEU decision superseded the UNDT order. Applicant then filed an application for contempt by UN-Habitat for its failure to comply with the order of the UNDT.

In its judgment on contempt,<sup>10</sup> the UNDT concluded, *inter alia*, that the Executive Director of UN-Habitat, the Director of the Programme Support Division of UN-Habitat and the Office of Legal Affairs were in contempt of its authority. It decided to refer the Executive Director, the Legal Officer serving as the representative of the Secretary-General before the UNDT and the Office of Legal Affairs to the Secretary-General for possible action to enforce accountability. It also recommended to subsequently report the Legal

<sup>9</sup> Judge Mary Faherty, Presiding, Judge Inés Weinberg de Roca, Judge Sophia Adinyira, Judge Luis María Simón, Judge Richard Lussick, Judge Rosalyn Chapman.

<sup>10</sup> *Igbiniedion v. Secretary-General of the United Nations*, Judgment No. UNDT/2013/024.



Officer to the Bar association of his national jurisdiction for engaging in conduct not befitting an officer of the court. The Secretary-General also appealed against this judgment.

In relation to the first appeal by the Secretary-General,<sup>11</sup> the Appeals Tribunal had held that the orders issued by the UNDT violated article 2(2) of the Tribunal Statute, which provides for suspension of the implementation of a contested decision only during the pendency of the management evaluation, and article 10(2) of the UNDT Statute, which prohibits the suspension of the implementation of the contested decision in cases of appointment, promotion, or termination.

In a decision by the full bench, the Appeals Tribunal held with regard to the second appeal by the Secretary-General that the UNDT had acted unlawfully in issuing an order in direct contravention of the established jurisprudence of the Appeals Tribunal that the UNDT cannot order a suspension of the implementation of a contested decision beyond the pendency of a management evaluation.<sup>12</sup> Notwithstanding the foregoing, the Appeals Tribunal held that a party before the UNDT must obey its binding decision and that a decision by the UNDT remains legally valid absent a decision of the Appeals Tribunal to vacate it. Noting that its jurisprudence was clear on this point,<sup>13</sup> the Appeals Tribunal found the refusal by the Secretary-General to comply with the order of the Tribunal to be vexatious.

The Appeals Tribunal also considered that even without explicit statutory power a court had the inherent power to conduct contempt proceedings as part of its judicial powers to promote and protect the court and to regulate its proceedings.

The Appeals Tribunal also held that the power of the UNDT to make referrals for accountability in accordance with article 10(8) of its Statute is independent of the inherent judicial powers relating to contempt and was not predicated upon such a finding. In the present case, the Appeals Tribunal vacated the referrals for accountability as it considered that the UNDT exercised its statutory authority improperly in making the referrals under article 10(8) under the guise of sanctions for contempt.

## 2. *Judgment No. 2014-UNAT-416 (2 April 2014): Charles v. Secretary-General of the United Nations*<sup>14</sup>

### CONTESTATION OF NON-SELECTION DECISION—STAFF SELECTION SYSTEM PURSUANT TO ST/AI/2010/3—SELECTION FROM THE ROSTER WITHOUT PRIOR CONSIDERATION OF NON-ROSTERED CANDIDATES

The Respondent (Applicant in the first instance), and Appellant), a staff member of the United Nations Secretariat in New York, contested two non-selection decisions. In both selection exercises, the hiring manager selected a staff member from a pre-approved roster list and did not take into consideration any of the other candidates for the post, including the Respondent, who was not on the roster list for either post.

<sup>11</sup> *Igbinedion v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-159.

<sup>12</sup> *Tadonki v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-005; *Kasmani v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-011.

<sup>13</sup> *Igunda v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-255; *Villamorán v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-160.

<sup>14</sup> Judge Richard Lussick, Presiding, Judge Inés Weinberg de Roca, Judge Luis María Simón.

For each of the selection exercises, the United Nations Dispute Tribunal (“UNDT”) in Judgment No. UNDT/2013/040 and Judgment No. UNDT/2013/041, respectively, awarded the Respondent USD 1,000 in compensation for the breach of his right to receive full and fair consideration and for the resultant harm. The UNDT held that the selection of a rostered candidate without consideration of other candidates was contrary to the requirements of Article 101(3) of the Charter and staff regulation 4.2. The UNDT considered that ST/AI/2010/3, which established the staff selection system and was consistent with Article 101(3) of the United Nations Charter of the United Nations and staff regulation 4.2, did not provide for priority consideration of rostered candidates. It only exempted them from referral to the central review bodies for approval. Given that he was only one of 153 and 128 candidates applying for the respective posts, the UNDT considered it speculative to estimate his chances of success and therefore found the sum of USD 1,000 sufficient. The Secretary-General appealed the UNDT Judgment and the Respondent cross-appealed.

The Appeals Tribunal held that the plain wording of section 9.4 of ST/AI/2010/3 made it clear that the head of department/office had the discretion to make a selection decision from candidates included in the roster. It considered that there was no requirement in section 9.4 for the head of department to first review all the non-rostered candidates, noting that section 9.4 had been amended to specifically remove such a requirement. The Appeals Tribunal held that the UNDT erred in law in deciding that the appointment of a rostered candidate prior to reviewing all non-rostered candidates was contrary to ST/AI/2010/3 and the Appeals Tribunal accordingly vacated the award of damages in favour of the Respondent.

3. *Judgment No. 2014-UNAT-430 (27 June 2014): Diallo v. Secretary-General of the International Civil Aviation Organization*<sup>15</sup>

TERMINATION OF APPOINTMENT DUE TO RESTRUCTURING—BREACHES FUNDAMENTAL IN NATURE WARRANTING THE AWARD OF MORAL DAMAGES—BROAD DISCRETION OF ADJUDICATING TRIBUNAL TO ADMIT EVIDENCE

The Appellant appealed against the decision taken by the Secretary-General of the International Civil Aviation Organization (“ICAO”) to terminate her appointment due to the abolition of her post as a result of cost-cutting measures.

At the time of the contested decision, the Appellant worked as a G-7 Field Operations Assistant in the Technical Cooperation Bureau (“TCB”), in a newly created Project Financing and Development (“PFD”), to which she had been reassigned from the Field Operations Section (“FOS”). The letter informing the Appellant of the contested decision referred to the PFD post number and indicated that ICAO would endeavour to find alternative employment for her within ICAO, but if such employment could not be found, her appointment would end on 31 July 2011 and she would be paid termination indemnity in the amount of three months’ net base salary. After administrative review, which upheld the contested decision, the Appellant appealed to the Advisory Joint Appeals Board (“AJAB”) of ICAO.

The AJAB determined that: (a) there were no grounds to uphold the Appellant’s assertion that she was retaliated against by the Secretary-General of ICAO because of an appeal by her husband; (b) the decision of ICAO to restructure the TCB by means of restructuring certain posts was within its discretion and not tainted by improper motives; (c) as of

<sup>15</sup> Judge Sophia Adinyira, Presiding, Judge Mary Faherty, Judge Richard Lussick.

31 July 2011, the Appellant still held her post in FOS and the decision to abolish her post was partly based on an error of fact since the ICAO administration attempted to abolish a post in PFD that had never been established; (d) ICAO did not show good faith in its efforts to find the Appellant an alternative post; (e) the Appellant failed to adduce substantive evidence of harassment and threat by the Secretary-General of ICAO; and (f) ICAO had violated the Appellant's right to have access to all pertinent documents in her personnel and confidential files.

The AJAB recommended to the Secretary-General of ICAO that ICAO pay the Appellant her full salary and entitlements from the date on which her contract was terminated (i.e. 31 July 2011) through the end of her contract on 11 December 2011 as well as compensation in the amount of two months' net base salary. The Secretary-General, while not fully concurring with the conclusions of AJAB, accepted the recommendations to pay the above amounts, conditioned upon the Appellant agreeing to waive her rights to an appeal and make no further claims against ICAO in this matter.

The Appellant challenged the decision by the Secretary-General of ICAO on the grounds that the AJAB failed to render her full justice as the compensation was not commensurate with the loss of career opportunities as well as with her "level of suffering, due to [her] abusive dismissal". The Appellant further averred that the AJAB erred in procedure and in fact, resulting in a manifestly unreasonable decision, by rejecting the written testimony of her immediate supervisor and the evidence of her second reporting officer which clearly showed that the Secretary General planned "to get rid of [her]".

The Appeals Tribunal found merit in the appeal concerning the amount of compensation awarded to her in terms of moral damages. The AJAB had made a number of findings in her favour indicating that her rights as a staff member were abused during the restructuring process. The Appeals Tribunal considered those breaches to be fundamental in nature so as to warrant an award of moral damages and substituted the AJAB-recommended award of two months' net base salary with the sum of six months' net base salary. The Appeals Tribunal did not disturb the award of the payment of her full salary and all entitlements up to the end of her contract on 11 December 2011.

The Appeals Tribunal found no merit in the appeal against the rejection by AJAB of the testimonies of her immediate supervisor and her second reporting officer. It held that the approach of the AJAB was consistent with its jurisprudence in *Messinger*<sup>16</sup> and *Larkin*.<sup>17</sup> The Appeals Tribunal held that the AJAB, in a position similar to that of an adjudicating tribunal or trier of fact, had broad discretion to determine the admissibility of any evidence and the weight to attach to such evidence. The Appeals Tribunal affirmed the finding by the AJAB that the Appellant could not adduce substantial evidence of harassment and threat by the ICAO Secretary-General and that the Appellant's claim that the ICAO Secretary-General had targeted her for dismissal could not be supported.

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<sup>16</sup> *Messinger v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-123.

<sup>17</sup> *Larkin v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-134.

4. *Judgment No. 2014-UNAT-436 (27 June 2014): Walden v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*<sup>18</sup>

WILFUL MISREPRESENTATION OF ACADEMIC CREDENTIALS ON APPLICATION—DIPLOMA FRAUD—TERMINATION OF APPOINTMENT FOR MISCONDUCT

The Respondent (Applicant in the first instance) was appointed to the post of senior procurement officer with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (“UNRWA”) on 20 July 2000. His Personal History Form (“PHF”) and *curriculum vitae* submitted with respect to this appointment indicated that he had a Master of Business Administration from a particular college. On 16 October 2007, as a result of having applied for a P-5 post and submitted his PHF and *curriculum vitae*, the Respondent was notified that the college was on the list of a report entitled “Diploma Mills: A Report on Detection and Prevention of Diploma Fraud” by the United Nations Office for Human Resources Management.

An investigation was carried out regarding the Respondent’s degree. On the basis of the investigation report, the Commissioner-General determined that the Respondent had committed misconduct by submitting a non-accredited degree in support of his application and had thereby misrepresented his academic credentials, in direct violation of a statement that he had signed in his PHP. The Respondent’s case was referred to the Staff Joint Disciplinary Committee (“JDC”) which found that the Respondent had knowingly misrepresented his academic qualifications and recommended dismissal. By letter dated 27 May 2009, the Commissioner-General informed the Respondent of her agreement with the JDC’s findings and the decision to terminate his appointment for misconduct effective 1 June 2009. The Respondent challenged this decision before the UNRWA Dispute Tribunal.

In Judgment No. UNRWA/DT/2013/011, the UNRWA Dispute Tribunal reversed the decision, finding that there was no clear and convincing evidence that the Respondent had knowingly misrepresented his academic qualifications and that the facts did not establish misconduct and therefore the sanction was disproportionate. The UNRWA Dispute Tribunal also found that the decision was tainted and prejudiced and that the Respondent was denied due process. The UNRWA Dispute Tribunal ordered re-instatement of the Respondent in his post or in the alternative, and bearing in mind the exceptional circumstances of the case, an amount of compensation of two years’ net base salary plus six months’ net base salary as compensation.

On appeal, the Appeals Tribunal found that it was undisputed that the Respondent had knowingly presented non-existent credentials despite having questioned the ethics of accepting a diploma based on “recognition of prior learning” with no attendance requirement. The Appeals Tribunal found that the facts established that the Respondent failed to meet the high standard of integrity required for an international civil servant as set forth in the United Nations Charter. The Appeals Tribunal noted that UNRWA International Staff Regulation 10.2 provided that the Commissioner-General might impose disciplinary measures on staff members whose conduct was unsatisfactory and further, that he might summarily dismiss a staff member for serious misconduct. The Appeals Tribunal therefore considered that termination was not disproportionate to the offence taking into account

<sup>18</sup> Judge Inés Weinberg de Roca, Presiding, Judge Mary Faherty, Judge Luis María Simón.

that the Respondent's recruitment, in the first instance, was based on a non-degree which would not have qualified him for selection by the Organization.

5. *Judgment No. 2014-UNAT-457 (27 June 2014): Wasserstrom v. Secretary-General of the United Nations*<sup>19</sup>

PROTECTION AGAINST RETALIATION FOR REPORTING MISCONDUCT AND FOR COOPERATING WITH DULY AUTHORIZED AUDITS OR INVESTIGATIONS—FINDINGS OF THE ETHICS OFFICE AS REVIEWABLE ADMINISTRATIVE DECISIONS—AWARD OF COSTS FOR ABUSE OF JUDICIAL PROCESS

The Respondent (Appellant and Respondent), the former Head of the Office for the Coordination of Oversight of Publicly Owned Enterprises in the United Nations Interim Administration Mission in Kosovo ("UNMIK"), filed a complaint to the Ethics Office alleging that he had been retaliated against for whistleblowing pursuant to ST/SGB/2005/21 (Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations).

The Ethics Office found a *prima facie* case of retaliation and submitted the case to the Investigations Division of the Office of Internal Oversight Services ("OIOS"), which conducted an investigation into the matter. Based on the OIOS investigation report, the Ethics Office informed the Respondent that certain alleged retaliatory acts appeared to be disproportionate, but that those acts were not considered to be linked to the protected activities. The Ethics Office therefore made no findings of retaliation.

The Respondent challenged the decision that no retaliation had taken place before the United Nations Dispute Tribunal ("UNDT"). In a preliminary order on receivability, the UNDT found that the decision of the Ethics Office that no retaliation had taken place was an administrative decision within the meaning of article 2(1)(a) of the UNDT Statute.<sup>20</sup> In Judgment No. UNDT/2012/092 on liability, the UNDT upheld the Respondent's complaint of retaliation and found that the Ethics Office had not carried out an independent and proper review of the OIOS investigation report. The UNDT considered that the Ethics Office had not made inquiries into the factual inconsistencies in the report and its annexes and that it erred in law by accepting uncritically the OIOS report conclusion.

The UNDT separately delivered Judgment No. UNDT/2013/053 on relief. It awarded the Respondent USD 50,000 as moral damages and USD 15,000 as costs against the Secretary-General because he had refused to disclose the full OIOS investigation report despite being ordered to do so. The UNDT considered the deliberate and persistent refusal to abide by its orders a manifest abuse of proceedings. The Secretary-General appealed against the preliminary order as well as both judgments on liability and relief. The Respondent partly appealed against the judgment on relief.

The Appeals Tribunal, referring to a definition developed by the former Administrative Tribunal,<sup>21</sup> considered that the key characteristic of an administrative decision subject to judicial review was that the decision must produce direct legal consequences affecting a staff

<sup>19</sup> Judge Mary Faherty, Presiding, Judge Inés Weinberg de Roca, Judge Rosalyn Chapman.

<sup>20</sup> *Wasserstrom v. Secretary-General of the United Nations*, Order No. 19 (NY/2010).

<sup>21</sup> Former Administrative Tribunal, Judgment No. 1157, Andronov (2003), para. V. The definition has been confirmed by the Appeals Tribunal, see *Gehr v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-365; *Gehr v. Secretary-General of the United Nations*, Judgment

member's terms or conditions of appointment. It held, with one Judge dissenting, that the Ethics Office is limited to making recommendations to the administration and thus considered those recommendations not as administrative decisions subject to judicial review. The Appeals Tribunal further pointed out that the Respondent had not been precluded from seeking management evaluation of several of the alleged retaliatory actions taken by the Administration, yet had not done so. The award for moral damages was accordingly vacated.

In her dissenting opinion, Judge Mary Faherty held that the Ethics Office's determination of no retaliation clearly and unequivocally impacted on the Respondent's terms and conditions of employment and accordingly constituted a reviewable administrative decision.

Considering that the UNDT exercised its discretion correctly in awarding costs against the Secretary-General for abuse of the judicial process, the Appeals Tribunal upheld the award for costs.

6. *Judgment No. 2014-UNAT-465 (17 October 2014): Gonzalez-Hernandez v. United Nations Joint Staff Pension Board*<sup>22</sup>

PARTIAL PAYMENT OF RETIREMENT BENEFITS DIRECTLY TO FORMER SPOUSE UNDER—EXECUTION OF NATIONAL COURT ORDER—CONFLICTING NATIONAL JURISDICTIONS—OBSERVANCE OF ARTICLE 45 OF THE REGULATIONS OF THE UNITED NATIONS JOINT STAFF PENSION FUND

The Appellant, a national of Portugal, retired from the United Nations Industrial Development Organization ("UNIDO") on 31 October 1999 after 32 years of service. He opted for a reduced retirement benefit, taking out a lump-sum.

In 2005, the Appellant was living in Portugal while his wife and two sons were living in Austria. His wife sued him for alimony and for sole custody of his children in the Viennese courts and won. She contacted the United Nations Joint Staff Pension Fund ("UNJSPF") to request the application of article 45 of its Regulations on the basis of a judgment by an Austrian trial court, providing for spousal support.

On 3 March 2011, the Appellant obtained a divorce in Portugal at the Lisbon family court, with no alimony to be paid to his former wife.

On 13 May 2012, the Appellant's wife provided UNJSPF with a copy of a final and executable judgment from the Austrian Appeals Court ordering the Appellant to pay, in addition to child support, spousal support as of the beginning of January 2009 for an undetermined period. The Applicant claimed that he was no longer subject to the Austrian court judgments even though his Portuguese divorce judgment stated that Austrian law applied in the divorce.

On 17 December 2012, UNJSPF concluded that the documents on file fully established that the Appellant had a legal obligation to pay spousal and child support and decided to apply article 45 in the case. Thus, a percentage of his monthly gross pension benefit was to be paid directly to his ex-spouse on a prospective basis. On 25 March 2013, the Appellant challenged the decision to apply article 45 before the Standing Committee of the Pension

No. 2013-UNAT-313; *Al-Surkhi et al. v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2013-UNAT-304.

<sup>22</sup> Judge Luis María Simón, Presiding, Judge Richard Lussick, Judge Mary Faherty.



Board. The Standing Committee affirmed the decision of UNJSPF. The Appellant appealed against this decision.

The Appeals Tribunal noted that in accordance with article 2(9) of its Statute, an appeal before it submitted against a decision adopted by the Standing Committee of the Pension Board could only succeed if it was found that the Regulations of UNJSPF were not observed. The Appeals Tribunal stated that the Appellant bore the burden of satisfying the Tribunal that the impugned decision was defective. The Appeals Tribunal found no error of law or fact that would vitiate the contested decision that established the deduction of a percentage of the Appellant's monthly pension benefit and payment of that amount directly to his former spouse.

In particular, the Appeals Tribunal held that UNJSPF correctly applied article 45 of its Regulations and relied on an internationally binding judgment about spousal and child support, issued by an Austrian court, which was not contradicted by the divorce decree issued by the Portuguese court. The Appeals Tribunal found that there was no basis for the Appellant to question the validity of the Austrian court judgment or the binding obligations imposed on him by order of the Austrian court. The Appeals Tribunal considered that UNJSPF acted properly and within its statutory remit after obtaining the necessary information and adopted a reasoned and well-founded decision. The appeal was dismissed in its entirety.

