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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-third 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 2015.

Chapter VIII contains decisions given in 2015 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
AU-RTF	African Union-Regional Task Force
BNUB	United Nations Office in Burundi
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
EUMAM RCA	European Union Military Advisory Mission in the Central African Republic
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
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)
JCPOA	Joint Comprehensive Plan of Action
LCBC	Lake Chad Basin Commission
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
MNJTF	Multinational Joint Task Force (Chad Bassin)
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
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
OPCW-JIM	Organization for the Prohibition of Chemical Weapons – United Nations Joint Investigative Mechanism

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
UNISFA	United Nations Interim Security Force for Abyei
UNISS	United Nations Integrated Strategy for the Sahel
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
UNSOS	United Nations Support Office 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

[No legislative texts concerning the legal status of the United Nations and related intergovernmental organizations are to be reported for 2015.]

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[**]

Timor-Leste and Saudi Arabia acceded to the Convention on 23 January 2015 and 3 September 2015, respectively. As at 31 December 2015, there were 162 States parties to the Convention.[***]

2. Agreements relating to missions, offices and meetings

(*a*) Agreement between the United Nations and the Government of the Republic of Liberia on the Status of the United Nations Mission for Ebola Emergency Response[****]

I. Definitions and composition

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

(*a*) "The Mission" means the United Nations Mission for Ebola Emergency Response (UNMEER) established by the Secretary-General of the United Nations in his identical letters to the Presidents of the Security Council and the General Assembly of 17 September 2014 and welcomed by the General Assembly in its resolution 69/1 of 19 September 2014.

(i) The "Secretary-General's Special Envoy" means the Special Envoy appointed by the Secretary-General of the United Nations, in consultation with the Director-General of the World Health Organization (hereinafter, "WHO");

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[*] 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 12 January 2015 by signature, in accordance with article XI. United Nations registration no. I-52478.

(ii) The "Special Representative of the Secretary-General means the Special Representative appointed by the Secretary-General (hereinafter, the "SRSG") who shall also be the Head of the Mission. Any reference to the SRSG in this Agreement shall, except in paragraph 29 below, include any member of the Mission to whom he or she delegates a specified function or authority. It shall also include, including in paragraph 29 below, any member of the Mission whom the Secretary-General of the United Nations may designate as acting SRSG.

(*b*) A "member of the Mission" means the Special Representative of the Secretary-General and any member of the Mission including officials, experts on mission and other personnel of the United Nations and its funds and programmes, or of United Nations System Organizations;

(*c*) "The Government" means the Government of the Republic of Liberia;

(*d*) "The territory" means the territory of the Republic of Liberia;

(*e*) "The United Nations 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 Republic of Liberia is a Party;

(*f*) "The Specialized Agencies Convention" means the Convention on the Privileges and Immunities of the Specialized Agencies[**] adopted by the General Assembly of the United Nations on 21 November 1947;

(*g*) A "contributing State or organization" means a Member State of the United Nations or an intergovernmental organization (other than a United Nations System Organization), or a nongovernmental organization designated by the SRSG, providing personnel, equipment, services, provisions, supplies, materials or other goods, including spare parts and means of transport, including vehicles, aircraft and vessels, as well as medical items, equipment or supplies, to or for the purposes of the Mission; Such contributing States and organizations shall not be considered third party beneficiaries to this Agreement;

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

(*i*) "Vehicles" means civilian and military vehicles in use by or for purposes of the Mission and operated by members of the Mission, contributing States or organizations or contractors in support of the activities and purposes of the Mission;

(*j*) "Aircraft" means civilian and military aircraft in use by or for purposes of the Mission and operated by members of the Mission, contributing States or organizations or contractors in support of the activities and purposes of the Mission;

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

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

(*k*) "Vessels" means civilian and military vessels in use by or for purposes of the Mission and operated by members of the Mission, contributing States or organizations or contractors in sup-port of the activities and purposes of the Mission;

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 and for purposes of the Mission or to any member thereof or to contractors thereunder shall apply in the Republic of Liberia.

3. Without prejudice to existing agreements regarding their legal status and operations in the Republic of Liberia, the provisions of the present Agreement shall apply to offices, funds and programmes of the United Nations, their properly, funds and assets and their officials and experts on mission that perform functions in relation to or for purposes of the Mission.

4. Without prejudice to existing agreements regarding their legal status and operations in the Republic of Liberia, the provisions of the present Agreement shall apply to the United Nations System Organizations, their property, funds and assets and their officials and experts on mission that perform functions in relation to or for purposes of the Mission.

5. Without prejudice to existing agreements regarding their legal status and operations in the Republic of Liberia, the provisions of the present Agreement, where so provided, shall also apply, *mutatis mutandis*, to contributing States or other organizations, their personnel, services, equipment, provisions, supplies, materials or other goods, including spare parts and means of transport, including vehicles, aircraft and vessels provided to or for the purposes of the Mission.

III. Application of the United Nations General Convention

6. The 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 United Nations General Convention in addition to any privileges and immunities that may be conferred to the WHO and other specialized agencies under the Specialized Agencies Convention. In addition, the Secretary-General's Special Envoy as well as the SRSG and all members of the Mission shall be accorded the same repatriation facilities in time of international crisis as diplomatic envoys.

7. Article II of the United Nations General Convention shall apply to the Mission and to the property, funds and assets of contributing States and organizations used for purposes of the Mission.

IV. Status of the Mission

8. The 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 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 Mission and its members shall respect all local laws and regulations. The SRSG shall take all appropriate measures to ensure the observance of these obligations.

9. The Government undertakes to respect the exclusively international nature of the Mission. Flags, markings and identification

10. The Government recognizes the right of the United Nations and the United Nations System Organizations to display their respective flags on the headquarters of the Mission and its other premises and on vehicles, aircraft and vessels and otherwise as decided by the SRSG. Other flags or pennants may be displayed only in exceptional cases. In such cases, the Mission shall give sympathetic consideration to observations or requests of the Government.

11. Vehicles, aircraft and vessels of the Mission shall carry a distinctive United Nations identification and/or United Nations System Organization identification, which shall be notified to the Government.

Communications

12. In addition to the privileges and immunities enjoyed by the United Nations and the other United Nations System Organizations respectively under the United Nations General Convention and the Specialized Agencies Convention, the Mission shall enjoy in the territory for its official communications treatment not less favourable than that accorded by the Government 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 Mission. All communications directed to the Mission and all outward communications of the Mission, by whatever means or whatever form transmitted, shall be unrestricted and inviolable. The Mission shall have the right to use codes and to dispatch and receive its correspondence and other official communications by courier or in bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

13. Subject to the provisions of paragraph 12:

(*a*) The 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 Republic of Liberia and abroad. Programmes broadcast on such stations shall be under the exclusive editorial control of the Mission and shall not be subject to any form of censorship. The Mission shall make the broadcast signal of such stations available to the national broadcaster upon request for further dissemination through the 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 cooperation with the Government. If no decision has been reached two (2) working days after the matter has been raised by the SRSG with the Government, the Government shall immediately allocate suitable frequencies for use by such stations. The 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 Mission shall have the right to disseminate to the public in the Republic of Liberia and to the public abroad information relating to its mandate and its role through any means, including electronic media, websites, social media, webcasts, data feeds and

online and messaging services, including short messaging services (SMS) as well as through radio and television programmes. The content of data disseminated through such media shall be under the exclusive editorial control of the Mission and shall not be subject to any form of censorship. The Mission 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*) The Mission shall have the right to disseminate to the public in the Republic of Liberia and to the public abroad information relating to its mandate and its role through official printed documents and publications, which it may produce itself or through private publishing companies in the Republic of Liberia. The content of such documents and publications shall be under the exclusive editorial control of the United Nations and shall not be subject to any form of censorship. The 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 Republic of Liberia which the Mission may use for the production, publication or dissemination of such materials or publications.