7. *Judgment No. 2014-UNAT-466 (17 October 2014): Saffir and Ginivan v. Secretary-General of the United Nations*<sup>23</sup>

NON-INTERFERENCE BY MANAGEMENT AND UNITED NATIONS INTERNAL JUSTICE SYSTEM IN UNITED NATIONS STAFF UNION ELECTION MATTERS—REFUSAL TO CARRY OUT INVESTIGATION AS REVIEWABLE ADMINISTRATIVE DECISION—NO RIGHT TO APPEAL OF PREVAILING PARTY WITHOUT CONCRETE GRIEVANCE STEMMING FROM CONTESTED DECISION

The Respondents (Applicants in the first instance) voted in the elections for the 44th Staff Council and Leadership for the United Nations Staff Union (“UNSU”) held from 7 to 9 June 2011 organized and conducted by UNSU polling officers. Both Respondents alleged that polling officers and the chairperson committed numerous violations in the conduct of the election.

The UNSU Arbitration Committee reviewed their complaints and found that that they were unsubstantiated. The Respondents then requested the Secretary-General to conduct an investigation into the alleged irregularities of the elections alleging inadequacy of the UNSU's internal arbitration mechanism. In the absence of a reply, the Respondents filed requests for management evaluation. The Under-Secretary-General for Management responded with a letter to the counsel of the Respondents explaining that management would not interfere with UNSU internal election matters. The Respondents then filed applications with the United Nations Dispute Tribunal (“UNDT”).

In Judgments Nos. UNDT/2013/109 and UNDT/2013/110, the UNDT found that the claims regarding the elections of the UNSU and, in particular, the claims for relief, were not receivable, but that the refusal to carry out the requested investigation was an administrative decision subject to review. On the merits, the UNDT noted that the UNSU Arbitration Committee had already examined and rendered a binding decision on the

<sup>23</sup> Judge Luis María Simón, Presiding, Judge Rosalyn Chapman, Judge Mary Faherty.

matter. Finding that neither staff rule 8.1 nor UNDT jurisprudence indicated that the Secretary-General was obliged to intervene in the conduct of UNSU elections, the UNDT held that the decision of the Administration not to investigate the UNSU elections was lawful. The Secretary-General appealed the UNDT's determination that the decision not to investigate UNSU election matters was receivable.

The Appeals Tribunal found by majority that the appeal by the Secretary-General was not receivable since a party may not appeal against a judgment in which it had prevailed.<sup>24</sup> The Appeals Tribunal noted that although the UNDT reviewed the merits of the decision despite the Secretary-General's argument that the decision was non-receivable *ratione materiae*, the UNDT held in favour of the Secretary-General. The Appeals Tribunal therefore considered that without negative impact to the Secretary-General, there was no right to appeal even if the judgment contained errors of law or fact, including with respect to its jurisdiction or competence. The Appeals Tribunal held that a party must present a concrete grievance as a direct consequence of the outcome of the contested decision that could be addressed by the appellate body through a change in the decision.

Judge Rosalyn Chapman noted in her dissenting opinion that the Secretary-General had appealed on two valid grounds under article 2(1) of the UNAT Statute, i.e., the UNDT erred on a question of law and the UNDT exceeded its competence in finding that it had jurisdiction *ratione materiae*. The dissenting opinion considered that the UNDT erred in law and failed to properly apply the correct definition of an appealable administrative decision. The dissenting opinion also considered that the appeal should have been heard for the purpose of providing guidance to the UNDT and to avoid future applications challenging staff elections and election procedures by staff members.

8. *Judgment No. 2014-UNAT-480 (17 October 2014): Oh v. Secretary-General of the United Nations*<sup>25</sup>

DISCIPLINARY PROCEEDINGS AND DISMISSAL FOR SERIOUS MISCONDUCT OF SEXUAL EXPLOITATION—DUE PROCESS RIGHTS—RELIANCE ON ANONYMOUS WITNESS STATEMENTS CORROBORATED BY FURTHER EVIDENCE—OIOS INVESTIGATION NOT CRIMINAL IN NATURE—STATEMENTS DO NOT REQUIRE SIGNATURE—LIFTING OF CONFIDENTIALITY OF THE APPELLANT

The Appellant was dismissed from service in August 2010 after an investigation by the Office of Internal Oversight Services ("OIOS") concluded that he had engaged in sexual exploitation and abuse while serving with the United Nations Operation in Côte d'Ivoire ("UNOCI") in Abidjan.

The Appellant filed an application with the United Nations Dispute Tribunal ("UNDT") challenging his dismissal and claiming that the statements by anonymous victims relied upon by OIOS relied were fabricated. In Judgment No. UNDT/2013/131, the UNDT rejected the claims of fabrication and found that there was sufficient proof that the Appellant had engaged in sexual exploitation and abuse considering the totality of the evidence on record. In reaching its conclusion, the UNDT relied on the Appellant's statements to OIOS; the statements of two of the anonymous victims, VO3 and VO4, to OIOS; the testimony of the lead investigator; and the identification of the Appellant by two of the

<sup>24</sup> See *Sefraoui v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-048.

<sup>25</sup> Judge Sophia Adinyira, Presiding, Judge Rosalyn Chapman, Judge Luis María Simón.



anonymous victims in a photographic array. The UNDT held that it was not disputed that the women had to remain anonymous as they had been removed from a human trafficking ring and were traumatised. The UNDT considered the jurisprudence of the Appeals Tribunal in *Liyanarachchige*<sup>26</sup> and *Applicant*<sup>27</sup> and concluded that the right to cross-examination was not an absolute right and that “the requirements of due process rights will [have] been met in relation to witness statements ... if the witness [...] statements have been provided to the staff member and the staff member has had an opportunity to comment on, and respond to, the statements”. The UNDT concluded that the Appellant’s due process rights had been respected, and that summary dismissal was proportionate to the offence. Accordingly, the UNDT dismissed the application of the Appellant.

On appeal, the Appellant claimed, *inter alia*, that the UNDT erred in finding that his due process rights had been respected because he had had the opportunity to comment on the anonymous witness statements. Furthermore, the UNDT Judgment could not be reconciled with the ruling of the Appeals Tribunal in *Liyanarachchige*, which had held that a disciplinary measure could not be founded solely upon anonymous statements without violating the requirements of adversary procedure. The Appellant also sought to distinguish the *Applicant* case on its facts as in that case, the complainants’ identities were known to the staff member and the witness statements were signed by the complainants.

The Appeals Tribunal affirmed the UNDT judgment and upheld the decision to terminate the Appellant for serious misconduct of sexual exploitation. It found that although the factual circumstances of the case were the same as in *Liyanarachchige*, the matter was distinguishable insofar as the disciplinary measure in this case was founded not only on anonymous witness statements, but also on statements made by the Appellant to OIOS that corroborated the witness statements, as well as on photographic identification. Furthermore, the Appeals Tribunal confirmed that the due process rights of a staff member are complied with as long as he or she has a meaningful opportunity to mount a defence and question the veracity of the statements against him or her. Both of these requirements were considered satisfied in the instant case. Insofar as the Appellant also challenged the record of his statements to OIOS, the Appeals Tribunal held that the fact that the Appellant did not sign the written or typed notes did not amount to a procedural irregularity. Witness statements did not have to be signed according the OIOS Investigations Manual as such investigations were not criminal in nature.

The Appeals Tribunal also lifted the confidentiality previously ordered by the UNDT with respect to the Appellant’s name, considering that he failed to demonstrate any substantive reason to justify anonymity.

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<sup>26</sup> *Liyanarachchige v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-087.

<sup>27</sup> *Applicant v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-302.

9. *Judgment No. 2014-UNAT-488 (17 October 2014): Chocobar v. Secretary-General of the United Nations*<sup>28</sup>

LACK OF JURISDICTION UPON WITHDRAWAL OF APPLICATION—ARTICLE 36 OF THE TRIBUNAL RULES OF PROCEDURE CANNOT SERVE TO AUGMENT THE JURISDICTION OF THE TRIBUNAL IN VIOLATION OF ARTICLE 2 TRIBUNAL STATUTE

The Respondent (Applicant in the first instance) filed an application with the United Nations Dispute Tribunal (“UNDT”) contesting a selection decision in which another candidate was selected from a pre-approved roster for a position-specific job opening without any interviews or written tests being conducted. She claimed that the selection was unlawful and breached her right to full and fair consideration for the post.

After a confidential settlement agreement, the Respondent filed a motion seeking leave to withdraw the application. In Order No. 233 (NY/2014), the UNDT noted that following the Respondent’s withdrawal of the application there was no case to adjudicate and declared the case closed. It nonetheless proceeded to make findings regarding a substantive issue raised in the Respondent’s application considering the continued use of pre-approved rosters incorrect. It therefore referred the matter to the Secretary-General pursuant to article 7 of the UNDT Statute and article 36 of its Rules of Procedure.

The Secretary-General appealed against this order claiming, *inter alia*, that the UNDT exceeded its competence in issuing the order despite the withdrawal of the application. Citing the principle of *stare decisis*, he also contended that the UNDT had no authority to re-open the issue of the use of pre-approved rosters in selection processes, as the issue had already been decided by the Appeals Tribunal in *Charles*<sup>29</sup>.

The Appeals Tribunal held that the UNDT lacked jurisdiction and exceeded its competence to a significant degree. It found that the UNDT did not have a case before it when it made the contested order since the Respondent had withdrawn the application. Noting the limited jurisdiction of the UNDT, the Appeals Tribunal held that there was no provision in the UNDT Statute empowering the UNDT to issue this order. Article 36 of the UNDT Rules of Procedure could not provide a legal basis. In the absence of a case to adjudicate the UNDT Rules of Procedure could not serve to augment the jurisdiction of the UNDT in violation of article 2 of the UNDT Statute. The Appeals Tribunal therefore vacated the order with the exception of the closure of the case. The concerns brought forward by the Secretary-General regarding the re-opening of the issue of pre-approved rosters were dismissed by the Appeals Tribunal as the order was without legal force.

### C. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL LABOUR ORGANIZATION<sup>30</sup>

The Tribunal rendered a total of 149 judgments in 2014 (61 in its 116th session, 25 in its 117th session and 63 in its 118th session). The summary of one judgment is included herein.

<sup>28</sup> Judge Richard Lussick, Presiding, Judge Rosalyn Chapman, Judge Inés Weinberg de Roca, Judge Sophia Adinyira, Judge Luis María Simón, Judge Mary Faherty.

<sup>29</sup> *Charles v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-416 (see decision No. 2 above).

<sup>30</sup> 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

*Judgment No. 3333 (9 July 2014): A.S. v. Universal Postal Union (UPU)*<sup>31</sup>

APPLICATION FOR VIEW OF A PREVIOUS JUDGMENT OF THE TRIBUNAL—PRINCIPLE OF RES JUDICATA—REVIEW UNDER EXCEPTIONAL CIRCUMSTANCES AND ON LIMITED GROUNDS—NO REVIEW OF A JUDGEMENT ON THE MERITS OF AN APPLICATION

The Applicant requested the review of Judgment No. 3134, delivered on 4 July 2012, by which the Tribunal set aside the decision of 11 March 2010 concerning the payment to the complainant of a withdrawal settlement in respect of the rights he had accumulated with the UPU's Provident Scheme.

The Tribunal remitted the case to the UPU so that it could calculate the financial loss sustained by the complainant from the failure to transfer his rights to the United Nations Joint Staff Pension Fund, in which he had been a participant with effect from 1 November 2004.

The second paragraph of consideration 9 of the judgment concerning the remittal read as follows:

"The case will therefore be remitted to the UPU so that it can calculate the loss sustained by the complainant through its negligence, on the basis that the sum it has to pay him by way of damages will take account of the sum of 75,504.80 Swiss francs already received by the complainant, and cannot exceed the sum claimed by him on 16 February 2010, i.e. 36,570.65 francs."

The Applicant contended that the Tribunal mistakenly considered that a letter of 16 February 2010 constituted a formal request "which would have frozen the scope of the dispute for the remainder of the proceedings" and that it failed to take account of the sum "of approximately 386,000 francs" that he claimed in his rejoinder in compensation for his alleged financial loss.

The Tribunal stated that pursuant to article VI of its Statute, the Tribunal's judgments are final. Accordingly, they were subject to the application of the principle of *res judicata*. While it is nevertheless accepted that they may be reviewed, such a review might only occur in exceptional circumstances and on limited grounds. The Tribunal could entertain an application for review only where the judgment concerned failed to take account of specific facts, was based on a material error, i.e. a mistaken finding of fact which, unlike a mistake in the appraisal of the facts, involved no exercise of judgment, or failed to rule on a claim, or where the complainant discovered new facts, i.e. facts which he or she discovered too late to cite in the original proceedings. Moreover, the matter invoked as a ground for review must be likely to have a bearing on the outcome of the case.<sup>32</sup>

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staff regulations of international organizations that have recognized the competence of the Tribunal. For a list of those organizations, see <http://www.ilo.org/tribunal/membership/lang--en/index.htm>. For more information about the Administrative Tribunal of the International Labour Organization and the full texts of its judgments, see the Triblex case-law database of the ILO at <http://www.ilo.org/tribunal/lang--en/index.htm>.

<sup>31</sup> Mr. Claude Roullier, Mr. Seydou Ba, Mr. Patrick Fryman and Mr. Dražen Petrović, Judges.

<sup>32</sup> See Judgment No. 442, paragraph 3 of the considerations; Judgment No. 748, paragraph 3 of the considerations; Judgment No. 1252, paragraph 2 of the considerations; Judgment No. 1294, paragraph 2 of the considerations; Judgment No. 1504, paragraph 8 of the considerations; Judgment No. 2270, paragraph 2 of the considerations; Judgment No. 2693, paragraph 2 of the considerations; and Judgment No. 3244, paragraph 4 of the considerations.

The Tribunal concluded that the Applicant's criticisms challenge the Tribunal's appraisal in Judgment No. 3134 of the merits of the application. Hence they did not constitute grounds for review. Furthermore, as he did not identify any omission or material error on the part of the Tribunal, his application had to be dismissed.

#### **D. DECISIONS OF THE WORLD BANK ADMINISTRATIVE TRIBUNAL<sup>33</sup>**

The Tribunal rendered 18 decisions and issued two orders in 2014. The World Bank Administrative Tribunal decisions and orders are available at the website of the Tribunal.

#### **E. DECISION OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL MONETARY FUND<sup>34</sup>**

##### *1. Judgment No. 2014–1 (February 25, 2014): Ms. "JJ" v. International Monetary Fund<sup>35</sup>*

REQUEST FOR ANONYMITY IN CASES CHALLENGING PERFORMANCE ASSESSMENTS—DISCRETION OF MANAGEMENT IN ASSESSING PERFORMANCE—BALANCED ASSESSMENT OF PERFORMANCE—PERFORMANCE SHORTCOMING COINCIDING WITH UNUSUAL WORK PRESSURE—MERIT ALLOCATION RATION DIRECTLY DEPENDENT UPON ANNUAL PERFORMANCE REVIEW—DISCRETION TO PLACE STAFF ON PERFORMANCE IMPROVEMENT PLAN

The Applicant, a staff member of the Fund, challenged her performance rating of "5" for the Fiscal Year 2009 Annual Performance Review ("FY2009 APR"), her Merit Allocation Ratio ("MAR") of zero for the same review period, and the decision that, as a result of her rating on the FY2009 APR, she would be placed on a Performance Improvement Plan ("PIP") following her return from a two-year external assignment.

As an initial matter, the Tribunal granted the Applicant's request for anonymity pursuant to Rule XXII of its Rules of Procedure. While reaffirming that anonymity

<sup>33</sup> 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, 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 designated 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 <https://webapps.worldbank.org/sites/WBAT/Pages/default.aspx>.

<sup>34</sup> 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 <https://www.imf.org/external/imfat/>.

<sup>35</sup> Catherine M. O'Regan, President, Andrés Rigo Sureda, Jan Paulsson.

of applicants remains the exception and not the rule in the Tribunal's judgments, the Tribunal concluded that Ms. "JJ" had met the requirement of showing "good cause" for anonymity, given that key evidence in the case related to the assessment of her job performance. Referring to its earlier decision in *Mr. "HH" v. International Monetary Fund*,<sup>36</sup> the Tribunal confirmed that granting anonymity to applicants in cases challenging performance assessments encourages candour in the performance appraisal process.

Turning to the merits of the case, the Tribunal considered the Applicant's contention that the Fund had abused its discretion in assessing her performance as "5" on the FY2009 APR, the lowest of the possible performance ratings. The Tribunal considered the following questions: Did the Applicant's supervisors provide her with adequate, timely, and constructive feedback of performance shortcomings? Was the Applicant given the necessary guidance and training to help her remedy the shortcomings in her performance? Did the FY2009 APR provide a balanced assessment of the Applicant's performance over the rating period, taking account of relevant evidence? Was there a reasonable and observable basis for the assessment? Was the Applicant's FY2009 APR improperly motivated? Was the decision on the Applicant's FY2009 APR taken in accordance with fair and reasonable procedures? On each of these points, the Tribunal concluded that the Applicant had not met her burden of showing abuse of discretion.

Having reviewed the record of the case, the Tribunal concluded that over a substantial period of time the Applicant was advised that her performance was falling short of key requirements. The Tribunal observed that the Applicant's performance shortcomings became acute when work demands increased and that her supervisors' response was to be assessed in the light of those circumstances:

"The facts of the instant case highlight the difficulties encountered when weak staff performance coincides with unusual work pressures for the team. In the view of the Tribunal, it was neither unreasonable nor unfair to Applicant that guidance on performance weaknesses necessarily took somewhat of a back seat to the exigencies of the team's completing its tasks on mission. Nor was it unreasonable of Applicant's supervisors to relieve her of those responsibilities in which they perceived her work to be inadequate or unreliable in the interest of successfully completing the pressing work at hand." (para. 79)

The Tribunal concluded that the exact point of time at which feedback is given was a matter of managerial judgment, provided that it was not withheld and was given in a timely manner. In assessing whether the Applicant was given adequate feedback, the Tribunal also considered that the Applicant was a mid-career economist whose supervisors could not be expected to provide feedback as frequently as in the case of more junior staff.

The Tribunal also considered whether the Applicant was given the necessary guidance and training to help her remedy her performance weaknesses. The record indicated that the Applicant's supervisors considered that her performance shortcomings would not have been resolved by further guidance or training and that it was for this reason that they encouraged her to seek out opportunities in other Fund departments that might provide a better match for her talents. The Tribunal did not consider that approach an abuse of discretion and held that Applicant had failed to show that those suggestions were improperly

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<sup>36</sup> *Mr. "HH" v. International Monetary Fund*, IMFAT Judgment No. 2013-4 (9 October 2013).

motivated or otherwise tainted. The record also showed that Applicant's second mission chief did try to provide her with guidance but that the guidance did not succeed.

The Tribunal next considered whether the Applicant's FY2009 APR provided a balanced assessment of her performance over the rating period, taking account of relevant evidence. The Tribunal noted that the "Overall Assessment" portion of the APR was not meant to cover all tasks performed during the year. Rather, it covered key areas of performance, areas which the Applicant herself had emphasized in describing her "Key Achievements and Objectives" for the year. The Tribunal considered the precise weighting given to the assessment of each work area to be non-justiciable as long as the overall assessment was fair and balanced. The Tribunal held that the assessment was a balanced one, identifying both positive and negative elements of Applicant's performance.

The Tribunal also considered the unusual demands of the Applicant's work environment during the rating period and concluded that the evidence showed that the Applicant did not respond to those demands in the manner that would be expected of a staff member with her level of experience. This conclusion was supported by the fact that, even before the crisis demands arose, the Applicant's performance assessments were consistent in identifying the weaknesses that ultimately proved dispositive of her FY2009 APR rating. The Tribunal also noted testimony that the rating decision had emerged as the unanimous view of the departmental roundtable and that the Human Resources Department ("HRD") also had been consulted in the matter.

The Tribunal accordingly concluded that there was a reasonable and observable basis for the Applicant's performance rating of "5". The Tribunal found no basis for the Applicant's allegation that her FY2009 APR rating was improperly motivated or that it was not taken in accordance with fair and reasonable procedures.

Having concluded that the Fund did not abuse its discretion in assigning the Applicant a performance rating of "5", the Tribunal consequently found the Applicant's challenge to her zero percent merit increase to be without basis. That determination, found the Tribunal, flowed automatically from the APR decision and was not a discretionary decision.

The Tribunal also found no merit in the Applicant's challenge to the decision that, as a result of her FY2009 APR rating, she would be placed on a PIP upon her return from a two-year external assignment. The record supported the view that it was the Fund's practice to place staff members on PIPs when they were rated in the lowest performance rating category. The Applicant had not shown that the Fund had abused its discretion in deciding that the intervening external assignment would not obviate the need for the PIP, given that the PIP decision responded to deficiencies in Applicant's performance in the position to which she would be expected to return.

Having concluded that it was not able to sustain any of Applicant's challenges to the career decisions at issue, the Tribunal concluded that her claim of "career mismanagement" also failed. Accordingly, the Application of Ms. "JJ" was denied.

2. *Judgment No. 2014-2 (February 26, 2014): Mr. E. Weisman v. International Monetary Fund*<sup>37</sup>

REQUEST FOR ANONYMITY—ANONYMITY NO SUBSTITUTE FOR ENFORCEMENT OF POLICY AGAINST RETALIATION—WIDE DISCRETION BY MANAGEMENT TO DESIGN PROGRAMS TO CARRY OUT THE MISSION OF THE ORGANIZATION—CHALLENGE TO REGULATORY DECISION ON GROUNDS OF DISCRIMINATION—RATIONAL NEXUS BETWEEN PURPOSE OF RULE AND DIFFERENTIAL TREATMENT REQUIRED

The Applicant, a staff member of the Fund, challenged the rule by which Time-in-Department (“TID”) is calculated for purposes of the A15 Mobility Support Program (“A15 MSP”), a program in which Grade A15 fungible economists, such as the Applicant, who hold titled managerial positions and have served in their current departments for seven years or longer, and have been at Grade A15 for five years or longer, are required to participate.

As an initial matter, the Tribunal denied the Applicant’s request for anonymity pursuant to rule XXII of the Tribunal’s Rules of Procedure. The Tribunal observed that the Applicant had brought a direct challenge to a “regulatory decision” of the Fund and that his personal circumstances were not pertinent to the Tribunal’s consideration of the essential issues of the case. Regarding the Applicant’s concern that he might be subject to reprisal for seeking recourse to the Fund’s dispute resolution system, the Tribunal considered the Fund’s policy against retaliation sufficient noting that anonymity must not become a substitute for the robust enforcement of these rules. The Tribunal accordingly concluded that the Applicant had failed to show “good cause” for granting anonymity, as required by Rule XXII.

Turning to the merits of the case, the Tribunal considered the Applicant’s contention that the TID rule was unfair and unreasonable in treating a period of two years or more on secondment to another international organization as “freezing time” for purposes of counting the time that the staff member had spent in his department. Under the rule, the counting of time resumes when the staff member returns to his department following the external assignment. The applicant contended that time spent on secondment should instead “restart the clock” upon the staff member’s return, thereby delaying the time when participation in the A15 MSP would be required. In the Applicant’s view, the TID rule should treat in the same manner time spent on secondment to an external organization as time spent on “internal mobility,” i.e., assignment for two years or more to another Fund department. The Applicant sought as relief revision of the rule.

The Tribunal noted that Fund management enjoyed wide discretion in designing programs to carry out the mission of the organization. It also observed that the Applicant did not challenge the A15 MSP program itself or its mandatory component. Rather, he challenged a narrow element of the rules governing the calculation of time when a Grade A15 fungible economist such as himself becomes subject to the mandate of transferring departments. In particular, he questioned the fairness of the rule in treating differently time spent on secondment to an external organization and time spent on internal mobility.

When deciding a challenge to a regulatory decision on the ground that it allegedly discriminates impermissibly among groups of Fund staff, the Tribunal asked whether there was a “rational nexus” between the purpose of the rule and the differential treatment. Applying that test, the Tribunal concluded that it was entirely consistent with the purposes

<sup>37</sup> Catherine M. O’Regan, President, Andrés Rigo Sureda, Francisco Orrego Vicuña.



of the A15 MSP that only interdepartmental transfer—and not time spent on external secondment—will restart the period for calculating years in the department.

The Tribunal noted that the Applicant's essential argument was that secondment to another international organization had similar benefits to the staff member and to the Fund as interdepartmental mobility. In the view of the Tribunal, however, the similarities between secondments and interdepartmental mobility were not relevant to the purposes of the MSP, which seeks to ensure "cross-fertilization of knowledge, ideas and expertise" within the Fund, and improve "communication between departments by mitigating the 'silo effect'." These purposes, concluded the Tribunal, are not furthered by secondment. It therefore held the differentiation in question to be neither irrational nor arbitrary. On the contrary, the Tribunal considered it to be "directly related to the purposes of the MSP."

The Tribunal also found no merit to the Applicant's contention that the treatment of secondments for purposes of the TID rule was unreasonable in the light of rules governing eligibility for promotion. Those rules, concluded the Tribunal, do not treat secondment and internal mobility as "equivalent," and, in any event, they respond to policies and purposes that may differ from the purposes of the MSP.

Finally, the Tribunal did not find any support for the Applicant's allegation that the rule governing the treatment of secondments for purposes of calculating TID was designed with any particular staff member in mind. The Tribunal accordingly concluded that there was no merit to his argument that adoption of the rule was improperly motivated by animus against him.

The Tribunal concluded that Applicant had not met his burden of showing that the Fund abused its discretion in adopting a rule that treats time spent on secondment as "freezing time," rather than "restarting the clock," for purposes of calculating the time served in a single Fund department before interdepartmental mobility is required of Grade A15 fungible economists. Accordingly, the Application of Mr. Weisman was denied.



## 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 Permanent Observer Mission of the African Union to the United Nations concerning full diplomatic status in the host country

STATUS OF THE AFRICAN UNION PERMANENT OBSERVER MISSION TO THE UNITED NATIONS AS A SUCCESSOR TO THE ORGANIZATION OF AFRICAN UNITY—FUNCTIONAL IMMUNITIES AND PRIVILEGES OF PERMANENT OBSERVERS TO THE UNITED NATIONS BASED ON ARTICLE 105 OF THE UNITED NATIONS CHARTER AND THE 1947 HEADQUARTERS AGREEMENT BETWEEN THE UNITED NATIONS AND THE UNITED STATES OF AMERICA—POSSIBILITY TO EXTEND FULL DIPLOMATIC PRIVILEGES AND IMMUNITIES BY MEANS OF A SPECIAL ARRANGEMENT WITH THE HOST STATE

I have the honour to refer to your letter of 4 July 2014 seeking the assistance of the Secretary-General to ensure that the African Union (AU) Permanent Observer Mission to the United Nations obtains “full diplomatic status from the US as the Host Country of the United Nations”. In your letter, you note that the Organization of African Unity (OAU) Permanent Observer Mission to the United Nations, which was the predecessor to the AU Permanent Observer Mission, was previously accorded such status in 1974, but that it was withdrawn in 1996 by a decision of the United States Government. You also note that the AU Commission has undertaken consultations with officials from the United States Mission to the United Nations, as well as officials of the United Nations Secretariat, with a view to restoring the privileges and immunities accorded prior to 1996. You further note that “investigation revealed that the [AU Permanent Observer Mission] is not appropriately accredited by the United Nations, which appears to be impacting its diplomatic status with the US Government” and that it is your “considered view that the diplomatic status of the [AU Permanent Observer Mission] is predicated upon its appropriate accreditation by the UN”. Your letter has been referred to this Office for a response.

With respect to the issue of “accreditation”, I wish to recall that the General Assembly, in its resolution 2011 (XX) of 11 October 1965, entitled “Co-operation between the United Nations and the Organization of African Unity”, requested the

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\* This chapter contains legal opinions and other similar legal memoranda and documents.

Secretary-General of the United Nations “to invite the Administrative Secretary-General of the Organization of African Unity to attend sessions of the General Assembly as an observer”. The United Nations and the OAU also concluded the “Cooperation Agreement between the United Nations and the Organization of African Unity” on 9 October 1990 (the 1990 Cooperation Agreement), in which the two Organizations agreed to reciprocal representation at meetings organized under the auspices of the other.

Thereafter, in its decision 56/475 of 15 August 2002, entitled “Succession by the African Union to observer status in the General Assembly”, the General Assembly decided that “the African Union would assume the rights and responsibilities of the Organization of African Unity as an observer invited in accordance with resolution 2011 (XX) and the [1990] co-operation agreement between the United Nations and the Organization of African Unity”.

I am of the view, and the practice of the United Nations confirms, that the invitation contained in General Assembly resolution 2011 (XX), the 1990 Cooperation Agreement and General Assembly decision 56/475 provide the necessary basis for the AU to establish a Permanent Observer Mission to the United Nations and for its representatives to participate in the work of the General Assembly and other organs as observers. Moreover, as you know, representatives of the AU Permanent Observer Mission have in fact attended many United Nations meetings in the capacity of observers.

However, the privileges, immunities and facilities to be accorded to observers, including the AU Permanent Observer Mission and its representatives, are not specifically outlined in any General Assembly resolution or international legal instrument.

In the absence of any specific international legal regulation of the privileges and immunities of entities invited to participate as observers in United Nations meetings at Headquarters, United Nations practice has been to consider such issues principally in the light of the pertinent provisions of the Charter of the United Nations and the 1947 Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations (the Headquarters Agreement). It has been the consistent view of the Organization that a permanent observer delegation, as an invitee to meetings of United Nations organs, is entitled to enjoy in that capacity certain functional immunities necessary for the performance of official functions *vis-à-vis* those organs. These immunities flow by necessary intendment from Article 105 of the Charter of the United Nations. The United Nations has consistently maintained that a permanent observer delegation would enjoy functional immunity from legal process in respect of words spoken or written and all acts performed by members of the observer delegation in their official capacity before relevant United Nations organs. In addition to that functional immunity, a permanent observer delegation would also enjoy inviolability for official papers and documents relating to their relations with the United Nations. If such inviolability is to have any meaning, it also necessarily extends to the premises of the mission.

In addition, observer delegations benefit from the following provisions of the Headquarters Agreement concerning transit to and from the headquarters district. Section 11 of the Headquarters Agreement provides that “the federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of ... persons invited to the headquarters district by the United Nations”, and that “the appropriate American authorities shall afford any necessary protection to such persons while in transit to or from the headquarters district.” Furthermore, according

to section 12, the facilities referred to in section 11 “shall be applicable irrespective of the relations between the Governments of the persons referred to in that section and the Government of the United States”. Section 13 further provides that the host State shall grant visas “without charge and as promptly as possible” to the persons in question and also exempts such persons from being required “to leave the United States on account of any activities performed by [them] in [their] official capacity”.

The Headquarters Agreement does not confer diplomatic privileges and immunities on observer delegations. I would note however that diplomatic status may of course be extended to an observer delegation by virtue of a special arrangement with the host State and that this would be a matter for negotiation between the host State and the intergovernmental organization concerned. If the AU continues to encounter difficulties in this endeavour, this Office would be prepared to intercede with the United States Mission, as appropriate.

[...]

24 July 2014

**(b) Note to the Ministry of Foreign Affairs of [State] concerning  
the imposition of certain taxes in respect of fuel purchases on  
[a United Nations Mission]**

IMPOSITION ON [A UNITED NATIONS MISSION] OF A COMPULSORY STOCK OBLIGATION FEE UNDER FUEL CONTRACTS WITH THIRD PARTY VENDORS—CHARACTERIZATION OF THE COMPULSORY STOCK OBLIGATION FEE AS A DIRECT TAX UNDER ARTICLE II, SECTION 7(A) OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS—EXTENSION OF THE PRIVILEGES AND IMMUNITIES GRANTED IN THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS BY MEANS OF THE STATUS-OF-FORCES AGREEMENT—EXEMPTION OF [THE UNITED NATIONS MISSION], AS A SUBSIDIARY ORGAN OF THE UNITED NATIONS, FROM PAYING SUCH A TAX IN RESPECT OF ITS FUEL PURCHASES

1. The Legal Counsel of the United Nations presents his compliments to the Permanent Representative of [State] to the United Nations and has the honour to refer to the Note Verbale from the [United Nations Mission] to the Permanent Secretary, Ministry of Foreign Affairs, dated 20 September 2010, regarding the imposition on [the United Nations Mission] of a compulsory stock obligation (CSO) fee under its fuel contracts with third party vendors, as well as the Note Verbale, in response, from the Ministry of Foreign Affairs to [the United Nations Mission], dated 13 May 2011 (both documents attached hereto for ease of reference).

2. The Legal Counsel wishes to recall that, pursuant to the provisions of article II, section 7(a) of the Convention on the Privileges and Immunities of the United Nations to which [State] is a party since [...] without reservation, the United Nations, its assets, income and other property shall be “[e]xempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services”.

3. The Legal Counsel notes that under [the United Nations Mission’s] previous and current fuel contracts with third party vendors for the provision of fuel and related services, such vendors have invoiced [the United Nations Mission] the CSO fee as a separate line item on each invoice, currently calculated as [amount] per litre of fuel. The Legal

Counsel notes that the Ministry of Foreign Affairs, in the above-referenced Note Verbale, dated 13 May 2011, has taken the position that the CSO fee is neither a direct nor an indirect tax. The Legal Counsel considers, however, that notwithstanding the views expressed by the Ministry of Foreign Affairs, the CSO fee constitutes a tax, and more particularly a “direct tax” within the meaning of section 7(a) of the Convention and, thus, [the United Nations Mission], as a subsidiary organ of the United Nations, is exempt from payment of the CSO fee. Pursuant to paragraph 23 of the Exchange of Letters Constituting an Agreement between the United Nations and the Government of the Republic of [State] concerning the Status of the [United Nations Mission] dated [...], “the [United Nations Mission] as a subsidiary organ of the United Nations, enjoys the status, privileges and immunities of the Organization in accordance with the Convention on the Privileges and Immunities of the United Nations”.

4. Unless the Government of [State] can demonstrate that the CSO fees constitute “charges for public utility services” within the meaning of the latter part of section 7(a) of the Convention, the United Nations will maintain the position that the CSO is a “direct tax” within the meaning of the first part of section 7(a) of the Convention and, that, [the United Nations Mission] is thus exempt from paying such tax in respect of its fuel purchases.

[...]

15 September 2014

[Enclosures omitted]

## 2. Procedural and institutional issues

### (a) Note to the Executive Director of the Green Climate Fund concerning a possible relationship agreement between Green Climate Fund and the United Nations

WHETHER THE GREEN CLIMATE FUND MAY CONCLUDE A RELATIONSHIP AGREEMENT WITH THE UNITED NATIONS PURSUANT TO WHICH THE OFFICIALS OF THE FUND MAY AVAIL THEMSELVES OF THE USE OF THE UNITED NATIONS *LAISSEZ-PASSER*—STATUS OF THE GREEN CLIMATE FUND AS A SUBSIDIARY ORGAN OF THE CONFERENCE OF THE PARTIES (COP) TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)—NON-APPLICABILITY OF THE OF THE INSTITUTIONAL LINKAGE BETWEEN THE UNITED NATIONS AND THE UNFCCC SECRETARIAT TO THE GREEN CLIMATE FUND—NEED TO ESTABLISH THE FUND AS A SEPARATE INTERNATIONAL ORGANIZATION TO ALLOW FOR THE ENTITLEMENT OF OFFICIALS OF THE FUND TO USE THE UNLP BASED ON A RELATIONSHIP AGREEMENT WITH THE UNITED NATIONS

I wish to refer to your letter dated 26 November 2013 to the Legal Counsel in which you ask for our advice on whether the Green Climate Fund (“the Fund”) may enter into a relationship agreement with the United Nations pursuant to which the officials of the Fund may avail themselves of the use of the United Nations *laissez-passer* (“UNLP”). We would like to recall that the Fund was established by decision 1/CP.16 of the Conference of the Parties (“COP”) of the United Nations Framework Convention on Climate Change (“UNFCCC”). By paragraph 3 of COP decision 3/CP.17 which recalled the earlier decision, the COP decided, “to designate the Green Climate Fund as an operating entity of the financial mechanism

of the Convention, in accordance with article 11 of the Convention” and decided that the Fund would be “accountable to and function under the guidance” of the COP.

As to whether the Fund may avail itself of an “institutional linkage” with the United Nations and more specifically the requirements and procedures to be followed for the Fund to enter into a relationship agreement with the United Nations, we would like to point out the following.

The United Nations has previously concluded relationship agreements with international organizations. Those international organizations that have negotiated relationship agreements with the Economic and Social Council and concluded such agreements with the United Nations upon approval by the General Assembly, pursuant to Articles 57 and 63 of the Charter are specifically referred to as “specialized agencies”, as provided in Article 57 (2) of the Charter. There are also several other international organizations known as “related organizations” that have concluded relationship agreements with the United Nations in the past and upon approval by a competent principal organ of the United Nations, but outside the framework of Articles 57 and 63 of the Charter. These include the International Atomic Energy Agency (IAEA), the Organization for the Prohibition of Chemical Weapons (OPCW) and the International Criminal Court (ICC).

Currently there exists no relationship agreement between the COP of the UNFCCC and the United Nations and the COP does not have either the status of a United Nations specialized agency or related organization.

As far as the Fund is concerned, by decision 3/CP.17, the COP decided to confer juridical personality and legal capacity on the Fund. Paragraph 11 of the decision provides that the COP “[d]ecides that the Green Climate Fund be conferred juridical personality and legal capacity and shall enjoy such privileges and immunities related to the discharge and fulfilment of its functions, in accordance with paragraphs 7 and 8 of the governing instrument”. Paragraph 7 of the governing instrument of the Green Climate Fund annexed to the decision further provides that “[i]n order to operate effectively internationally, the Fund will possess juridical personality and will have such legal capacity as is necessary for the exercise of its functions and the protection of its interests.”

While COP decision 3/CP.17 did confer juridical personality and legal capacity on the Fund, it also stated that the Fund would be accountable to and function under the guidance of the COP thus establishing the subsidiary nature of the Fund and confirming the fact that it remains part of the UNFCCC process rather than a separate free-standing international organization. As such, the Fund does not have the same status under international law as the specialized agencies and related organizations that have relationship agreements with the United Nations.

Therefore, it is our view that the Fund would not be able to conclude a relationship agreement of the nature concluded between the United Nations and specialized agencies and related organizations.

As to whether it is possible for the Fund to avail itself of the institutional linkage that the UNFCCC secretariat has with the United Nations in order for the 1946 Convention on the Privileges and Immunities of the United Nations (the “General Convention”) to be fully applicable to the Fund and its officials, we wish to recall that the institutional linkage, including the applicability of the United Nations staff regulations and rules to

the UNFCCC secretariat, was approved by the General Assembly and the COP.<sup>1</sup> It was approved by the COP pursuant to a proposal submitted by the Secretary-General during the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change and was intended to provide an efficient arrangement for administrative support to the Convention secretariat.<sup>2</sup>

In the light of the fact that staff of the secretariat enjoy the privileges and immunities set out under the General Convention and also fall under the United Nations Staff Regulations and Rules, they are entitled to use the UNLP.

However, we note from paragraph 9 of the letter that the COP and the Board of the Fund have decided on a different set of administrative and financial arrangements for the Fund. The General Convention and United Nations Staff Regulations and Rules are not applicable to the Fund and the United Nations plays no role in its administrative support.

Consequently, the institutional linkage that currently exists between the United Nations and the UNFCCC secretariat does not apply to the Fund and its officials. In addition, officials of the Fund are not entitled to a UNLP.

You have also sought our views on whether there are any arrangements that can be put in place so that officials of the Fund can avail themselves of the use of the UNLP.

The United Nations' authority to issue UNLPs stems from the General Convention and the 1947 Convention on the Privileges and Immunities of the Specialized Agencies (the "Specialized Agencies Convention"), which sets out the privileges and immunities of officials of the United Nations and Specialized Agencies respectively and the use by those officials of a UNLP.

In the case of "related organizations", to which the General Convention and the Specialized Agencies Convention do not apply, the United Nations only issues UNLPs to those related organizations, such as IAEA, OPCW and the ICC, that have their own multilateral treaty pursuant to which States Parties agree to grant privileges and immunities to officials of these organizations which include a provision concerning the use of the UNLP and that have concluded relationship agreements with the United Nations that provides for the entitlement of those officials of those organizations to use the UNLP.