(*d*) The Mission shall have the right to install and operate radio sending, receiving and repeater stations, as well as satellite systems, in order to connect appropriate points within the territory of the Republic of Liberia with each other and with United Nations and United Nations System offices in other countries, and to exchange telephone, voice, facsimile and other electronic data with United Nations and United Nations System global telecommunications 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 two (2) working days after the matter has been raised by the SRSG with the Government, the Government shall immediately allocate suitable frequencies to the Mission for this purpose. The 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 Mission shall enjoy, within the territory of the Republic of Liberia, 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 Mission or of the United Nations and United Nations System Organizations 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 aforementioned premises) shall be decided upon in cooperation with the Government and shall be allocated expeditiously. The Government shall, within two (2) working days of being so requested by the SRSG, allocate suitable frequencies for this purpose. The Mission shall be exempt from any taxes on and fees for the allocation of frequencies for this purpose, as well as from any taxes on and fees for their use. Connections with the local telephone and electronic data systems

* League of Nations, *Treaty Series*, vol. 151, p. 5.

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 Mission may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of the 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 Mission or its members. In the event that postal arrangements applying to private mail of members of the 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

14. The 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 Mission or of contributing States or organizations for purposes of the Mission, shall enjoy full and unrestricted freedom of movement without delay throughout the Republic of Liberia 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 14(*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 Republic of Liberia, be coordinated with the Government to the extent possible.

(*b*) Not later than two (2) working days after this Agreement enters into force, the Government shall inform the SRSG of the standing diplomatic clearance number for the aircraft of the Mission, including aircraft of contractors used exclusively in the performance of services for the Mission or of contributing States or organizations for purposes of the Mission. When using its own aircraft, including aircraft of contractors used exclusively in the performance of services for the Mission, the Mission shall provide the Government with a flight plan prior to entering the airspace of the Republic of Liberia, 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 Mission from the last airfield prior to entering the airspace of the Republic of Liberia, unless the Mission has given less than three (3) hours notice of its flight's departure.

15. The Government shall, where necessary, provide the 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 Mission's movements and ensuring the safety and security of its members and contractors.

16. The Mission's vehicles, aircraft and vessels, including vehicles, aircraft and vessels of contractors used exclusively in the performance of services for the Mission or of contributing States and organizations for purposes of the Mission, shall not be subject to registration or licensing by the Government, provided that all vehicles, aircraft and vessels shall carry third party insurance. The Mission shall provide the Government, from time to time, with updated lists of the Mission's vehicles, aircraft and vessels. Upon request, the Government shall provide parking, servicing and fuel as required by the Mission for its

vehicles, aircraft and vessels, including vehicles, aircraft and vessels of contractors used exclusively in the performance of services for the Mission. Without prejudice to paragraph 17 below, the Mission shall bear the cost of such fuel and services, if any.

17. The 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 Mission or of contributing States or organizations for purposes of the 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 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 Mission

18. The 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 6 of the present Agreement, the 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 United Nations General Convention and the Specialized Agencies Convention respectively. Its Contractors as well as contributing States and organizations shall enjoy the facilities provided for in specific provisions of 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 Mission, including the equipment and samples carried by the Mission members and any information generated, received, stored or processed by the Mission;

(*b*) The Mission may, free of any duty, taxes, fees and charges and free of other prohibitions and restrictions, transfer funds and currencies to or from the Republic of Liberia, to or from any other State, or within the Republic of Liberia, and convert any currency held by it into any other currency;

(*c*) The right of the Mission, as well as of its contractors and of contributing States and organizations, 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 Mission or in the case of contributing States and organizations for purposes of the Mission. For this purpose, the Government agrees to expeditiously establish, at the request of the Mission, temporary customs clearance facilities for the Mission, and its contractors as well as for contributing States and organizations, at locations in the Republic of Liberia convenient for the Mission not previously designated as official ports and points of entry to the Republic of Liberia;

(*d*) The right of the Mission as well as of its contractors as well as of contributing States and organizations, 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 ate for the exclusive and official use of or for purposes of the Mission;

(*e*) The right of the Mission, as well as of its contractors as well as of contributing States and organizations, 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 of the Republic of Liberia 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 Mission and the Government at the earliest possible date.

V. Facilities for the Mission and its contractors

Premises required for conducting the operational and administrative activities of the Mission

19. The Government shall provide, to the extent possible without cost to the Mission, in agreement with the SRSG, 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 Mission, including the establishment of the necessary facilities for maintaining communications in accordance with paragraph 13 of the present Agreement. Without prejudice to the fact that all such premises remain territory of the Republic of Liberia, they shall be inviolable and subject to the exclusive control and authority of the United Nations. The Government shall guarantee unimpeded access to such premises.

20. The Government undertakes to assist the 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 are not provided free of charge, payment shall be made by the Mission on terms to be agreed with the competent authority. 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 the Mission as to essential government services.

21. The 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.

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

Provisions, supplies and services, and sanitary arrangements

23. 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 as well as medical items, equipment and supplies, used in support of or for purposes of the Mission, including in respect of import by contractors and by contributing States and organizations, 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 and without the payment of monetary contributions, duties, fees, charges or taxes.

24. The Government shall assist the Mission 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 Mission or by contractors for the official and exclusive use of the 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 Mission and contractors from general sales taxes in respect of all local purchases for official use. In making purchases on the local market, the 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.

25. For the proper performance of the services provided by contractors and contributing States and organizations, other than Liberian nationals resident in the Republic of Liberia, in support of or for purposes of the Mission, the Government agrees to exempt them from any necessary visas, permits, registrations and licenses and to provide them with facilities for their entry into and departure from the Republic of Liberia, without delay or hindrance, as well as for their repatriation in times of crisis. Contractors, other than Liberian nationals resident in the Republic of Liberia, as well as contributing States and organizations, shall be accorded exemption from taxes and monetary contributions in the Republic of Liberia on services, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, provided to or for purposes of the Mission, including corporate, income, social security and other similar taxes arising directly from or related directly to the provision of such services or goods.

26. The Mission 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. In particular, the Government shall provide the 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

27. The Mission may recruit locally such personnel as it requires. Upon the request of the SRSG, the Government undertakes to facilitate the recruitment of qualified local staff by the Mission and to accelerate the process of such recruitment.

Currency

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

VI. Status of the members of the Mission

Privileges and immunities

29. The Secretary-General's Special Envoy as well as the SRSG and such other high-ranking members of the Mission as may be agreed upon with the Government shall have the status specified in Sections 19 and 27 of the United Nations General Convention, including the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

30. Officials of the United Nations assigned to serve with the Mission, as well as United Nations Volunteers, who shall be assimilated thereto, shall remain officials of the United Nations entitled to the privileges and immunities of Articles V and VII of the United Nations General Convention. Officials of the United Nations System Organizations shall remain officials of their respective specialized agency entitled to the privileges and immunities of Articles VI and VIII of the Specialized Agencies Convention.

31. Without prejudice to the privileges and immunities that they may otherwise enjoy under the Specialized Agencies Conventions, the experts on mission of the United Nations Systems Organizations whose names are for that purpose notified to the Government by the SRSG shall be considered as experts on mission within the meaning of Article VII of the United Nations General Convention and shall enjoy the privileges, immunities, exemptions and facilities set out in that Article and in Article VI11 of the United Nations General Convention.

32. Other persons and experts, engaged by the Mission, other than United Nations officials, whose names are for that purpose notified to the Government by the SRSG shall be considered as experts on mission within the meaning of Article VI of the United Nations General Convention and shall enjoy the privileges, immunities, exemptions and facilities set out in that Article V and in Article VII of the United Nations General Convention.

33. Locally recruited personnel of the Mission, with the exception of those assigned to hourly rates, 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 United Nations General Convention.

34. Members of the Mission shall be exempt from taxation in respect of salaries and emoluments paid to them by the United Nations or from their respective United Nations System Organization and any income received from outside the Republic of Liberia. They shall also be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

35. Members of the 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 Republic of Liberia required by them by reason of their presence in the Republic of Liberia with the

Mission. Special facilities shall be granted by the Government for the speedy processing of entry and exit for the Republic of Liberia for all members of the Mission upon prior written notification by the SRSG. On departure from the Republic of Liberia, members of the Mission may take with them such funds that were received by them in pay and emoluments from the United Nations or from their respective United Nations System Organization, any unspent funds that the members of the Mission have brought into the Republic of Liberia in connection with the conduct of activities for the Mission.