In answer to the questions you raise in paragraph 14 of your letter, the Fund may propose to States Parties of the UNFCCC to negotiate and adopt a multilateral treaty which establishes the Fund as a separate international organization that provides for the privileges and immunities for the Fund and its officials and authorizes the use of the UNLP as the travel document for the Fund's officials. The Fund would then need to conclude a relationship agreement with the United Nations that included a provision concerning the entitlement of officials of the Fund to use the UNLP.

As to whether it would be possible and sufficient for the Fund to enter into bilateral agreements with those States where it conducts operations or maintains offices which recognize the use of the UNLP as the travel document for the Fund's officials, we would point out, as explained above, that there is no multilateral treaty establishing the Fund that

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<sup>1</sup> See COP decision 14/CP.1 and General Assembly resolutions 50/115 of 20 December 1995, 54/222 of 27 December 1999, 56/199 of 21 December 2001 and 61/201 of 20 December 2006 which has endorsed an institutional linkage between the secretariat of the Convention and the United Nations.

<sup>2</sup> See FCCC/CP/1999/5/Add.4 and A/AC.237/91.

provides, *inter alia* for the privileges and immunities of its officials and there is no relationship agreement between the United Nations and the Fund.

Consequently, the United Nations would not be in a position at this stage to issue UNLP's on the basis of such bilateral agreements.

[...]

21 February 2014

**(b) Inter-office memorandum to a Humanitarian Affairs Officer, Funding Coordination Section, the Office for the Coordination of Humanitarian Affairs (OCHA), concerning the review of the proposed “Global Guidelines for Country-Based Pooled Funds”**

REVIEW OF THE PROPOSED “GLOBAL GUIDELINES FOR COUNTRY-BASED POOLED FUNDS” (CBPFs), I.E. COMMON HUMANITARIAN FUNDS (CHF) AND EMERGENCY RESPONSE FUNDS (ERFs)—REQUIREMENT TO PROMULGATE RULES BINDING ON STAFF MEMBERS THROUGH SECRETARY-GENERAL’S BULLETINS AND ADMINISTRATIVE INSTRUCTIONS PURSUANT TO SECTION 1.2 OF ST/SGB/2009/4 OF 18 DECEMBER 2009—PROPOSAL TO PROMULGATE THE NORMATIVE MEASURES RELATING TO CBPFs IN THE FORM OF SECRETARY-GENERAL’S BULLETINS OR ADMINISTRATIVE INSTRUCTIONS AND NOT AS GUIDELINES

1. [...]

2. [...]

3. The Draft Guidelines seek to address both normative measures<sup>3</sup> as well as operational and procedural matters<sup>4</sup> concerning the use and administration of CBPFs. Some of the normative measures addressed in the Draft Guidelines concern the rules by which staff members would deploy funds from and by which they would administer the CBPFs in order to ensure that funds would be used appropriately for intended humanitarian purposes and with full transparency and accountability. Thus, the intention for the Draft Guidelines was that if any staff members were to deploy or administer CBPFs in a manner inconsistent with such rules, OCHA would seek to hold such staff members accountable, including through the imposition on them of disciplinary measures for the violation of such rules as would be promulgated means of the Draft Guidelines.

4. In this connection, “guidelines,” *per se*, are not appropriate means to promulgate binding rules by which to hold staff members accountable, including through the imposition of disciplinary measures. Section 1.2 of the Secretary-General’s bulletin concerning “Procedures for the promulgation of administrative issuances,” ST/SGB/2009/4, of 18 December 2009, provides that “rules, policies or procedures intended for general application may only be established by duly promulgated Secretary-General’s bulletins and administrative instructions.” Since OCHA did not propose to promulgate the Draft Guidelines as a Secretary-General’s bulletin or as an administrative instruction in accordance with the procedures set forth in ST/SGB/2009/4, the Draft Guidelines, in their present

<sup>3</sup> See, e.q., section 4 of the Draft Guidelines concerning the accountability framework for CBPFs, purporting to establish rules for those managing the Funds and those utilizing the Funds.

<sup>4</sup> See, e.q., section 1.3 of the Draft Guidelines concerning the establishment and closing of CBPFs, setting out the specific steps to be taken in opening and closing the Funds.



form, cannot be used to establish rules, policies or procedures for which staff members could be held accountable to observe.

5. Accordingly, as discussed in our meetings and other consultations, if OCHA considers that the normative measures addressed in the Draft Guidelines should become binding rules for staff members, then those normative measures should be separated from the Draft Guidelines and promulgated through a Secretary-General's bulletin or an administrative instruction in accordance with the provisions of ST/SGB/2009/4. Other issues set forth in the Draft Guidelines that are descriptive, operational, procedural or informational in nature could remain in the Draft Guidelines. However, because the two kinds of CBPFs employed by OCHA constitute dissimilar funding mechanisms emanating from distinct institutional frameworks (paragraph 6, below), the Draft Guidelines should be split into different parts addressing the two kinds of funding mechanisms separately.

6. In addition to its Central Emergency Response Fund, established by the General Assembly,<sup>5</sup> OCHA has for several years now made use of two kinds of pooled funds that are established at the country level: Common Humanitarian Funds (CHF) and Emergency Response Funds (ERFs). CHFs are established as UNDP multi-partner trust funds and are administered by UNDP under UNDP's Financial Regulations and Rules for humanitarian relief purposes.<sup>6</sup> Even though CHFs are established and administered by UNDP, country-level Humanitarian Coordinators operating under the aegis of OCHA act as programme managers for the CHFs. ERFs similarly are country level pooled funds, but they are established and managed by OCHA as trust funds under the United Nations Financial Regulations and Rules. As noted, OCHA is seeking to develop a stronger legal basis for the ERFs.<sup>7</sup>

7. [...]

8. [...]

9. [...]

[...]

30 June 2014

<sup>5</sup> See General Assembly resolutions 46/182, of 19 December 1991, and 60/124, of 15 December 2004.

<sup>6</sup> Under UNDP's Financial Regulations and Rules, funds in such multi-partner trust funds may be distributed directly to "implementing partners" for carrying out project activities. OLA understands that (under the terms of reference for such CHPs, project activities can include humanitarian response and capacity building activities undertaken by partnering NGOs so that there is an established legal basis for OCHA to make disbursements to NGOs from CHFs.

<sup>7</sup> OCRA's separately promulgated guidelines for ERFs (2010) state that "there is no dedicated General Assembly resolution with a governing mandate for ERFs, unlike for the Central Emergency Response Fund (CERF). There are also no provisions in the United Nations Financial Regulations and Rules allowing for the Secretariat, including OCHA, to make direct grants or other disbursements of funds, such as those in the ERPs, to implementing partners other than for the procurement of goods or services from them. OCHA has indicated, however, that a practice has been developed in recent years of OCHA's making such disbursements to NGOs. It may be reasonable to consider that the General Assembly has become aware of the practice; nevertheless, OCHA's obtaining additional authority to make such disbursements from the General Assembly would be advisable, and as noted, this is what OCHA will be seeking to do over the course of the next biennium.



**(c) Inter-office memorandum to the Secretary, United Nations Publications Board, Department of Public Information, regarding the copyright to and use of a special emblem**

COPYRIGHT TO SPECIAL AND DISTINCTIVE LOGOS FOR UNITED NATIONS CONFERENCES AND INTERNATIONAL YEARS PURSUANT TO THE ANNEX TO ST/AI/189/Add.21—RESPONSIBILITY OF THE UNITED NATIONS PUBLICATIONS BOARD FOR THE FINAL SELECTION AND APPROVAL OF SPECIAL AND DISTINCTIVE LOGOS FOR UNITED NATIONS CONFERENCES AND INTERNATIONAL YEARS—TRANSFER OF A COPYRIGHT TO THE UNITED NATIONS—CONDITIONS FOR USE OF A SPECIAL AND DISTINCTIVE LOGO BY NON-UNITED NATIONS ENTITIES—NON-UNITED NATIONS ENTITIES MAY USE A SPECIAL AND DISTINCTIVE LOGO FOR INFORMATION AND ILLUSTRATIVE PURPOSES—NEITHER THE UNITED NATIONS EMBLEM NOR SPECIAL AND DISTINCTIVE LOGOS USED FOR UNITED NATIONS CONFERENCES OR INTERNATIONAL YEARS MAY BE USED FOR COMMERCIAL PURPOSES—SPECIAL AND DISTINCTIVE LOGOS FOR UNITED NATIONS CONFERENCES MAY BE USED FOR FUNDRAISING PURPOSES INsofar AS THEY ARE USED TO COVER COSTS OF ACTIVITIES IN SUPPORT OF CELEBRATIONS ASSOCIATED WITH THE CONFERENCE

1. [...]

2. [...]

3. With regard to the proposed use of the [Conference] logo by non-United Nations entities, you have forwarded an e-mail message from [United Nations office], whereby [United Nations office] informed your Office that the Government of [State] is seeking support from the private sector for the Conference, and that, in return, the Government wishes to acknowledge the private sector's support to the Conference. [United Nations office] refers in particular to the possible use of the [Conference] logo by a beverage company, which has proposed two alternatives for the use of the [Conference] logo. In the first case, the company would sell the water bottles displaying the [Conference] logo together with the words, "[the company] supports the [Conference]." In the second case, the company would distribute water bottles at the Conference venue, free of charge, displaying the [Conference] logo together with the words, "[the company] supports the [Conference]."

4. We have reviewed the matter and have the following comments concerning the copyright to the [Conference] logo, and the proposed use of the logo by non-United Nations entities. First, with respect to the copyright issue, as you are aware, it is a well-established United Nations policy and practice that the United Nations has the copyright to any special logos for United Nations conferences and international years, based on the provisions of the Annex to Administrative Instruction ST/AI/189/Add.21 on "Regulations for the control and limitation of documentation—Use of the United Nations emblem on documents and publications". The Annex to the ST/AI sets out the procedure for the "Selection of distinctive emblems for special conferences and international years" and indicates, *inter alia*, that the United Nations Publications Board has the responsibility for the final selection and approval of special logos for United Nations conferences and international years. As in this case, when the name and/or acronym of the United Nations is used as part of the design of the special logo, i.e., [full name of Conference], it would be particularly important that the United Nations hold the copyright to the design of the logo since the use of the United Nations emblem and name, including any abbreviation thereof, is reserved for the official purposes of the United Nations in accordance with General Assembly resolution 92(I) of 7 December 1946. Accordingly, as you have already

indicated to [United Nations office], we consider that the Government of [State] should be requested to transfer the copyright to the [Conference] logo to the United Nations, representing and warranting that the Government has the right to transfer the copyright to the design of the [Conference] logo and that the graphic design of the logo is not copyrighted or trademarked by a third party.

5. In light of the foregoing, our comments set out below concerning the proposed use of the [Conference] logo by non-United Nations entities are premised on the understanding that the United Nations owns the copyright to the logo, and that the Guidelines for the use of the [Conference] logo would essentially be identical to the template Guidelines. In this regard, we understand that the guidelines will soon be submitted to the United Nations Publications Board for approval.

6. Based on paragraph II(a) of the template Guidelines, authorization may be granted to non-United Nations entities, including private sector entities, to use a special logo for informational purposes. Informational uses are defined as those which are “primarily illustrative” and “not intended to raise funds”. In these cases, a special logo may be used side by side with the logo of the non-United Nations entity, but the logo of the non-United Nations entity would need be given prominence *vis-a-vis* the special logo. In addition to the logos, a sentence would be displayed, stating “[the name of the non-United Nations entity] supports the [name of the Conference].” Accordingly, OLA is of the opinion that the second option mentioned in paragraph 3 above, i.e., that the beverage company would distribute water bottles at the Conference venue, free of charge, displaying the [Conference] logo together with the words, “[the company] supports the [Conference],” would fall under the category of informational purposes. Therefore, it appears that authorization to use the [Conference] logo may be granted in the case of option 2, subject to the terms of use set out in the Guidelines for the use of the [Conference] logo, i.e., the company logo would be displayed side-by-side with the [Conference] logo and be given prominence *vis-a-vis* the [Conference] logo.

7. The alternative option referred to in paragraph 3 above, i.e., the company would sell water bottles displaying the [Conference] logo together with the words, “[the company] supports the WCDRR,” would constitute a commercial use of the special logo as the company would profit from that activity. Such commercial use is not permitted by the template Guidelines *unless* it is to raise funds to cover costs of activities in support of the Conference (see paragraph II.b) of the template Guidelines). Therefore, authorization to use the [Conference] logo under the conditions stated in option 1 in paragraph 3 above should not be granted.

8. [...]

15 July 2014

**(d) Inter-office memorandum to the Under-Secretary-General, Department of Peacekeeping Operations, on the proposed use of the United Nations emblem in relation to a course organized by a not-for-profit organization**

USE OF THE UNITED NATIONS EMBLEM—AUTHORIZATION OF THE SECRETARY-GENERAL FOR ANY NON-OFFICIAL USE—CONDITIONS FOR THE USE OF THE UNITED NATIONS EMBLEM BY NON-UNITED NATIONS ENTITIES PURSUANT TO ST/AI/189/ADD.21 AND

ST/AI/189/Add.21/Amend.1—USE OF THE UNITED NATIONS EMBLEM PERMITTED WHEN THE UNITED NATIONS PARTICIPATES IN ORGANIZING A CONFERENCE OR MEETING CONVENED BY AN OUTSIDE BODY AND WHEN THE EMBLEMS OF OTHER PARTICIPATING BODIES ARE ALSO USED—USE OF THE UNITED NATIONS EMBLEM NEXT TO THE INSIGNIA OF INDIVIDUAL GOVERNMENTS REQUIRES EXPRESS PERMISSION BY THE UNITED NATIONS PUBLICATIONS BOARD

1. This refers to your e-mail message of 6 August 2014, seeking OLA's advice regarding the use of the United Nations emblem on an "[i]nvitation to nominate experts for the [institution's] course on the protection of civilians in armed conflict" to be held in [State] from [...], and organized by the [Study Centre]. The course invitation notes that the course was organized in close cooperation between the [Government Ministry] and the [Study Centre], which we understand is a not-for-profit organization, and is supported by the [Government Ministries] of the [State]. The United Nations emblem features at the top of the front page of the draft course invitation, next to the names and emblems of the [Government Ministry], [Government Ministry, the [institution], the [Study Centre] and the [Government Ministry]. We understand that DPKO provided the [Government] with certain substantive input for the development of the course and wishes to continue cooperating with [Study Centre] in relation to this course. However, according to the information provided to us, the course is not a United Nations training course nor is it co-organized by the United Nations. We further understand that since OLA's receipt of the above request for advice, the organizers of the course decided to issue the course invitation without including the United Nations emblem, but DPKO nevertheless wishes to receive guidance from OLA on the rules and general policy regarding the use of the United Nations emblem by non-United Nations entities.

2. The use of the United Nations name and emblem is strictly reserved for the official purposes of the United Nations in accordance with General Assembly resolution 92(1) of 7 December 1946. Furthermore, that resolution expressly prohibits the use of the United Nations name and emblem in another way without the authorization of the Secretary-General, and provides that Member States should take the necessary measures to prevent such use without the authorization of the Secretary-General. The United Nations name and emblem are also protected under article 6 *ter* of the Paris Convention for the Protection of Industrial Property, revised in Stockholm on 14 July 1967, which requires states party to the Convention "to prohibit by appropriate measures the use, without authorization by competent authorities" of the emblems and names of international organizations, including the United Nations.

3. The use of the United Nations emblem in documents and publications is further regulated by Administrative Instruction ST/AI/189/Add.21 of 15 January 1979, as amended in 2008 by ST/AI/189/Add.21/Amend.1. The two documents are enclosed herewith for your ease of reference [enclosures omitted]. We note that section V, paragraph 25 of the ST/AI, as amended, restricts the use of the United Nations emblem in documents and publications of non-United Nations entities to instances where the United Nations "participates in organizing a conference or meeting convened by an outside body," provided that "the emblems of other participating bodies are so used on the documents of the conference or meeting." According to the information provided to us, the present situation is not covered by the above-referenced provision since the UN's involvement in the training course is limited to providing certain substantive input in relation to the event, which is organized exclusively by a non-United Nations entity, i.e., the [Study Centre].

4. In addition, we note as a general comment that ST/AI/189/Add.21 contains specific provisions regarding the use of the United Nations emblem next to the insignia of individual Governments. Pursuant to section IV of ST/AI/189/Add.21, the United Nations emblem may be placed next to the insignia of individual Governments only with the express permission of the United Nations Publications Board. The ST/AI further provides that a report or other document prepared by the United Nations in co-operation with a Government should include a sentence of acknowledgment of the individual Government's contribution, such as "Prepared in co-operation with the Government of ...", without showing the insignia of the Government. In case an individual Government prints a report or other document of which the United Nations is the publisher, credit may be given to the Government in a form such as the following: "Printed by the Government of ... as a contribution to the work of the United Nations" (see section IV, paragraphs 23 and 24 of ST/AI/189/Add.21).

5. Pursuant to the above and given that the training course is not a United Nations event or training co-organized by the United Nations, it would not have been appropriate for the invitation to the training course to display the United Nations emblem next to the emblems of the organizer, [Study Centre], and various [State] Governmental entities that have contributed to the development and/or organization of the course. Please note that the same conclusion applies to any report, document and/or materials that may be published in relation to this training course.

6. [...]

20 August 2014

### 3. Procurement

#### **Inter-office memorandum to the Officer-in-Charge, Award Review Board, Department of Management, concerning legal representation in the alternative dispute resolution procedure in relation to procurement bidding**

WHETHER THE TERMS OF REFERENCE (ToR) OF THE ALTERNATIVE DISPUTE RESOLUTION (ADR) PROCEDURE IN THE PROCUREMENT CHALLENGE SYSTEM SHOULD STIPULATE LEGAL REPRESENTATION OF THE PARTIES—PARTICIPATION IN THE BIDDING PROCESS DOES NOT COMMIT THE UNITED NATIONS TO AWARD A CONTRACT—ADMINISTRATIVE NATURE OF THE BID PROTEST SYSTEM—THE INFORMAL ADR PROCESS SHOULD BE TREATED AS AN ADMINISTRATIVE NON-BINDING CONCILIATION/MEDIATION PROCESS NOT INVOLVING LEGAL REPRESENTATIVES

1. I refer to you the memorandum of 2 December 2014, by which you had requested OLA's views on the alternative dispute resolution (ADR) procedure that has been recently included in the procurement challenge system.

2. According to your memorandum, the Secretary-General, in his report to the General Assembly at its 67th session (A/67/683/Add.1), extended the pilot phase of the Award Review Board (ARB) up to 30 June 2015, and introduced the option of an alternative dispute resolution procedure. According to Amendment 2 to the Terms of Reference (ToR) of the ARB, such ADR "shall consist of a voluntary, informal process for dealing with disputes whereby a third party shall facilitate the discussion of the parties toward resolution. The process shall involve an ARB expert, who shall serve as the third party and meet

informally with authorized representatives of the United Nations and the vendor.” From recent discussions between our two offices, we understand that such ADR is intended to involve non-binding mediation.

3. While you have noted that the ARB “has not yet had occasion to offer a vendor the option to utilize the alternative dispute resolution procedure,” you have sought our views on whether it would be advisable to stipulate in the ToR that parties should be represented by counsel in the ADR process. You have further inquired whether, if a vendor were to be represented by counsel in such ADR proceedings, OLA would be in a position to provide legal counsel to procurement and requisitioning staff members participating in the discussions.

4. Turning to your question on whether legal counsel should participate in the ADR (i.e., non-binding mediation) proceedings, we would advise against the inclusion of legal counsel in such proceedings for the following reasons:

5. According to the solicitation documents issued by the United Nations Procurement Division during the acquisition process, a bidder’s participation in such process does not give rise to any legal rights for the bidder to be awarded a contract. Indeed, pursuant to the standard Request for Proposal (RPF), article 3, “[a]ny proposal submitted will be regarded as a proposal by the Proposer and not as an acceptance by the Proposer of any proposal by the United Nations. *This RFP does not commit the United Nations to award a contract.*” (Emphasis added). Moreover, according to article 23 of the RPF, *Notice of Award*, “[n]o legal obligation exists until the contract is finalized and signed by both parties.” (Emphasis added).

6. In view of the foregoing, the bid protest system is an administrative procedure—as opposed to quasi-judicial one—in which the parties do not need to be represented by an attorney. The informal ADR process (i.e., non-binding mediation) should thus be treated as an administrative conciliation/mediation process and not involve legal representatives.

7. Indeed, the inclusion of legal counsel in such informal ADR processes as non-binding mediation or conciliation could render such processes contentious, therefore reducing the opportunities for problem-solving and relationship-repair.<sup>8</sup> Other commonly cited disadvantages to having attorney representation in informal ADR proceedings include the incorporation of adversarial practices and “client control” in the mediation/conciliation process and the chilling effect on and formalization of such processes. Last but not least, the inclusion of legal representatives in the ADR process is also likely to significantly augment the costs of the bid protest system for all parties.

8. Consequently, we would recommend that the ToR clarify that legal representatives would not be permitted in the informal, voluntary ADR process, introduced by Amendment 2 to the ToR of the ARB.

20 August 2014

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<sup>8</sup> See National Arbitration Forum, *Business-to-Business Mediation/Arbitration vs. Litigation* (2005), available at <http://www.adrforum.com>.

#### 4. Liability and Responsibility of the United Nations

##### **Inter-office memorandum to the Chief, Intergovernmental and Outreach Section, Office of the High Commissioner for Human Rights, concerning the modification of the standard indemnification provision in a draft license agreement**

THE UNITED NATIONS MAY NOT INCUR ANY POTENTIAL FINANCIAL LIABILITIES IN-CONNECTION WITH THE ACCEPTANCE OF A VOLUNTARY CONTRIBUTION PURSUANT TO FINANCIAL REGULATION 3.12 AND FINANCIAL RULE 103.4(B)—INCLUSION OF A PROVISION IN A FINANCIAL CONTRIBUTION AGREEMENT REQUIRING THE UNITED NATIONS TO INDEMNIFY A COUNTERPARTY CONSTITUTES A POTENTIAL FINANCIAL LIABILITY—DEROGATIONS FROM THE UNITED NATIONS FINANCIAL REGULATIONS AND RULES MAY ONLY BE AUTHORIZED BY THE GENERAL ASSEMBLY

1. This refers to the e-mail message of 30 October 2014 from your Office to OLA, in which OLA was requested to reach out to the producer of the film [...], [...] (the “Producer”), to discuss the indemnification provision included in the draft license agreement between the United Nations and the Producer for the screening of the said film at the United Nations Free & Equal Global Film Series festival (the “Festival”), which we understand is organized by OHCHR in coordination with DPI.

##### BACKGROUND

2. It is recalled that in November 2013, OLA was requested by DPI to develop a model *pro bono* license agreement to be used for the Festival. OLA subsequently prepared a template license agreement for the Festival, which included the required standard provisions protecting the interests of the Organization. Based on the information received by this Office, at least two license agreements have already been concluded with respective producers of the films participating in the Festival without major changes to the template license agreement. However, the director of the film [...] has proposed and is insisting upon, an amendment to the standard indemnification provision whereby the United Nations would, contrary to its policy, agree to indemnify and hold the producer harmless, and waive any possible claims against it arising from the screening of the film.

3. At OHCHR’s request, OLA first reached out to the Producer in August 2014, proposing to discuss the terms of the indemnification provision directly with the Producer’s lawyers. Following a conference call on 19 August 2014 between OLA and the Producer, OLA proposed a modified indemnification clause, quoted below, whereby the Producer would agree to indemnify the United Nations only for violations of third party intellectual property rights and other private law rights by the Producer, such as rights of publicity and privacy rights.

“[...] the Producers shall indemnify, hold and save harmless, and defend, at their own expense, the United Nations, its officials, agents, and employees from and against all suits, claims, demands, losses and liability of any nature or kind, including their costs and expenses, arising from or relating to any allegations or claims by any third party that any act or omission of the Producers in the creation of the Film, including any provided subtitled or dubbed versions thereof, and any promotional materials relating to the Film, provided or licensed to the United Nations under the terms of this Agreement, in whole or in part, violates one or more of such third party private law rights, including, but not limited to,

allegations or claims based on an infringement of any copyright, trademark, or other intellectual property rights, violation of rights of publicity, theories of libel, defamation, invasion of privacy, breach of confidence, and breach of express or implied contract. The obligations under this provision do not lapse upon the termination of this Agreement.”

4. We understand that the modified indemnification provision was not agreeable to the Producer. As per the Producer’s e-mail message of 30 October 2014, forwarded to this Office by DPI, we understand that the Producer insists on the text of the indemnification provision he had originally proposed to be used in the license agreement (see paragraph 2 above).

#### REQUIREMENTS UNDER THE UNITED NATIONS FINANCIAL REGULATIONS AND RULES

5. Please note that the policy of the United Nations regarding acceptance of donations, including the present arrangement whereby the United Nations would be given a license to use the Producer’s film on a *pro bono* basis, is based on United Nations-Financial Regulation 3.12 and Financial Rule 103.4 promulgated thereunder. Financial Regulation 3.12 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 further that the acceptance of voluntary contributions that directly or indirectly involve additional financial liability for the Organization shall require the consent of the appropriate authority.”

Pursuant to the above, Financial Rule 103.4 (b) provides that:

“Voluntary contributions, gifts or donations that directly or indirectly involve additional financial liability for the Organization may be accepted only with the approval of the General Assembly.”

6. We note that the Producer conditions the grant of a *pro bono* license upon the United Nations indemnifying and holding the Producer harmless and waiving any possible claims against the Producer and his company arising from the screening of the film by the United Nations. The indemnification provision proposed by the Producer, i.e., (a) imposing upon the United Nations the obligation to indemnify and hold the Producer harmless, and (b) waiving all claims for possible future damages caused by the film’s potential violation of third party intellectual property and other rights, exposes the United Nations to the risk of claims and the possibility that the United Nations would have to bear financial liability as a result. As such, the suggested indemnification provision is contrary to Financial Regulation 3.12 and Financial Rule 103.4(b), quoted above, and cannot be accepted unless it is approved by the General Assembly, as required by Financial Rule 103.4(b).

7. We understand that the Producer is not willing to agree to the amended indemnity provision as proposed by the Organization. In light of the requirements under the United Nations Financial Regulations and Rules, as indicated above, unless the Producer is amenable to the modified indemnification clause as proposed, the Organization is not in a position to agree to the Producer’s terms, which would require the approval of the General Assembly.

8. [...]

[...]

19 December 2014



## 5. Miscellaneous

### (a) Note to the Executive Secretary of the Convention on Biological Diversity concerning the legal effects of replacing a term used in the Convention in decisions of the Conference of the Parties

LEGAL EFFECTS OF REPLACING THE TERM “INDIGENOUS AND LOCAL COMMUNITIES”, AS PROVIDED IN ARTICLE 8 (J) OF THE CONVENTION ON BIOLOGICAL DIVERSITY, BY “INDIGENOUS PEOPLES AND LOCAL COMMUNITIES” IN DECISIONS OF THE CONFERENCE OF THE PARTIES (COP)—DIFFERENCE BETWEEN COP DECISIONS AND AMENDMENTS UNDER ARTICLE 29 OF THE CONVENTION—COP DECISIONS THAT REPRESENT ONE OR MORE SINGLE COMMON ACTS OF THE PARTIES COULD CONSTITUTE A SUBSEQUENT AGREEMENT REGARDING THE INTERPRETATION OF A TREATY OR THE APPLICATION OF ITS PROVISIONS WITHIN THE MEANING OF ARTICLE 31 (3) (A) OF THE VIENNA CONVENTION ON THE LAW OF TREATIES—LEGAL EFFECTS OF A CHANGE IN TERMINOLOGY DEPEND ON THE INTENTION OF THE PARTIES TO REACH A BINDING AGREEMENT ON THE INTERPRETATION OF A TREATY

I wish to refer to your letter dated 12 November 2013 to the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel by which you have asked for our legal opinion on the consequences of adopting the term “indigenous peoples and local communities” in decisions of the Conference of the Parties to the Convention on Biological Diversity, instead of the term “indigenous and local communities” which is used in article 8 (j) of the Convention. You indicate that the Ad Hoc Open-ended Inter-sessional Working Group on article 8 (j) and Related Provisions (“the Working Group”) which was established by the Conference of the Parties (“the COP”) in 1998 has considered this matter in its meeting held in October 2013 and has requested you to obtain our advice on this question.

You recall that the Permanent Forum on Indigenous Issues, a subsidiary organ of ECOSOC, had recommended to the Parties to the Biological Diversity Convention “to adopt the terminology ‘indigenous peoples and local communities’ as an accurate reflection of the distinct identities developed by those entities since the adoption of the Convention [on Biological Diversity] almost 20 years ago” (E/2013/43-E/C.19/2010/15, paragraph 112).

In the light of this recommendation the Working Group has requested the Executive Secretary of the Biological Diversity Convention to obtain advice from our Office on the legal implications of the use of the term “indigenous peoples and local communities” for the Convention and its Protocols.

I wish to recall that the primary responsibility of the Office of Legal Affairs is to provide formal legal opinions to United Nations offices[,] funds or programmes and to United Nations intergovernmental organs at the formal request of those organs. We can provide legal opinions to Treaty Bodies on questions of international law but that is usually pursuant to a formal and written request from the inter-governmental organs of the Treaty Body concerned. Therefore, we are responding to your questions on an informal basis.

I am also aware that Parties to the Convention may take a different view to the responses we provide. As such, our response should not in any way be construed as the only or definitive view and I would appreciate your conveying this understanding to the Working Group. Subject to that understanding I would like to respond as follows.

Article 8 (j) of the Biological Diversity Convention requires that each party “as far as possible and as appropriate ...[s]ubject to its national legislation, respect, preserve and



maintain knowledge, innovations and practices of *indigenous and local communities* embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity” (emphasis added).

In this context, your first question is formulated as follows:

“Article 8 (j) of the Convention on Biological Diversity uses the terminology ‘indigenous and local communities’. Would the use of the terminology ‘indigenous peoples and local communities’ in future decisions of the Conference of the Parties and documents under the Convention alter the scope of the Convention? And/or would a change in terminology in future decisions of the Conference of the Parties have the same legal implications or effects as an amendment to Article 8 (j) of the Convention or the relevant provisions of its Protocols?”

We wish to point out that there is a specific amendment procedure to the Convention set out in Article 29. Decisions of the COP that use the term “indigenous peoples and local communities” would not constitute an amendment to Article 8 (j) unless the amendment procedures outlined in article 29 were followed or unless it is by the unanimous agreement of the Parties. As to whether it would have the “same legal implications or effects as an amendment to article 8(j) of the Convention or the relevant provisions of its Protocols” this question is considered in our answers to questions 2 and 3 set out below.

Your second question is formulated as follows:

“Would a change of terminology in decisions of the Conference of the Parties and documents under the CBD constitute a subsequent agreement on interpretation or application within the context of Article 31, paragraph 3 of the Vienna Convention on the Law of Treaties and therefore have legally binding effect?”

As a preliminary matter, it is noted that, article 31 of the Vienna Convention on the Law of Treaties of 1969 (“Vienna Convention”) reflects customary international law (e.g. *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, *Judgment*, *ICJ Reports 2009*, p. 237, para. 47).

Hence, references to article 31 in the analysis should be read in that context.

Article 31 (3) (a) of the Vienna Convention provides that “any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions” should be taken into account in interpreting a treaty.

Article 31 (3) (b) further provides that, “any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation” should be taken into account in interpreting a treaty.

In this connection, we would like to draw your attention to the Report of the International Law Commission for its 65th session (A/68/10) (“Commission”), which contains the “text of the draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties, as provisionally adopted by the Commission at its sixty-fifth session.” (“Draft Conclusions”)

The Commission in draft Conclusion 1, paragraph 5 stated that “the interpretation of a treaty consists of a single combined operation, which places appropriate emphasis on the various means of interpretation indicated respectively, in articles 31 and 32.”

In draft Conclusion 2, the Commission stated that, “subsequent agreements and subsequent practice under article 31, paragraph 3 (a) and (b), being objective evidence of the

understanding of the parties as to the meaning of the treaty, are authentic means of interpretation, in the application of the general rule of treaty interpretation reflected in article 31.”

In defining the term “subsequent agreement” the Commission stated that it is “an agreement between the parties, reached after the conclusion of a treaty, regarding the interpretation of a treaty or the application of its provisions.” (draft Conclusion 4, paragraph 1).

The Commission in its commentary on draft Conclusion 2 pointed out that subsequent agreements and subsequent practice are not the only “authentic means of interpretation” and that “analyzing the ordinary means of the text of a treaty” is also such a means. In addition, while both subsequent agreement and practice were “authentic means of interpretation” this did not however imply that these means necessarily possess a conclusive or legally binding effect pointing to the chapeau of article 31 (3) which states that subsequent agreements and subsequent practice shall only be “taken into account” in the interpretation of a treaty.

That said, Parties could, if they so wished reach a binding agreement on the interpretation of a treaty, although it would have to be clear that the Parties considered the interpretation to be binding upon them.

In seeking to define subsequent agreement and subsequent practice the Commission in its commentary on draft Conclusion 4 pointed out that the Vienna Convention did not envisage any particular formal requirements for agreements and practice under article 31 (3) (a) and (b). As to the difference between these two concepts, the Commission expressed the view that a subsequent agreement must be “reached” and therefore presupposes a single common act by the parties by which they manifest their common understanding regarding the interpretation of the treaty or the application of its provisions. Subsequent practice under article 31 (3) (b) on the other hand, encompasses all relevant forms of subsequent conduct by the parties to a treaty which contribute to the identification of an agreement or understanding of the parties regarding the interpretation of a treaty.

Consequently, in answer to your second question and bearing in mind the views of the Commission, a change of terminology in decisions of the Conference of the Parties that represent one or more single common acts of the Parties, could constitute a subsequent agreement regarding the interpretation of the Convention or the application of its provisions within the meaning of article 31 (3) (a). As the Commission points out such decisions would not have legally binding effect unless it was clear that the Parties wished to reach a binding agreement on the interpretation of a treaty.

Your third question is formulated as follows:

“Is it possible, in decisions and documents under the Convention, to adopt terminology that is different to terminology used in the Convention text (e.g. Article 8(j) in this case) without this being a subsequent agreement on interpretation or application within the context of Article 31, paragraph 3 of the Vienna Convention on the Law of Treaties? If the answer to this question is ‘yes’, how could this be achieved?”

In answer to your third question it is important to draw a distinction between decisions adopted by the Conference of the Parties under the Convention, which as explained above, are common acts by the Parties, on the one hand, and, on the other hand, Convention documents such as reports and proposals by the Secretariat or individual Parties that may be circulated amongst the Parties. In the case of the latter, the use of different terminology would not constitute an agreement within the context of Article 31. In

the case of the former, in order for the Parties to ensure that the use of different terminology in a decision would not be construed as a “subsequent agreement”, they should make clear in their decision that the use of different terminology was on an exceptional basis and without prejudice to the terminology used in the Convention and should not be taken into account for purposes of interpreting or applying the Convention.

Finally and as explained above, I would like to note that the points mentioned above do not purport to be an authoritative or definitive interpretation of the relevant provisions of both Vienna Conventions and that other parties may take a different view. Furthermore, the points we raise may be subject to adjustments depending on the specific circumstances of each case.

I hope the responses above would provide some guidance to your questions.

[...]

28 February 2014

**(b) Inter-office memorandum to the Director, Outreach Division,  
Department of Public Information, concerning the collaboration between the  
United Nations and a not-for profit organization in the selection of films**

POSSIBLE CONFLICT OF INTEREST ARISING FROM AN OUTSIDE ENTITY’S ROLE IN THE SELECTION PROCESS OF A UNITED NATIONS ACTIVITY—THE PROVISION OF ADVICE BY AN OUTSIDE ENTITY CONSTITUTES THE DONATION OF A *PRO BONO* SERVICE—SECRETARY-GENERAL’S BULLETIN ST/SGB/2006/5 SETS OUT THE RULES CONCERNING THE ACCEPTANCE OF *PRO BONO* DONATIONS—THE ACCEPTANCE OF *PRO BONO* DONATIONS REQUIRES THE CONTROLLER’S APPROVAL PURSUANT TO UNITED NATIONS FINANCIAL REGULATIONS AND RULES—AN OUTSIDE ENTITY THAT CONTRIBUTES FUNDS, GOODS OR SERVICES IN-CONNECTION WITH A UNITED NATIONS ACTIVITY IS NOT NECESSARILY CONSIDERED A JOINT ORGANIZER OF THAT ACTIVITY

1. [...]
2. [...]
3. [...]

4. From these discussions, we subsequently became aware that before the United Nations selected “[Title of film]” as the film to be screened at the launch of the United Nations Film Festival, the film producer had independently submitted the film for consideration for screening at the [City] Film Festival, and that [Film entity], as the event organiser, had selected it among the many films to be shown during the [City] Film Festival. Thereafter, [Film entity] advised the United Nations to select the same film for the launch event of the United Nations Film Series. We also note that the selection of any winners at the [City] Film Festival will be made by a jury or through audience-polling, and that [Film entity] would play no role in this selection process.

5. As we indicated during these discussions, we remain concerned that the above-described circumstances, i.e., [Film entity], having already selected “[Title of film]” as one of the films to be screened at the [City] Film Festival in its capacity as the organizer of the film festival, and subsequently advising the United Nations (DPI/OHCHR) to select the same film for the launch of the United Nations Film Series, may expose the United Nations to the risk of criticism that it is endorsing the producers of “[Title of film]”

over the producers of other films that will be screened at the [City] Film Festival. For instance, should “[Title of film]” be eventually selected as a winner of the [City] Film Festival, questions may be raised as to whether the film’s association with the United Nations gave it an unfair advantage and whether [Film entity]’s role in advising the Organization on what films—including “[Title of film]”—to include in the United Nations Film Series, created a conflict of interest. This is underscored by the decision to launch the United Nations Film Series at the [City] Film Festival with the screening of “[Title of film]”—an event which is likely to garner this particular film more attention than other entrants.

6. Having noted our concerns, we were informed of your Office’s decision to proceed, nevertheless, with the arrangement with [Film entity] and your Office requested OLA for a legal review of the draft agreement between the United Nations (DPI/OHCHR) and [Film entity]. Therefore, and subject to our comments above, we have prepared and attach herewith a markup of the draft agreement incorporating our comments [Enclosure omitted].

7. In this regard, the proposed arrangement with [Film entity] appears to constitute a donation of *pro bono* services to the United Nations since [Film entity] has provided and is providing advice, free of charge, to DPI/OHCHR on the selection of films to be shown during the United Nations Film Festival, including providing the [City] Film Festival the platform to launch the United Nations Film Series. We note that the rules concerning the acceptance of *pro bono*-donations are set out in the Secretary-General’s bulletin ST/SGB/2006/5 on “Acceptance of *pro bono* goods and services”, which also applies to *pro bono* donations from NGOs, except as otherwise indicated. Also, pursuant to the United Nations Financial Regulations and Rules, the acceptance of *pro bono* donations requires the Controller’s approval. In light of the above, we recommend that DPI ensure that the proposed arrangement would be made in accordance with the provisions of ST/SGB/2006/5 and that when the agreement is finalized, it be submitted to the Controller’s Office for approval and signature.

8. Additionally, we note that the section of the [City] Film Festival website that pertains to the launch of the United Nations Film Series states that “...the United Nations and [Film entity] have curated a collection of films and documentaries to be screened around the world”. Since DPI approached [Film entity] for only their assistance in selecting what films to be included in the United Nations Film Series, and given that the United Nations Film Series is a United Nations campaign, we believe that this text could create the impression that the United Nations Film Series is actually a joint United Nations and [Film entity] initiative. We recommend that your Office request [Film entity] to make the necessary changes to the text.