Entry and departure

36. Subject to paragraph 38, the Secretary-General's Special Envoy as well as the SRSG and members of the Mission shall, whenever so required, have the right to enter into and depart from the Republic of Liberia.

37. The Government undertakes to facilitate the entry into and departure from the Republic of Liberia, without delay or hindrance, of the Secretary-General's Special Envoy, the SRSG and members of the Mission and shall be kept informed of such movement. For that purpose, the SRSG and members of the 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 Republic of Liberia.

38. For the purpose of such entry or departure, members of the 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 Executive Head of any United Nations System Organization, or the SRSG; and (*b*) a personal identity card issued in accordance with paragraph 40 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 United Nations or any United Nations System Organization shall be accepted in lieu of the said identity card.

39. The Government undertakes to also facilitate the entry into and departure from the Republic of Liberia, without delay or hindrance, of the contractors as well as contributing States and organizations and their respective personnel travelling for purposes of the Mission.

Identification

40. The SRSG shall issue to each member of the Mission before or as soon as possible after such member's first entry into the Republic of Liberia, 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 38 of the present Agreement, that identity card shall be the only document required of a member of the Mission for the purpose of identification.

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

Uniforms and arms

42. Military personnel of contributing States supporting the mission shall wear, while performing official duties, the national military uniform of their respective States

with appropriate United Nations or UNMEER accoutrements. Solely for the purpose of their inherent right of self-defence, military personnel may possess and carry arms, ammunition as well as military and other related equipment, while on official duty in accordance with their orders. United Nations Security Officers and Field Service officers may wear the United Nations uniform. The wearing of civilian dress by the afore-mentioned members of the Mission may be authorized by the SRSG at other times. United Nations Security Officers and United Nations close protection officers designated by the SRSG, as well as contractors providing security services to the Mission, if any, 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, 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 SRSG. The SRSG may also authorize military or police advisers assigned to serve with the Mission, if any, to wear uniforms and/or to carry arms.

Permits and licenses

43. The Government agrees to accept as valid, without tax or fee, a permit or license issued by the SRSG for the operation by any member of the Mission, including locally recruited personnel, of any of the Mission's vehicle and for the practice of any profession or occupation in connection with the functioning of the 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.

44. 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 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.

45. Without prejudice to the provisions of paragraph 42 above, the Government further agrees to accept as valid, without tax or fee, permits or licenses issued by the SRSG to members of the Mission for the carrying or use of firearms or ammunition in connection with the functioning of the Mission.

Arrest and transfer of custody, and mutual assistance

46. The SRSG shall take all appropriate measures to ensure the maintenance of discipline and good order among members of the Mission, including locally recruited personnel.

47. Subject to the provisions of paragraphs 29 to 33, officials of the Government may take into custody any member of the Mission only when so requested by the Secretary-General of the United Nations or the SRSG.

48. When a person is arrested or taken into custody under paragraph 47, the 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.

49. The 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 47.

Safety and security

50. 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 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 Republic of Liberia, of the 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 Mission and its associated personnel and their equipment and premises from any attack or action that would prevent them from performing their duties. This is without prejudice to the fact that all premises of the Mission are inviolable and subject to the exclusive control and authority of the United Nations;

(ii) if members of the 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 United Nations or to the 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 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 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 50 (iii) above:

* United Nations, *Treaty Series*, vol. 2051, p. 363.

(*a*) when the crime was committed on the territory of the Republic of Liberia;

(*b*) when the alleged offender is a national of the Republic of Liberia;

(*c*) when the alleged offender, other than a member of the Mission, is present in the territory of the Republic of Liberia, 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 50 (iii) above who are present in the territory of the Republic of Liberia (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 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.

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

Jurisdiction

52. In addition to any privileges and immunities that they may otherwise enjoy, all members of the Mission, including 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 Mission and after the expiration of the other provisions of the present Agreement.