9. All our comments on the draft Agreement are set out in the attached markup [Enclosure omitted]. [...]

11 June 2014

## **B. LEGAL OPINIONS OF THE SECRETARIATS OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS**

### **1. International Labour Organization\***

(submitted by the Legal Adviser of the International Labour Organization)

#### **(a) Report on a legal opinion on the legal status of the Transitional Provisions of the Forced Labour Convention, 1930 (No. 29)<sup>1</sup>**

LEGAL STATUS OF THE TRANSITIONAL PROVISIONS OF THE FORCED LABOUR CONVENTION, 1930 (No. 29)—ACKNOWLEDGEMENT OF THE EXPIRATION OF THE TRANSITIONAL PERIOD BY THE SUPERVISORY BODIES AND GOVERNING ORGANS OF THE ILO—INAPPLICABILITY OF THE TRANSITIONAL PROVISIONS OF THE FORCED LABOUR CONVENTION, 1930

The Legal Adviser rendered a legal opinion in reply to queries from several Government members concerning the legal status of certain provisions of Convention No. 29, pursuant to which recourse could be had to forced or compulsory labour during a transitional period. Concerning the possible removal of the transitional provisions from the text of Convention No. 29, the Legal Adviser explained that the only way to delete them would be to have a provision on the matter inserted into the main text of the draft Protocol, as the preambular clause recognizing that the transitional period had expired and that the transitional provisions were no longer applicable was only of a declaratory value and not legally binding. Similarly, this could not be achieved by addressing the transitional provisions in a Recommendation. The Legal Adviser explained that, as stated in the Office report, the expiration of the transitional period had been acknowledged by the ILO's supervisory bodies and governing organs. The Committee of Experts on the Application of Conventions and Recommendations had been making comments to this effect, while the Conference withdrew in 2004 Recommendation No. 36—an instrument that set the rules for recourse to forced labour during the transitional period—and the Governing Body adopted in 2010 a new report form for Convention No. 29, which no longer contained questions regarding the transitional provisions. Therefore, no good faith interpretation of the relevant provisions of the Convention, in accordance with their ordinary meaning and in the light of the Convention's object and purpose, could support the view that 84 years after the adoption of Convention No. 29, the transitional provisions remained applicable.

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\* A number of legal opinions were rendered during the 103rd Session of the International Labour Conference. Only two legal opinions have been selected for reproduction here. The others can be found in the records of the Conference (see <http://www.ilo.org/ilc/ILCSessions/103/lang--en/>).

<sup>1</sup> See Provisional Record No. 9(rev), 103rd session, Supplementing the Forced Labour Convention, 1930 (No. 29) to address implementation gaps to advance prevention, protection and compensation measures, to effectively achieve the elimination of forced labour, Report of the Committee on Forced Labour.

**(b) Report on a legal opinion on the prohibition of forced or compulsory labour as peremptory norm of international law<sup>2</sup>**

CHARACTERIZATION OF THE PROHIBITION OF FORCED OR COMPULSORY LABOUR AS A PEREMPTORY NORM BY THE SUPERVISORY BODIES OF THE ILO—ARTICLE 53 OF THE 1969 VIENNA CONVENTION ON THE LAW OF TREATIES

In reply to a question from the Government member of Greece, speaking on behalf of EU Member States, the Legal Adviser indicated that the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the complaint for non-observance of Convention No. 29 by Myanmar had noted that “a State which supports, instigates, accepts or tolerates forced labour on its territory commits a wrongful act and engages its responsibility for the violation of a peremptory norm of international law”. This view was later endorsed by the ILO Committee of Experts which, in its 2007 General Survey on Convention No. 29, stated that the principles embodied in Convention No. 29 “had since been incorporated in various international instruments both universal and regional, and had therefore become a peremptory norm of international law”. These important pronouncements of the ILO supervisory bodies had been largely commented and reproduced in academic writings over the past 16 years. In terms of international legal theory, the concept of a peremptory norm (*jus cogens*) can be found in article 53 of the 1969 Vienna Convention on the Law of Treaties, which defines it as “a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”. However, even though the existence of peremptory norms of international law was today generally accepted, identifying the principles which would be qualified as peremptory norms remained a matter of debate. The principles that were most frequently cited as belonging to the category of peremptory norms were the prohibition of slave trade, genocide, piracy, apartheid and war of aggression. Reverting to the question of EU Member States, the Legal Adviser noted that the prohibition of forced labour could be considered a peremptory norm of international law—indeed this had been the position taken by ILO supervisory bodies—and it would be now for the Committee to decide whether it wished to echo that view.

## **2. United Nations Industrial Development Organization**

(submitted by the Legal Adviser of the United Nations Industrial Development Organization)

**(a) External e-mail message to a Legal Adviser of a United Nations specialized agency concerning the criteria for submission of Agreements/Arrangements to the Policymaking Organs of the United Nations Industrial Development Organization (UNIDO) for review/approval**

CATEGORIES OF AGREEMENTS THAT MUST BE SUBMITTED TO THE INDUSTRIAL DEVELOPMENT BOARD (IDB) BEFORE SIGNATURE BY THE DIRECTOR-GENERAL—POSSIBILITY THAT THE DIRECTOR-GENERAL, WITH THE APPROVAL OF THE IDB, MAY ENTER INTO RELA-

<sup>2</sup> See *ibid.*

TIONS AND AGREEMENTS WITH ORGANIZATIONS IDENTIFIED IN THE GUIDELINES FOR THE RELATIONSHIP OF UNIDO WITH INTERGOVERNMENTAL, GOVERNMENTAL, NON-GOVERNMENTAL AND OTHER ORGANIZATIONS—NO GENERAL CRITERIA FOR SUBMISSION FOR REVIEW AND APPROVAL BY THE GENERAL CONFERENCE OR THE IDB—CASE-BY-CASE DECISION OF THE DIRECTOR-GENERAL UPON THE RECOMMENDATION OF THE LEGAL ADVISOR

1. I refer to your email of [date] concerning the criteria for submission of Agreements/Arrangements to the Policymaking Organs for review/approval.

2. I wish to inform you that the only Agreements which must be submitted for approval to the Industrial Development Board [IDB] (53 Members) before being signed by the Director-General are those defined in articles 18 and 19 of the Constitution of UNIDO,<sup>3</sup> Relationship Agreements with the United Nations and other IGOs [intergovernmental organizations]. In addition, the Host Country Agreement, Supplementary Agreements foreseen therein such as the Social Security Agreement and amendments thereto must be submitted to the General Conference (all UNIDO Members) for review/approval by way of practice.

3. On 12.12.1985, the General Conference of UNIDO by recalling article 19 of the Constitution, adopted decision 41 (Guidelines for the Relationship of UNIDO with Intergovernmental, Governmental, Non-Governmental and Other Organizations). Under these Guidelines, the Director-General, with the approval of the Industrial Development Board, may enter into agreements or establish appropriate relations with certain organizations identified in the Guidelines. I have attached these Guidelines [enclosure omitted].

4. The Member States of UNIDO have yet to establish criteria for determining the financial, strategic, legal, political and other implications of various Agreements/Arrangements in order to determine which of these Agreements/Arrangements should, prior to signature, be submitted for review and approval by the General Conference or IDB.

5. In the absence of such criteria, the Director General decides, on a case-by-case basis and upon the recommendation of the Legal Adviser, which Agreement may need to be submitted to the General Conference for approval in addition to those that have either been specified in the Constitution or are otherwise submitted to the Policymaking

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<sup>3</sup> Article 18 of the Constitution of UNIDO (Relations with the United Nations) stipulates: "The Organization shall be brought into relationship with the United Nations as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. Any agreement concluded in accordance with Article 63 of the Charter shall require the approval of the Conference, by a two-thirds majority of the Members present and voting, upon the recommendation of the Board." Articles 19 of the Constitution of UNIDO (Relations with other organizations) provides: "1. The Director-General may, with the approval of the Board and subject to guidelines established by the Conference: (a) Enter into agreements establishing appropriate relationships with other organizations of the United Nations system and with other intergovernmental and governmental organizations, (b) Establish appropriate relations with non-governmental and other organizations the work of which is related to that of the Organization. When establishing such relations with national organizations the Director-General shall consult with the governments concerned. 2. Subject to such agreements and relations, the Director-General may establish working arrangements with such organizations." Article 8, paragraph 3, of the Constitution of UNIDO (General Conference) also lists the following as one of the functions that UNIDO General Conference should exercise: [...] (d) Have the authority to adopt, by a two-thirds majority of the Members present and voting, conventions or agreements with respect to any matter within the competence of the Organization and to make recommendations to the Members concerning such conventions or agreements; ...".



Organs by way of practice, i.e., the Host Country Agreement, the related Supplementary Agreements and amendments to them.

6. As concerns reporting of concluded Agreements to the Policymaking Organs, I may add that the Annual Report of UNIDO has an appendix which lists all Agreements/Arrangements that are concluded in a given year. The exact title of an Agreement, the full names of the Parties, the date and place of its signature will be included in this appendix.

7. My own assessment of the new initiative at [United Nations specialized agency] is that it could have been originated from your supreme Policymaking Organ as to my knowledge the executive heads of United Nations agencies normally have the authority to conclude directly any binding agreement that advances the goals, mandates and interests of their Organizations, with the exception of those Agreements that are subject to the prescriptions of the founding document of the Organization or a subsequent decision of the supreme Policymaking Organ. So any micromanaging initiative which may take away from the authority of the executive head should either originate from the supreme Policymaking Organ or its practicality and constitutionality should be examined by it.

23 January 2014

**(b) Internal e-mail message memorandum to a UNIDO Industrial Development Officer concerning partnership with [Company] in a UNIDO project in [State]**

WHETHER UNIDO IS BOUND BY THE POSITION OF THE INTERNATIONAL COURT OF JUSTICE WITH REGARD TO HUMAN RIGHTS ISSUES IN THE SAME WAY AS IT IS BY SECURITY COUNCIL SANCTIONS—ADVISORY OPINIONS OF THE INTERNATIONAL COURT OF JUSTICE ARE NOT BINDING BUT MAY IDENTIFY BINDING RULES AND PRINCIPLES OF INTERNATIONAL LAW

1. I wish to refer to your email of [date] concerning the results of a due diligence investigation into the [Company], which was conducted with a view to entering into a business partnership with the company regarding a project in [State]. I note that it has already been decided to move ahead with the project and that the specific question referred to this Office is *whether UNIDO is bound by the position of the International Court of Justice with regard to human rights issues in the same way as it is by Security Council sanctions*. The purpose of this email is to confirm the advice already provided telephonically in the first half of [date].

2. As their name suggests, advisory opinions of the International Court of Justice do not have the same legal force as mandatory sanctions imposed by the Security Council under Chapter VII of the Charter of the United Nations. In examining the jurisprudence of the International Court of Justice, a distinction should be drawn between *judgments* in contentious matters involving States, which are binding on the parties, and *advisory opinions* on questions submitted to the court by international organizations, which are not. With few exceptions, advisory opinions are not binding on the organizations requesting the opinions, it being left to the parties concerned to give effect to the opinions as they consider best. Though advisory opinions are not binding as such, they may still identify rules and principles of international law that are binding on subjects of international law, including international organizations.

11 September 2014



**(c) Note to the Permanent Mission of [State] concerning imposition of taxes and duties on UNIDO equipment in [State]**

WHETHER UNIDO HAS TO PAY A DUTY ON EQUIPMENT PURCHASED FOR A PROJECT FUNDED BY THE MULTILATERAL FUND FOR THE IMPLEMENTATION OF THE MONTREAL PROTOCOL—APPLICABILITY OF ARTICLE 21, PARAGRAPH 1, OF THE CONSTITUTION OF UNIDO ON PRIVILEGES AND IMMUNITIES IN THE TERRITORY OF MEMBER STATES

The Secretariat of the United Nations Industrial Development Organization (UNIDO) presents its compliments to the Permanent Mission of the [State] to UNIDO and has the honour to inform the Permanent Mission that the [State] customs authorities intend to impose a duty of 10% on a shipment of equipment purchased by UNIDO for a project in [State] funded by the Multilateral Fund for the Implementation of the Montreal Protocol. The consignee of the equipment is the Resident Representative of the United Nations Development Programme in [City] (see attached purchase order) [enclosure omitted]. In this regard, the Secretariat is of the opinion that the imposition of taxes and duties on UNIDO is inconsistent with the provisions of article 21, paragraph 1, of the Constitution of the Organization, which reads as follows:

*The Organization shall enjoy in the territory of each of its Members such legal capacity and such privileges and immunities as are necessary for the exercise of its functions and for the fulfillment of its objectives ...*

In view of the foregoing, the Secretariat has the honour to request the Permanent Mission to facilitate the issuance of any permits or authorizations that may be necessary to enable the tax and duty-free importation by UNIDO of equipment, materials and supplies into the [State].

17 October 2014

**(d) Internal e-mail message to a UNIDO Unit Chief and Deputy to the Director concerning the status of a [territory] and the [City] in statistical publications**

WHETHER UNIDO SHOULD FOLLOW THE GENERAL RECOMMENDATION OF THE UNITED NATIONS WITH REGARD TO A STATUS OF A TERRITORY AND CITY—ADVICE TO FOLLOW THE UNITED NATIONS POLICY ON THE STATUS OF THE TERRITORY IN THE ABSENCE OF GUIDANCE FROM THE POLICYMAKING ORGANS OF UNIDO

I refer to your email of [date] concerning the status of [territory] and the city of [City] in statistical publications. You asked for my “advice whether there is any other legal issue that prevents [UNIDO] from following the United Nations general recommendations on this matter.”

I wish to inform you that the UNIDO Policymaking Organs have yet to consider the status of the [territory] peninsula, and in the absence of a specific guidance by its Policymaking Organs, UNIDO follows the United Nations policies/practices in each case. In the light of the above, it is advisable to follow the guidance contained in the United Nations General Assembly resolution [...] on [date] entitled: *Territorial integrity of [State]* and the subsequent memorandum from the Assistant Secretary-General for Legal

Affairs, dated [...], which is addressed to the Director, Statistics Division, Department of Economic and Social Affairs.

I also recall that the Office of Legal Affairs of the United Nations—in response to various questions from the United Nations System Organizations concerning [territory]—addressed a confidential email on [date] to the Legal Advisers of United Nations System Organizations informing them that, while the resolution of [date] does not make requests or recommendations specifically addressed to the Secretary-General, the Legal Counsel of the United Nations has taken the view that the Secretary-General, the Secretariat and the United Nations Funds and Programmes should be guided by its terms. In a nutshell, the United Nations acts as if [territory] were still an integral part of [State].

Conclusion: In view of the fact that UNIDO as a specialized agency of the United Nations has already agreed “to co-operate with the United Nations in whatever measure may be necessary to effect the required co-ordination of policies and activities”,<sup>4</sup> and in the absence of any guidance from its own Policymaking Organs at this point in time, it is advisable for UNIDO to follow the United Nations policy on the status of [territory].

10 November 2014

### 3. Universal Postal Union

(submitted by the Director of Legal Affairs of the Universal Postal Union)

#### **Interoffice memorandum to the Directorate of Operations and Technology concerning the potential use of official Universal Postal Union (UPU) documents and forms by non-designated operators and other external entities**

WHETHER ENTITIES THAT ARE NOT OFFICIALLY DESIGNATED BY UPU MEMBER STATES TO OPERATE POSTAL SERVICES (“NON-DOs”) IN ACCORDANCE WITH ARTICLE 1 *BIS* PARAGRAPH 1.7 OF THE UPU CONSTITUTION ARE ALLOWED TO MAKE USE OF OFFICIAL UPU DOCUMENTS AND FORMS—OPERATIONAL BENEFITS AND PREROGATIVES RELATED TO THE EXERCISE OF THE MANDATE AWARDED TO DOs BY UPU MEMBER COUNTRIES ARE SOLELY ESTABLISHED TO FULFILL THE OBLIGATIONS ARISING OUT OF THE ACTS OF THE UNION—POTENTIAL CONFLICT WITH OBLIGATIONS ASSUMED BY UPU MEMBER STATES UNDER OTHER TREATIES RESULTING FROM THE USE OF UPU FORMS BY NON-DOs—NO POSSIBILITY FOR NON-DOs TO

<sup>4</sup> Article 2 (co-ordination and co-operation) of the Relationship Agreement of 17 December 1995 reads as follows: “In its relations with the United Nations, its organs and the agencies of the United Nations system, the Organization [UNIDO] recognizes the coordinating role, as well as the comprehensive responsibilities in promoting economic and social development, of the General Assembly and the Economic and Social Council under the Charter of the United Nations. The Organization, in exercise of its central coordinating role in the field of industrial development, recognizes the need for effective co-ordination and co-operation with the United Nations, its organs and the agencies within the United Nations system. Accordingly, the Organization agrees to co-operate with the United Nations in whatever measure may be necessary to effect the required co-ordination of policies and activities. The Organization agrees further to participate in the work of any United Nations bodies which have been established or may be established for the purpose of facilitating such co-operation and co-ordination, in particular through membership in the Administrative Committee on Co-ordination.”

USE ANY OFFICIAL DOCUMENTS OR FORMS UNDER THE CURRENT PROVISIONS CONTAINED IN THE ACTS OF THE UNION, UNLESS THE CURRENT LEGAL FRAMEWORK WAS CHANGED

### *A. Background Information*

1. On 18 November 2013, the Directorate of Operations and Technology requested to the Directorate of Legal Affairs the preparation of a legal analysis on whether entities which are not officially designated by UPU member countries to operate postal services and to fulfil the related obligations arising out of the Acts of the Union countries (hereinafter the “non-DOs”) in accordance with article 1 *bis* paragraph 1.7 of the UPU Constitution (hereinafter the “Constitution”) are allowed to make use of certain official documents and forms established by the UPU.

2. It may be noted that the aforementioned request follows on specific inquiries which were made by certain UPU member countries and conveyed to the International Bureau of the UPU (hereinafter the “IB”) after the conclusion of the 2013.2 POC sessions.

### *B. Preliminary considerations pertaining to the potential use of official UPU documents and forms by non-DOs*

3. On a preliminary note, it needs to be mentioned that the 25th UPU Congress held at Doha in 2012 Instructed the Council of Administration (hereinafter the “CA”), through resolution C 7/2012, to conduct a “full product and service audit of offerings that the UPU has developed and provided”, to assess the “risks and benefits of allowing access to specific products and services to external stakeholders in the wider postal sector”, to “develop the governance principles and rules applicable to each product or service the UPU wishes to make available to wider postal sector players”, and finally to implement such policy and rules during the cycle of 2013–2016 and submit, if necessary, proposals to the 2016 UPU Congress.

4. As a result of the above decision, the CA assigned the overall conduct of this study to its Regulatory Issues Project Group, particularly in order to prepare an action plan concerning possible ways for enhancing the involvement and contribution of wider postal sector players in UPU activities, while at the same time preserving the UPU’s actual strengths such as “independence, neutrality and ensuring efficient and acceptable universal postal services of quality at a global level.”

5. In that regard, the 25th UPU Congress also acknowledged the increasing demand for the interconnection of wider postal sector players to various UPU services and products, and thereby recognized the imminent need for the UPU to establish a number of governance principles relating to this issue and which should be taken into account by the POC when it carries out its work in this connection.<sup>5</sup>

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<sup>5</sup> See document CA C 1 RIPG 2013.1-Doc 3 for further information relating to the various tasks assigned by Congress. In addition, pursuant to resolution C 6/2012, Congress instructed the CA to conduct a study with the aim of producing a definitive policy on the conditions of access for non-DOs to International Mail Processing Centre (IMPC) codes, as well as to other UPU products such as International Postal System applications (IPS, IPS Light), POST\*Net and POST\*Clear, in order to manage these access conditions in a properly regulated manner and in the interests of transparency and efficiency.