53. Should the Government consider that any member of the Mission has committed a criminal offence, it shall promptly inform the SRSG and present to him or her any evidence available to it. Subject to the provisions of paragraphs 29 to 33, the SRSG shall conduct any necessary supplementary inquiry, including any determination concerning immunities by the Secretary-General of the United Nations or the Executive Head of the relevant United Nations System Organization, 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 58 of the present Agreement. In the event that criminal proceedings are instituted in accordance with the present Agreement, the courts and authorities of the Republic of Liberia shall ensure that the member of the 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 the Republic of Liberia is a party, and that, in the event that he or she is convicted, the death penalty shall not be required or pronounced; the authorities of the Republic of Liberia 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.

54. If any civil claim is lodged against a member of the Mission before any court in the Republic of Liberia, the SRSG shall be notified immediately and, subject to a

determination by the Secretary-General of the United Nations or the Executive Head of the relevant United Nations System Organization, 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 SRSG certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 57 of the present Agreement shall apply.

(*b*) If the SRSG certifies that the proceeding is not related to official duties, the proceeding may continue. In that event, the courts and authorities of the Republic of Liberia shall grant the member of the 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 SRSG certifies that a member of the 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 Mission that is certified by the SRSG 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 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

55. The SRSG 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 the Mission who dies in the Republic of Liberia, as well as that member's personal property located within the Republic of Liberia, in accordance with relevant United Nations procedures including any relevant procedures to which the United Nations has agreed in the context of the Incident Management Team.

VII. Limitations on liability

56. The Government shall be responsible for dealing with, and hold the United Nations, its funds and programmes and the United Nations Systems Organizations harmless in respect of any claims, including third-party claims, relating to the Ebola virus disease.

57. Subject to paragraph 56 above, The Government shall also be responsible for dealing with, and hold the United Nations, its funds and programmes and the United Nations Systems Organizations harmless in respect of any claims, including third party claims, unless the relevant Organization agrees that such claims arise from or arc directly attributable to the gross negligence or wilful misconduct of that Organization, 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 United Nations, its funds and programmes and the United Nations Systems Organization, their respective officials or experts on mission, shall be settled through the procedures provided in paragraph 58 below, 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, 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 Mission. Upon determination of liability as provided in this Agreement, the United Nations or the relevant United Nations System Organization 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 Organizations of the United Nations System and their officials and experts on mission.

58. Subject to paragraph 56 and 57 above, any third party claim of a private law character, not resulting from the operational necessity of the Mission, to which the Mission or any member thereof is a party and over which the courts of the Republic of Liberia do not have jurisdiction because of any provision of the present Agreement, shall be settled in accordance with the applicable procedures of the United Nations or the relevant United Nations System Organization for the settlement of disputes.

VIII. Settlement of disputes

59. Subject to paragraphs 56 to 58 above, all other disputes between the 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 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 Secretary-General of the United Nations, in consultation with the relevant United Nations System Organizations, shall appoint one arbitrator and the Government shall appoint one arbitrator of the tribunal and the two arbitrators shall agree on the third who shall be the chairman. 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 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 creation 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 Mission, the SRSG 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.

60. All differences between the United Nations and the Government arising out of the interpretation or application of the present arrangements concerning the United Nations General Convention shall be dealt with in accordance with the procedure set out in Section 30 of that Convention. Any differences between the United Nations and/or a United Nations System Organization and the Government arising out of the interpretation or application of the present arrangements concerning the Specialized Agencies Convention shall be dealt with in accordance with the procedure set out in Section 32 of that Convention.

IX. Supplementary arrangements

61. The United Nations and the Government may conclude supplementary arrangements to the present Agreement.

X. Liaison

62. The SRSG and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

XI. Miscellaneous provisions

63. Wherever the present Agreement refers to privileges, immunities and rights of the Mission and to facilities that the Government or the Republic of Liberia undertakes to provide, 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.

64. The present Agreement shall enter into force immediately upon signature by or for the Government and the Secretary-General of the United Nations. If there is more than one date of signature, the latest date shall be the date from which this Agreement shall become effective.

65. The present Agreement shall remain in force until the departure of the final element of the Mission from the Republic of Liberia, except that:

(*a*) The provisions of paragraphs 52,55,56,57 and 58 shall remain in force;

(*b*) The provisions of paragraphs 59 and 60 shall remain in force until all claims made in accordance with the provisions of paragraph 59 have been settled.