6. In the light of the above, it can be expected that the relevant questions regarding the possibility for non-DOs to use official UPU documents and forms will be further examined in detail within the framework of the most recent Congress decisions. Nevertheless, while the above-mentioned projects are currently under study and conclusive results may be reasonably expected for the end of the current Congress cycle, it is worth noting that such studies will most likely require a change of certain fundamental provisions within the UPU legal framework. Accordingly, this brief legal assessment is based on the current Acts of the Union and does not take into account any proposals associated with the implementation of actions pursuant to resolution C 7/2012.

### *C. Current status and situation within the UPU legal framework*

#### I. THE UPU AS AN INTERGOVERNMENTAL ORGANIZATION

7. The UPU is an intergovernmental organization and a specialized agency of the United Nations whose membership currently comprises 192 member countries.<sup>6</sup> As such, it contributes to the development of United Nations policies and activities which have a direct link with its mandate and mission as defined in the Constitution.

8. In the light of the above, the UPU is not only set up but also bound by international law and the treaties that constitute it. This is reflected in the Acts of the Union, which establish the basic legal framework of the organization as well as the international postal network of UPU member countries.

9. For that reason and in order to determine whether non-DOs may use official UPU documents and forms, one needs to examine the language contained in the Acts of the Union, consistently with the fundamental public international law tenet of literal interpretation of treaties (article 31 of the Vienna Convention on the Law of Treaties), by which “[a] treaty shall be ‘interpreted in good faith and in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.’”

#### II. THE UPU CONSTITUTION AND GENERAL REGULATIONS

10. The Constitution constitutes the basic act of the UPU and contains its most fundamental principles and organic rules applicable to the organization.

11. As mentioned above, countries that fulfil the requirements specified in article 2 of the Constitution can become members to the Union. As such, no private company or individual governmental entity (on its own) can hold any status of membership.

12. Nevertheless, article 1 *bis* paragraph 1.7 of the Constitution provides the definition of a designated operator, namely “any governmental or non-governmental entity officially designated by the member country to operate postal services and to fulfil the related obligations arising out of the Acts of the Union on its territory.”<sup>7</sup> Accordingly, and despite the respective member country being the actual member and signatory to the Acts of the Union, designated operators (hereinafter the “DOs”) are mandated to fulfil all or part of

<sup>6</sup> In more specific terms, 190 sovereign States as well as two non-self-governing territories to which earlier Congresses had granted the status of member countries.

<sup>7</sup> The same definition can be found in article 2.1.9 of the Universal Postal Convention.

the obligations arising out of the Acts on behalf of their respective member countries, regardless of the specific setup within a given member country (whereby some DOs may operate as private companies while others constitute a governmental entity belonging to a member country's public sector).

13. Consequently, even though postal markets may have already been liberalized in many UPU member countries, the intergovernmental status of the UPU implies that DOs are statutorily bound by the directives, instructions of their member country governments, as well as the related obligations arising out of the Acts of the Union. Further, only through the membership of a member country and the legal mandate entrusted in them as DOs can these entities enjoy certain benefits and prerogatives awarded to them in the exercise of the aforementioned mandate.

14. Such benefits and prerogatives would comprise a number of streamlined procedures applicable to postal operations and which are solely granted as part of a member country's overall obligation to satisfy, as indicated in article 1 *bis* paragraph 1.1 of the Constitution, certain social and economic objectives of that member country by ensuring the collection, sorting, transmission and delivery of postal items. Those procedures may for instance include simplified custom procedures, usage of certain technological systems and tools provided by the International Bureau of the UPU, development cooperation assistance for developing countries, emergency and disaster relief funds, development of common postal standards and exercise of freedom of transit obligations.

15. For informational purposes, it may be noted that the UPU General Regulations (hereinafter the "Gen Regs") define in article 118 the aim of the UPU Consultative Committee (hereinafter the "CC") "to represent the interests of the wider international postal sector, and to provide a framework for effective dialogue between stakeholders." The Gen Regs also determine in article 121 that the functions of the CC shall for instance comprise the examination of documents and reports from the UPU governing bodies; the preparation of studies concerning issues of importance to CC members; the consideration of issues affecting the postal services sector; and the provision of general input and recommendations to the UPU governing bodies on certain issues.

16. However, as can be seen from the above, nowhere in these international treaties does one find a possibility for non-DOs to make use of official UPU documents and forms or partake in the enjoyment of the benefits and prerogatives statutorily accorded to DOs for the necessary fulfilment of obligations arising from the Acts of the Union.

### III. THE UPU CONVENTION AND REGULATIONS

17. Similarly to the Constitution, the Universal Postal Convention (hereinafter the "Convention") provides, in its article 1.1.9 for the definition of a DO. This definition is further detailed in article 2 of the Convention, whereby "[m]ember countries shall notify the International Bureau [...] of the name and address of the governmental body responsible for overseeing postal affairs. [...] member countries shall also provide the International Bureau with the name and address of the operator or operators officially designated to operate postal services and to fulfil the obligations arising from the Acts of the Union on their territory."

18. Following the above provision, it is worth reiterating that the operation of all international postal services (whose scope is determined by the Acts of the Union), as well as the fulfilment of the various obligations arising from those Acts shall be guaranteed

by the member country and executed by its respective DO(s). These obligations relate to the various basic and supplementary postal services established and regulated by member countries, as well as a wide range of legal and operational aspects, including without limitation inquiries, liability, quality of service standards and remuneration conditions which a member country and its DO(s) shall respect in order to be able to comply with the international treaty obligations reflected in the Acts of the Union.

19. Moreover, the Convention refers in multiple occasions<sup>8</sup> to the Letter Post or Parcel Post Regulations (hereinafter the “LPR” or “PPR” respectively), which stipulate more detailed provisions concerning the description of postal services as well as applicable charges and operational requirements.<sup>9</sup> Within this context, the LPR and the PPR also define the relevant official UPU documents and forms to be used within the international postal network. Needless to say, these official UPU documents and forms are fully integrated into the respective UPU Regulations and form an intrinsic part of the legal framework of the Union.<sup>10</sup>

20. This understanding is clearly corroborated by articles RL 273 (of the LPR), RC 220 (of the PPR) and RP 1501 (of the Postal Payment Services Regulations), which unambiguously define a number of obligations and procedures relating to the preparation and use of forms by DOs.

21. Furthermore, nowhere in the LPR or PPR does one find rules that would allow (i) for the provision of postal services by non-DOs; or (ii) for the use of official UPU documents and forms by non-DOs, except as specifically authorized and referred to in the case of entities indirectly associated with the conveyance and processing of postal items, such as airlines and customs authorities. In fact, as per the provisions of the Constitution and the Convention, any such postal benefits, prerogatives and obligations are to be solely enjoyed, guaranteed and/or compiled with by UPU member countries and their DOs.

22. As a result, due to the specific status of the UPU as an intergovernmental organization (and unless otherwise decided by Congress at a later stage), only UPU member countries and their DOs (as well as the indirectly associated entities referred to in paragraph 21 above) are supposed to make use of official UPU documents and forms and benefit from any logistical or operational synergies related thereto—yet again, this stems from a fundamental need to ensure fulfilment of the international treaty obligations arising out of the Acts of the Union.

#### IV. RELATED INTERNATIONAL TREATIES AND GENERAL COMPARATIVE CONSIDERATIONS

23. The above considerations are supported by other international treaties to which the UPU has an indirect association. In this regard, the International Convention

<sup>8</sup> See for example article 14 of the Convention.

<sup>9</sup> This is also reflected in article 22.3 of the Constitution, which states that the “Universal Postal Convention, the Letter Post Regulations and the Parcel Post Regulations shall embody the rules applicable throughout the International postal service and the provisions concerning the letter-post and postal parcels services.” Likewise for the Regulations applicable to postal payment services, as indicated in article 22.4 of the Constitution.

<sup>10</sup> A cursory glance at the LPR, the PPR and the Postal Payment Services Regulations reveals, as of this date, at least 125 official UPU forms to be used exclusively by UPU member countries and their DOs in the operation of international postal services.

on the Simplification and Harmonization of Customs Procedures (hereinafter the “Kyoto Convention”), an international treaty administered by the World Customs Organization, pursues the objective of achieving a high degree of simplification and harmonization of Contracting Parties’ [i.e., member countries] customs procedures with a view to effectively contributing to the development of international trade and of other international exchanges.<sup>11</sup>

24. Likewise, the Kyoto Convention also defines, within its specific Annex J—Chapter 2 “Postal traffic”, the term “postal service” as “[...] a public or private body authorized by the government to provide the international services governed by the Acts of the Universal Postal Union currently in force”, which is perfectly in line with the definition of DO as provided for in the Acts of the Union. In addition, the same chapter of the Kyoto Convention provides for a simplified customs clearance procedure, which in consequence may only be used by DOs of UPU member countries.

25. Accordingly, as only DOs may benefit from the simplified procedures contained within the Kyoto Convention, any initiative to allow non-DOs to use the respective official UPU forms (such as the CN 22/23 forms described in the UPU Regulations) would constitute a deviation from Kyoto Convention provisions and a breach of the international commitments assumed by member countries.

26. Furthermore, with a view to the exclusiveness of the Acts of the Union, it needs to be noted that virtually all other international treaties are constructed in a similar way as far as intergovernmental organizations are concerned. Indeed, in cases where the involvement of private sector players is envisaged, a specific mention in the text of the treaty text is normally deemed necessary by Contracting States.

27. As an example, the Kyoto Protocol to the United Nations Framework Convention on Climate Change (hereinafter the “Kyoto Protocol”) sets binding obligations on industrialized countries to reduce greenhouse gas (hereinafter “GHG”) emissions. In this regard, several industrialized countries (generally considered as the actors responsible for the highest volumes of GHG emissions in the atmosphere), have agreed to legally binding limitations in their own GHG emissions. However, given the critical importance of involving the private sector in any effort to mitigate climate change, the Kyoto Protocol formally refers to private sector players into its operationalization of the three flexible mechanisms contained In the Kyoto Protocol.<sup>12</sup> Thus, the Kyoto Protocol allows various tasks to be performed by private actors during the CDM and JI project cycles, and contemplates their possible participation under article 17 of the Protocol on IET.

28. As already explained in paragraphs 15 and 16 above, similarities concerning the possible involvement of the private sector exist in comparison to the UPU, but only in so far as this involvement is limited to the participation of private sector players within the CC (or more broadly through the *ad hoc* participation of observers in meetings of the UPU bodies).

29. Even so, the possibility above should not be confounded with the exclusive statutory role of DOs which, despite being in some cases privately-owned entities operating in liberalized postal markets are nonetheless mandated by their respective member country

<sup>11</sup> The Kyoto Convention was originally adopted in 1974 and was subsequently revised in 1999; the revised Kyoto Convention came into force in 2006.

<sup>12</sup> Namely the Joint Implementation (JI) mechanism, the Clean Development Mechanism (COM) and the International Emissions Trading (IET) mechanism.



governments to either fulfil the entirety of the obligations arising out of the Acts of the Union or at least undertake activities on the operational side of those obligations. In any case, the situation within the UPU, as a technical Intergovernmental organization of the United Nations system with a definite set of rules agreed by its member countries, cannot be equated with other more permissive international legal frameworks such as the Kyoto Protocol.

#### *D. Conclusions*

30. In summary, the following conclusions may be drawn from the brief considerations above:

- Under the current provisions contained in the Acts of the Union, non-DOs cannot make use of any official UPU documents and forms. In logical terms, this would also apply to any private subsidiary entities of a DO, to the extent that such entities are not encompassed in the scope of official designation as DO by a UPU member country;
- Any operational benefits and prerogatives pertaining to the exercise of the mandate awarded to DOs by UPU member countries are solely established for the fulfilment of the obligations arising out of the Acts of the Union;
- In the light of the above and taking into account the current legal framework and the most recent Congress decisions (particularly resolutions C 6/2012 and C 7/2012), any future changes involving the possibility for non-DOs to use official UPU documents and forms shall be subject to a detailed study conducted by UPU member countries and the governing bodies of the Union.

[...]

28 February 2014



**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<sup>1</sup>

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

- (a) *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, 31 March 2014.
- (b) *Maritime Dispute (Peru v. Chile)*, Judgment, 27 January 2014.

##### 2. Advisory Opinions

No advisory opinions were delivered by the International Court of Justice in 2014.

##### 3. Pending cases and proceedings as at 31 December 2014

- (a) *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)* (2014–).
- (b) *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom)* (2014–).
- (c) *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. Pakistan)* (2014–).
- (d) *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)* (2014–).

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<sup>1</sup> The texts of the judgments, advisory opinions and orders are published in the ICJ Reports. Summaries of 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://legal.un.org/icjsummaries/>. For more information about the Court's activities see, for the period of 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) and, for the period of 1 August 2014 to 31 July 2015, Report of the International Court of Justice, Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 4 (A/70/4).

- (e) *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua)* (2014–).
- (f) *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia)* (2013–).
- (g) *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)* (2013–).
- (h) *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia)* (2013–).
- (i) *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)* (2013–).
- (j) *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)* (2011–).
- (k) *Certain Activities carried out by Nicaragua in Border Area (Costa Rica v. Nicaragua)* (2010–).
- (l) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)* (1999–).
- (m) *Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda)* (1999–).
- (n) *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)* (1993–).

## B. INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA<sup>2</sup>

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.<sup>3</sup> The Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea,<sup>4</sup> 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 and Orders

*Case No. 19—The M/V “Virginia G” Case (Panama/Guinea-Bissau)*, Judgment, 14 April 2014.

<sup>2</sup> For more information about the Tribunal’s activities, including relating to orders and judgments rendered in 2014, see the Annual report of the International Tribunal for the Law of the Sea for 2014 (SPLOS/278) and the Tribunal’s website at <https://www.itlos.org>.

<sup>3</sup> United Nations, *Treaty Series*, vol. 1833, p. 3.

<sup>4</sup> *Ibid.*, vol. 2000, p. 468.

## 2. Pending cases and proceedings as at 31 December 2014

- (a) *Case No. 23—Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire) (2014–).*
- (b) *Case No. 21—Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC) (2013–).*

### C. INTERNATIONAL CRIMINAL COURT<sup>5</sup>

The International Criminal Court is an independent permanent court established by the Rome Statute of the International Criminal Court, 1998.<sup>6</sup> The Relationship Agreement between the United Nations and the International Criminal Court, signed by the Secretary-General of the United Nations and the President of the Court on 4 October 2004, outlines the relationship between the two institutions.<sup>7</sup>

In 2014, the following situations were under investigation by the Office of the Prosecutor: Uganda,<sup>8</sup> Democratic Republic of the Congo,<sup>9</sup> Central African Republic,<sup>10</sup> Darfur (the Sudan),<sup>11</sup> Kenya,<sup>12</sup> Libya,<sup>13</sup> Côte d'Ivoire,<sup>14</sup> Mali,<sup>15</sup> and Central African Republic II.<sup>16</sup>

Additionally, in 2014 the Office of the Prosecutor conducted preliminary examinations in the situations in Afghanistan, Colombia, Comoros, Georgia, Guinea, Honduras, Iraq, Nigeria, Republic of Korea, and Ukraine. The situations of Comoros and in the Republic of Korea were closed in 2014 on the grounds that there was no reasonable basis to initiate an investigation.

<sup>5</sup> For more information about the Court's activities see Reports of the International Criminal Court, for the period 1 August 2013 to 31 July 2014 (A/69/321) and for the period 1 August 2014 to 31 July 2015 (A/70/350). See also the Court's website at <http://www.icc-cpi.int>. See also chapter III, part B of this publication.

<sup>6</sup> United Nations, *Treaty Series*, vol. 2187, p. 3.

<sup>7</sup> *Ibid.*, vol. 2283, p. 195.

<sup>8</sup> The situation was referred to the Court by Uganda in January 2004.

<sup>9</sup> The situation was referred to the Court by the Democratic Republic of the Congo in April 2004.

<sup>10</sup> The situation was referred to the Court by the Central African Republic in December 2004. The referral pertains to crimes within the jurisdiction of the Court committed anywhere on the territory of the Central African Republic since 1 July 2002.

<sup>11</sup> On 31 March 2005, the Security Council referred the situation in Darfur, the Sudan, to the Prosecutor of the Court by Security Council resolution 1593 (2005), adopted on 31 March 2005.

<sup>12</sup> On 31 March 2010, Pre-Trial Chamber II granted the Prosecutor's request to open an investigation *proprio motu* into the situation in Kenya.

<sup>13</sup> On 26 February 2011, the Security Council referred the situation in Libya to the Prosecutor of the Court by Security Council resolution 1970 (2011).

<sup>14</sup> On 3 October 2011, Pre-Trial Chamber III granted the Prosecutor's request to open an investigation *proprio motu* into the situation in Côte d'Ivoire.

<sup>15</sup> The situation was referred to the Court by Mali in July 2012.

<sup>16</sup> The situation was referred to the Court by the Central African Republic in May 2014. The referral pertains to crimes allegedly committed on the Central African Republic territory since 1 August 2012.

## 1. Situations and cases before the Court as at 31 December 2014

### (a) Situation in Uganda

#### *Pending case and proceeding*

*The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*, Case No. ICC-02/04-01/05.

### (b) Situation in the Democratic Republic of the Congo

#### (i) *Judgment delivered by the Trial Chamber*

*The Prosecutor v. Germain Katanga*, Case No. ICC-01/04-01/07, Judgment, 7 March 2014.

#### (ii) *Judgments delivered by the Appeals Chamber*

- (a) *The Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06, Judgment on the appeal of Mr. Thomas Lubanga Dyilo against his conviction, 1 December 2014.
- (b) *The Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06, Judgment on the appeals of the Prosecutor and Mr. Thomas Lubanga Dyilo against the “Decision on Sentence pursuant to Article 76 of the Statute”, 1 December 2014.

#### (iii) *Pending cases and proceedings*

- (a) *The Prosecutor v. Mathieu Ngudjolo Chui*, Case No. ICC-01/04-02/12.
- (b) *The Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06.
- (c) *The Prosecutor v. Sylvestre Mudacumura*, Case No. ICC-01/04-01/12.

### (c) Situation in Darfur, the Sudan

#### *Pending cases and proceedings*

- (a) *The Prosecutor v. Ahmad Muhammad Harun (“Ahmad Harun”) and Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”)*, Case No. ICC-02/05-01/07.
- (b) *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Case No. ICC-02/05-01/09.
- (c) *The Prosecutor v. Bahar Idriss Abu Garda*, Case No. ICC-02/05-02/09.
- (d) *The Prosecutor v. Abdallah Banda Abakaer Nourain*, Case No. ICC-02/05-03/09.
- (e) *The Prosecutor v. Abdel Raheem Muhammad Hussein*, Case No. ICC-02/05-01/12.

### (d) Situation in the Central African Republic

#### *Pending cases and proceedings*

- (a) *The Prosecutor v. Jean-Pierre Bemba Gombo*, Case No. ICC-01/05-01/08.

- (b) *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.

**(e) Situation in Kenya**

*Pending cases and proceedings*<sup>17</sup>

- (a) *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Case No. ICC-01/09-01/11.
- (b) *The Prosecutor v. Walter Osapiri Barasa*, Case No. ICC-01/09-01/13.

**(f) Situation in Libya**

(i) *Judgment delivered by the Appeals Chamber*

*The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*, Case No. ICC-01/11-01/11, Judgment on the appeal of Mr. Abdullah Al-Senussi against the decision of Pre-Trial Chamber I of 11 October 2013 entitled “Decision on the admissibility of the case against Abdullah Al-Senussi”, 24 July 2014.

(ii) *Pending case and proceeding*

*The Prosecutor v. Saif Al-Islam Gaddafi*, Case No. ICC-01/11-01/11.

**(g) Situation in Côte d’Ivoire**

*Pending cases and proceedings*

- (a) *The Prosecutor v. Laurent Gbagbo*, Case No. ICC-02/11-01/11.
- (b) *The Prosecutor v. Charles Blé Goudé*, Case No. ICC-02/11-02/11.
- (c) *The Prosecutor v. Simone Gbagbo*, Case No. ICC-02/11-01/12.