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 Monrovia, in two original copies in the English language, on 12 January 2015.

For the United Nations	For the Government of the Republic of Liberia
[*Signed*] Peter Graaff	[*Signed*] Augustine Kpehe Ngafuan
Ebola Crisis Manager	Minister of Foreign Affairs
Liberia Office of the United Nations Mission for Ebola Emergency Response	Government of the Republic of Liberia

(*b*) Agreement between the United Nations and Burundi concerning the status of the United Nations Electoral Observation Mission in Burundi (MENUB)*

Preamble

The Government of the Republic of Burundi and the United Nations,

Having regard to Security Council resolution 2137 (2014) dated 13 February 2014 on the situation in Burundi,

Recalling that, in that resolution, the Security Council took note of the request of the Government of Burundi for a United Nations electoral observer mission before, during and after the 2015 elections in Burundi; requested the Secretary-General to establish such a mission to follow and report on the electoral process in Burundi immediately at the end of the mandate of the United Nations Office in Burundi (BNUB); and required that mission to report to the Secretary-General and the Secretary-General to the Security Council before, during and after the 2015 elections,

Reaffirming that the said Mission shall be objective, impartial, neutral and independent,

Have agreed as follows:

Definitions

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

(*a*) "Mission" means the United Nations electoral observer mission in Burundi, entrusted with following the electoral process, established by the United Nations Secretary-General pursuant to Security Council resolution 2137 (2014) dated 13 February 2014, and consisting of:

(i) The "Special Envoy and Head of Mission" designated by the United Nations Secretary-General. Except in paragraph 20 below, any mention of the Special Envoy in this Agreement shall refer exclusively to the head, not the other members, of the electoral Mission;

The powers of the Mission and of its members shall be limited to electoral observation.

(ii) The United Nations officials assigned by the Secretary-General to the service of the Mission;

(iii) United Nations volunteers assigned to the Mission;

(iv) Persons other than United Nations officials performing tasks for the Mission;

(*b*) "Members of the Mission" means the Special Envoy and the other members referred to in paragraphs 1 (*a*), (ii), (iii) and (iv);

(*c*) "Government" means the Government of the Republic of Burundi;

* Entered into force 21 January 2015 by signature, in accordance with paragraph 54. United Nations registration no. I-52474.

(*d*) "Territory" means the territory of the Republic of Burundi;

(*e*) "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 Burundi is a party;

(*f*) "Contractors" means individuals and legal entities and their employees, other than members of the Mission, that the United Nations engages, through contracts signed in due form in line with United Nations rules, to perform services or provide equipment, provisions, supplies, materials and other goods in support of the activities of the Mission. Such contractors shall not be considered as third parties enjoying benefits conferred to them legally under the terms of this Agreement;

(*g*) "Vehicle" means the vehicles used by the Mission and operated by the Mission or its members;

(*h*) "Covenant" means the International Covenant on Civil and Political Rights,[*] adopted by the General Assembly of the United Nations on 16 December 1966 and to which the Republic of Burundi is a party.

Implementation of this agreement

2. Unless specifically provided otherwise, the provisions of this Agreement and any obligation undertaken by the Government or any privilege, immunity, facility or concession granted to the Mission or any member thereof or to contractors shall apply in the territory of Burundi.

Implementation of the Convention

3. The Mission, its property, funds and assets, and its members shall enjoy the privileges and immunities specified in this Agreement as well as those provided for in the Convention, to which Burundi is a party.

Status of the Mission

4. The 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 this Agreement. They shall respectfully the laws and regulations of the host country. The Special Envoy, who exercises authority over the members of the Mission, shall take all appropriate measures to ensure the observance of these obligations.

5. The Government shall respect the exclusively international status of the Mission.

Privileges and immunities of the Mission

6. The Government shall recognize the right of the Mission to display within Burundi the United Nations flag and to affix identifying signs of the United Nations on the Mission's premises. Vehicles in the service of the Mission shall carry a distinctive United Nations identification, which shall be notified to the Government.

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[*] United Nations, *Treaty Series*, vol. 999, p. 171 and vol. 1057, p. 407.