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<sup>17</sup> On 5 December 2014, the Office of the Prosecutor withdrew the charges against Uhuru Muigai Kenyatta in the Case No. ICC-01/09-02/11.

## D. INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA<sup>18</sup>

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), adopted on 25 May 1993.<sup>19</sup>

### 1. Judgements delivered by the Appeals Chamber

- (a) *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1-A, Judgement, 27 January 2014.
- (b) *Prosecutor v. Šainović et al.*, Case No. IT-05-87-A, Judgement, 23 January 2014.

### 2. Judgements delivered by the Trial Chambers

No judgements were delivered by the Trial Chambers of the International Criminal Tribunal for the former Yugoslavia in 2014.

## E. INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA<sup>20</sup>

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.<sup>21</sup>

<sup>18</sup> The texts of the indictments, decisions and judgements are published in the *Judicial Reports/ Recueils judiciaires* of the International Criminal Tribunal for the former Yugoslavia. 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 from 1 August 2013 to 31 July 2014, the Twenty-first 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/69/225-S/2014/556) and, for the period from 1 August 2014 to 31 July 2015, the Twenty-second 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/70/226-S/2015/585).

<sup>19</sup> The Statute of the Tribunal is annexed to the report of the Secretary-General pursuant to Security Council resolution 808 (1993) of 22 February 1993 (S/25704 and Add.1).

<sup>20</sup> The texts of the orders, decisions and judgements are published in the *Recueil des ordonnances, décisions et arrêts/Reports of Orders, Decisions and Judgements* of the International Criminal Tribunal for Rwanda. The texts are also available in English and French in the Tribunal's website at <https://www.unict.org>. For more information about the Tribunal's activities see, for the period 1 July 2013 to 30 June 2014, 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) and, for the period 1 July 2014 to 30 June 2015, the Twentieth 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/70/218-S/2015/577).

<sup>21</sup> The Statute of the Tribunal is in the annex to the resolution.



### Judgements delivered by the Appeals Chamber

- (a) *Édouard Karemera and Matthieu Ngirumpatse v. The Prosecutor*, Case No. ICTR-98-44-A, Judgement, 29 September 2014.
- (b) *Callixte Nzabonimana v. The Prosecutor*, Case No. ICTR-98-44D-A, Judgement, 29 September 2014.
- (c) *Ildéphonse Nizeyimana v. The Prosecutor*, Case No. ICTR-00-55C-A, Judgement, 29 September 2014.
- (d) *Augustin Bizimungu v. The Prosecutor*, Case No. ICTR-00-56B-A, Judgement, 30 June 2014.
- (e) *Ndindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Judgement, 11 February 2014.

### F. MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS<sup>22</sup>

The International Residual Mechanism for Criminal Tribunals was established in 2010 by Security Council resolution 1966 (2010), adopted on 22 December 2010.<sup>23</sup> The Mechanism was created to carry out certain residual functions of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, including trial and appellate proceedings, the supervision and enforcement of sentences, and tracking the remaining fugitives.

The Appeals Chamber of the Mechanism delivered its first judgement in 2014.

#### Judgement

*Augustin Ngirabatware v. The Prosecutor*, Case No. MICT-12-29-A, Judgement, 18 December 2014.

### G. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA<sup>24</sup>

The Agreement between the United Nations and the Royal Government of Cambodia concerning the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea, signed in Phnom Penh on 6 June 2003,<sup>25</sup> entered into force on

<sup>22</sup> The texts of the orders, decisions and judgements are available on the Mechanism's website at <http://www.unmict.org>. For more information about the Mechanism's activities, see the Second annual report of the International Residual Mechanism for Criminal Tribunals, for the period 1 July 2013 to 30 June 2014 (A/69/226-S/2014/555) and, for the period 1 July 2014 to 30 June 2015, and Third annual report of the International Residual Mechanism for Criminal Tribunals (A/70/225-S/2015/586).

<sup>23</sup> The Statute of the Mechanism is contained in the annex to the resolution.

<sup>24</sup> The texts of the judgements, decisions and orders of the Extraordinary Chambers in the Courts of Cambodia are available on its website at <http://www.eccc.gov.kh>. For more information on the Court's activities see the Report of the Secretary-General on the Request for a subvention to the Extraordinary Chambers in the Courts of Cambodia of 20 October 2014 (A/69/536).

<sup>25</sup> United Nations, *Treaty Series*, vol. 2329, p. 117.

29 April 2005 and established the Extraordinary Chambers in the Courts of Cambodia to prosecute crimes committed during the period of Democratic Kampuchea.

### **Judgement and decision delivered by the Trial Chamber**

- (a) *Nuon Chea and Khieu Samphan*, Case No. 002/19-09-2007/ECCC/TC, Decision on Defence Preliminary Objection regarding Jurisdiction over the crime against humanity of deportation, 29 September 2014.
- (b) *Nuon Chea and Khieu Samphan*, Case No. 002/19-09-2007/ECCC/TC, Judgement, 7 August 2014.

## **H. SPECIAL TRIBUNAL FOR LEBANON<sup>26</sup>**

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,<sup>27</sup> and to the Security Council resolution 1757 (2007) adopted on 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.

### **1. Decisions delivered by the Contempt Judge**

- (a) *Akhbar Beirut S.A.L. and Ibrahim Mohamed Ali Al Amin*, Case No. STL-14-06/PT/CJ, Decision on Motion Challenging Jurisdiction, 6 November 2014.
- (b) *NEW TV S.A.L. and Karma Mohamed Tahsin Al Khayat*, Case No. STL-14-05/PT/CJ, Decision on Motion Challenging Jurisdiction and on Request for Leave to Amend Order in Lieu of an Indictment, 24 July 2014.

### **2. Decision delivered by the Appeals Chamber**

*NEW TV S.A.L. and Karma Mohamed Tahsin Al Khayat*, Case No. STL-14-05/PT/AP/AR126.1, Decision on Interlocutory Appeal Concerning Personal Jurisdiction in Contempt Proceedings, 2 October 2014.

### **3. Pending cases and proceedings as at 31 December 2014**

- (a) *The Prosecutor v. Ayyash et al.*, Case No. STL-11-01.
- (b) *NEW TV S.A.L. and Karma Mohamed Tahsin Al Khayat*, Case No. STL-14-05.
- (c) *Akhbar Beirut S.A.L. and Ibrahim Mohamed Ali Al Amin*, Case No. STL-14-06.

<sup>26</sup> The texts of the indictments, decisions and orders of the Special Tribunal for Lebanon are available on the Tribunal's website at <http://www.stl-tsl.org>. For more information on the Tribunal's activities see for the period 1 March 2013 to 28 February 2014, the Fifth annual report of the Special Tribunal for Lebanon, and, for the period from 1 March 2014 to 28 February 2015, the Sixth annual report of the Special Tribunal for Lebanon.

<sup>27</sup> United Nations, *Treaty Series*, vol. 2461, p. 257.

## I. RESIDUAL SPECIAL COURT FOR SIERRA LEONE<sup>28</sup>

The Special Court for Sierra Leone<sup>29</sup> was 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, 2002.<sup>30</sup> The Special Court was mandated to try those who bore the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.

As the Special Court completed its mandate and finished its judicial activities in 2013, the Residual Special Court for Sierra Leone superseded the Special Court. The Residual Special Court was established pursuant to an Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone,<sup>31</sup> signed in 2010 and entered into force in 2012.

The purpose of the Residual Special Court is to carry out the continuing obligations of the Special Court after its closure in 2013, such as witness protection, supervision of prison sentences, and management of the Special Court's archives. Johnny Paul Koroma is the only indicted person by the Special Court who is not in custody. Should he be arrested, the Residual Special Court will have jurisdiction to try him.

No judgments were delivered by the Residual Special Court for Sierra Leone in 2014.

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<sup>28</sup> The texts of the decisions delivered by the Residual Special Court for Sierra Leone are available at the Residual Special Court's website at <http://www.rscsl.org>. For more information on the Court's activities see the First annual report of the President of the Residual Special Court for Sierra Leone, which is available at <http://www.rscsl.org/Documents/AnRpt2014.pdf>.

<sup>29</sup> The texts of the judgements and decisions delivered by the Special Court for Sierra Leone are available at the Residual Special Court's website at <http://www.rscsl.org>. For more information on the Court's activities see the Eleventh and Final report of the President of the Special Court for Sierra Leone, which is available at <http://www.rscsl.org/Documents/AnRpt11.pdf>.

<sup>30</sup> For the text of the Agreement and the Statute of the Special Court dated 26 January 2002, see United Nations, *Treaty Series*, vol. 2178, p. 137.

<sup>31</sup> For the text of the Agreement and the Statute of the Residual Special Court dated 29 July 2010 see United Nations, *Treaty Series*, vol. 2871, p. 333. See also the Exchange of letters constituting an agreement between the United Nations and the Government of Sierra Leone regarding the interpretation and application of Article 6 of the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Residual Special Court for Sierra Leone, United Nations, *Treaty Series*, vol. 2980.



## Chapter VIII

### DECISIONS OF NATIONAL TRIBUNALS

#### AUSTRIA

*Austrian Supreme Court, Decision of 23 April 2014, 10ObS40/14a*

CLAIM FOR CHILDCARE ALLOWANCE OUT OF THE AUSTRIAN FAMILY BURDEN EQUALIZATION FUND BY EMPLOYEE OF THE UNITED NATIONS OFFICE ON DRUGS AND CRIME IN VIENNA—EXCLUSION OF NON-AUSTRIAN UNITED NATIONS OFFICIALS UNDER SECTION 39 LIT. (B) OF THE HEADQUARTERS AGREEMENT DUE TO PRIVILEGES AND IMMUNITIES RESULTING FROM STATUS AS UNITED NATIONS OFFICIALS—PRECEDENCE OF THE HEADQUARTERS AGREEMENT OVER RELEVANT NATIONAL LAWS PROVIDING FOR CHILDCARE ALLOWANCE

In 2014, the Austrian Supreme Court dealt with the claim of an employee of the United Nations Office on Drugs and Crime (UNODC) against the Vienna Regional Health Insurance Fund concerning childcare allowance. By decision of 29 February 2012, the Respondent had rejected the Claimant's application for childcare allowance for her daughter born on 15 January 2012, pointing to Section 39 lit. (b) of the Agreement between the Republic of Austria and the United Nations regarding the Seat of the United Nations in Vienna (hereinafter referred to as "Headquarters Agreement"). According to this provision "Officials of the United Nations and the members of their families living in the same household to whom this Agreement applies shall not be entitled to payments out of the Family Burden Equalization Fund or an instrument with equivalent objectives, unless such persons are Austrian nationals or stateless persons resident in Austria". The claimant, a citizen of the Russian Federation, challenged the Respondent's decision to reject her application for childcare allowance, arguing that the exclusion provided for in Section 39 lit. (b) of the Headquarters Agreement was not applicable in her case because her husband and child were Austrian citizens. She argued that the rejection of her childcare allowance application would subject an Austrian citizen married to a non-Austrian United Nations employee to additional financial burden, for which there was no justification. The Claimant further emphasized that despite her position as employee of the United Nations she did not enjoy immunity or diplomatic privileges.

The court of first instance dismissed the claim and stated that childcare allowance was encompassed by Section 39 lit. (b) of the Headquarters Agreement. In view of the tax privileges that the Claimant enjoyed as an employee of the United Nations, the exclusion did not constitute an unjustified differentiation. The childcare allowance was financed out of the Austrian Family Burden Equalization Fund to which employees of the United Nations did not contribute. The fact that the Claimant was the only family member who did not hold Austrian citizenship was not relevant. According to Section 37 lit. (f) of the Headquarters Agreement, officials of the United Nations assigned to Vienna enjoy "[e]xemption from

taxation on all income and property of officials and members of their families forming part of their households, insofar as such income derives from sources, or insofar as such property is located, outside the Republic of Austria". The citizenship of further family members was irrelevant under Section 37 lit. (f). As a member of the Claimant's household, the Austrian spouse also participated in the Claimant's privileges enjoyed by virtue of her employment with the United Nations. The Claimant further argued that Section 39 lit. (b) had to be interpreted in conformity with the principle of equal treatment according to the Austrian Constitution. This argument was rejected with reference to Section 53 lit. (b) of the Headquarters Agreement which stated that "[p]rivileges and immunities are granted to officials and experts on mission, in the interests of the United Nations and not for the personal benefit of the individuals themselves". The individual interests of the claimant were not relevant for the interpretation of the provision, as the privileges and immunities were granted in the interest of the United Nations, not the individual.

The appeal court confirmed the ruling by the court of first instance and underlined that the reason for the exception in Section 39 lit. (b) was the fact that the persons covered enjoyed a number of privileges as a consequence of their employment with the United Nations. The actual impact of the privileges on the income of the Claimant as well as the extent of concrete economic advantages was irrelevant. The Claimant's interpretation of the Section in question would require an assessment in every single case whether and to which extent employees of the United Nations benefitted from the privileges granted in the Headquarters Agreement. This approach had not been intended by the parties to the Headquarters Agreement. As the court of first instance, the appeal court underlined that the claimant's husband, albeit being an Austrian citizen, participated in the privileges enjoyed by his wife.

Before the Supreme Court, the Claimant repeated that she in fact had not enjoyed any financial advantages as a result of the privileges accorded under the Headquarters Agreement. Therefore, her exclusion from the childcare allowance was not justified. The Respondent countered that the mere fact that the claimant was working for the United Nations was sufficient for her falling under the exception of Section 39 lit. (b) of the Headquarters Agreement. The Court came to the conclusion that the Headquarters Agreement had precedence over the respective national laws providing for childcare allowance, namely the Childcare Allowance Act (Kinderbetreuungsgeldgesetz-KBGG) and the Austrian Family Charges Equalization Act (Familienlastenausgleichsgesetz-FLAG), to which the KBGG refers. The exception provided in Section 39 lit. (b) of the Headquarters Agreement constituted a special norm applicable to specified persons. The Claimant, being a citizen of a third state, lacked the entitlement to allowance according to the laws mentioned above. The Austrian husband would be able to apply for the childcare allowance if the further requirements were met. The Claimant's argument that she only enjoyed minor privileges under the Headquarters Agreement was rejected.

The Supreme Court also decided in a similar case between a Lebanese citizen married to an Austrian who was working for the International Atomic Energy Agency, and the Vienna Regional Health Insurance Fund concerning childcare allowance (see decision of 28 January 2014 of the Austrian Supreme Court 10ObS170/13t).

**Part Four**  
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# The United Nations System

## UN PRINCIPAL ORGANS

### GENERAL ASSEMBLY

### SECURITY COUNCIL

### ECONOMIC AND SOCIAL COUNCIL

### SECRETARIAT

### INTERNATIONAL COURT OF JUSTICE

### TRUSTEESHIP COUNCIL<sup>6</sup>

#### Subsidiary Organs

- Main Committees
- Disarmament Commission
- Human Rights Council
- International Law Commission
- Joint Inspection Unit (JIU)
- Standing committees and ad hoc bodies

#### Funds and Programmes<sup>1</sup>

- UNDP** United Nations Development Programme
- **UNCDF** United Nations Capital Development Fund
  - **UNV** United Nations Volunteers
- UNEP**<sup>8</sup> United Nations Environment Programme
- UNFPA** United Nations Population Fund
- UN-Habitat**<sup>8</sup> United Nations Human Settlements Programme
- UNICEF** United Nations Children's Fund
- WFP** World Food Programme (UN/FAO)

#### Subsidiary Organs

- Counter-Terrorism Committee
- International Tribunal for the former Yugoslavia (ICTY)
- International Residual Mechanism for Criminal Tribunals
- Military Staff Committee

#### Functional Commissions

- Crime Prevention and Criminal Justice
- Narcotic Drugs
- Population and Development
- Science and Technology for Development
- Social Development
- Statistics
- Status of Women
- United Nations Forum on Forests

#### Regional Commissions<sup>8</sup>

- 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
- ESCSA** Economic and Social Commission for Western Asia

#### Departments and Offices<sup>9</sup>

- 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
- ODA** Office for Disarmament Affairs
- OHCHR** Office of the United Nations High Commissioner for Human Rights
- OIOS** Office of Internal Oversight Services
- OLA** Office of Legal Affairs
- OSAA** Office of the Special Adviser on Africa
- PBSO** Peacebuilding Support Office
- SRSG/CAAC** Office of the Special Representative of the Secretary-General for Children and Armed Conflict
- SRSG/SVC** Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict
- SRSG/VAC** Office of the Special Representative of the Secretary-General on Violence Against Children
- UNISDR** United Nations Office for Disaster Risk Reduction

### Research and Training

**UNIDIR** United Nations Institute for Disarmament Research  
**UNITAR** United Nations Institute for Training and Research  
**UNSSC** United Nations System Staff College  
**UNU** United Nations University

### Other Entities

**ITC** International Trade Centre (UN/WTO)  
**UNCTAD**<sup>1,8</sup> United Nations Conference on Trade and Development  
**UNHCR**<sup>1</sup> Office of the United Nations High Commissioner for Refugees  
**UNOPS**<sup>1</sup> United Nations Office for Project Services  
**UNRWA**<sup>1</sup> United Nations Relief and Works Agency for Palestine Refugees in the Near East  
**UN-Women**<sup>1</sup> United Nations Entity for Gender equality and the Empowerment of Women

### Related Organizations

**CTBTO Preparatory Commission** Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization  
**IAEA**<sup>1,3</sup> International Atomic Energy Agency  
**ICC** International Criminal Court  
**IOM**<sup>1</sup> International Organization for Migration  
**ISA** International Seabed Authority  
**ITLOS** International Tribunal for the Law of the Sea  
**OPCW**<sup>3</sup> Organization for the Prohibition of Chemical Weapons  
**WTO**<sup>1,4</sup> World Trade Organization

**Peacebuilding Commission**

**HLPF** High-level political forum on sustainable development

- Peacekeeping operations and political missions
- Sanctions committees (ad hoc)
- Standing committees and ad hoc bodies

### Other Bodies

- Committee for Development Policy
  - Committee of Experts on Public Administration
  - Committee on Non-Governmental Organizations
  - Permanent Forum on Indigenous Issues
- UNAIDS** Joint United Nations Programme on HIV/AIDS  
**UNGEGN** United Nations Group of Experts on Geographical Names

### Research and Training

**UNICRI** United Nations Interregional Crime and Justice Research Institute  
**UNRISD** United Nations Research Institute for Social Development

**UNODC**<sup>1</sup> United Nations Office on Drugs and Crime  
**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  
**UNOP**<sup>2</sup> United Nations Office for Partnerships  
**UNOV** United Nations Office at Vienna

### Specialized Agencies<sup>1,5</sup>

**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**<sup>7</sup>

- **IBRD** International Bank for Reconstruction and Development
- **IDA** International Development Association
- **IFC** International Finance Corporation

#### Notes:

- <sup>1</sup> Members of the United Nations System Chief Executives Board for Coordination (CEB).
- <sup>2</sup> UN Office for Partnerships (UNOP) is the UN's focal point vis-a-vis the United Nations Foundation, Inc.
- <sup>3</sup> IAEA and OPCW report to the Security Council and the General Assembly (GA).
- <sup>4</sup> 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.
- <sup>5</sup> Specialized agencies are autonomous organizations whose work is coordinated through ECOSOC (intergovernmental level) and CEB (inter-secretariat level).
- <sup>6</sup> The Trusteeship Council suspended operation on 1 November 1994, as on 1 October 1994 Palau, the last United Nations Trust Territory, became independent.
- <sup>7</sup> International Centre for Settlement of Investment Disputes (ICSID) and Multilateral Investment Guarantee Agency (MIGA) are not specialized agencies in accordance with Articles 57 and 63 of the Charter, but are part of the World Bank Group.
- <sup>8</sup> The secretariats of these organs are part of the UN Secretariat.
- <sup>9</sup> The Secretariat also includes the following offices: The Ethics Office, United Nations Ombudsman and Mediation Services, Office of Administration of Justice and the Office on Sport for Development and Peace

This Chart is a reflection of the functional organization of the United Nations System and for informational purposes only. It does not include all offices or entities of the United Nations System.