7. The Mission shall enjoy the facilities in respect to communications specified in article III of the Convention. Issues with respect to communications which may arise and which are not specifically provided for in this Agreement shall be dealt with pursuant to the relevant provisions of the Convention.

8. Subject to the provisions of paragraph 7:

(*a*) The Mission shall have the right to install and operate radio sending and receiving stations, relay stations, microwave telecommunication systems and satellite systems, in order to connect appropriate points within the territory of Burundi 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 United Nations telecommunication services shall be operated in accordance with the International Telecommunication Convention and the Radiocommunications regulations. The frequencies on which such stations and systems may operate shall be decided upon in cooperation with the Government. If no decision has been reached 15 working days after the matter has been raised by the Mission with the Government, the Government shall immediately allocate frequencies that are suitable for the exploitation of the stations and the systems. The Mission shall be exempt from any taxes on and fees for the allocation of frequencies to these stations or their use.

(*b*) The Mission shall enjoy, in the territory of Burundi, 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 its premises, including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The radio frequencies used shall be decided upon in cooperation with the Government and attributed promptly. It is understood that connections with the local telephone, fax and other electronic data transmission networks may be made only after consultation with the Government. The Mission shall be exempt from any taxes on and fees for the allocation or use of frequencies. Connections with the local telephone and electronic data transmission networks may be made only after consultation with the Government and in accordance with arrangements agreed upon in common. Use of the said networks shall be billed at the most favourable rates.

(*c*) The Mission may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of the 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 Mission or its members. In the event that postal arrangements applying to private mail of members of the Mission 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.

9. The Mission, its members and contractors, together with their vehicles, including contractors' vehicles used exclusively in the performance of services for the Mission, and the relevant equipment shall enjoy freedom of movement without delay in the Burundian territory as a whole. The Government recognizes that the Mission and its members accredited by the National Independent Electoral Commission of Burundi (NIEC) as electoral observers shall have the right to access all premises of NIEC and its departments subject to prior request to the Office of NIEC. The Government shall provide the Mission with any

necessary maps or other information, relating in particular to the location of minefields or other dangers and impediments, which may facilitate the Mission's movements.

10. Vehicles shall not be subject to registration or licensing by the Government, it being understood that all vehicles shall carry civil liability insurance required under international law, including compulsory vehicle liability insurance. Other compensation methods for cases not covered by such insurance shall be provided for within the framework of United Nations substantive law in accordance with paragraph 45 of this Agreement.

11. The Mission and its members and contractors, subject to presentation of the contracts signed with the Mission, including those used exclusively in the performance of services for the Mission, may use roads and bridges without payment of any fees, tolls or charges. The Mission shall not claim exemption from charges which are in fact charges for services rendered, it being understood that such payments shall be calculated at the going market rates.

12. As an entity representing the United Nations, the Mission shall enjoy the status, privileges and immunities of the United Nations in accordance with the Convention. In particular, the Government shall recognize:

(*a*) The right of the Mission and the contractors in possession of contracts duly concluded with the Mission to import, free of customs and subject to no prohibition or restriction, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport and telecommunications equipment referred to in paragraphs 8 (*a*) and (*b*), intended for exclusive and official use by the Mission;

(*b*) The right of the Mission and the contractors to import and clear through customs, free of customs and subject to no prohibition or restriction, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport and the telecommunications equipment referred to in paragraphs 8 (*a*) and (*b*), intended for exclusive and official use by the Mission.

(*c*) The right of the Mission and the contractors to re-export, free of customs and subject to no prohibition or restriction, or to transfer in another manner, any goods and equipment, including spare parts, means of transport and telecommunications equipment, insofar as they are still usable, and all unconsumed provisions, supplies, materials, fuel and other goods so imported or cleared through customs which are not transferred, or otherwise disposed of, on terms and conditions to be agreed upon, to the competent local authorities of Burundi or to an entity designated by them. The Mission shall communicate to the Government beforehand a list of the materials and items referred to in this provision.

The Mission and the Government shall, as soon as possible, agree upon a mutually satisfactory procedure, including documentation so that such importation, clearances, transfer or exportation may be effected with the least possible delay.

13. If the Mission faces difficulties in securing premises, the Government, at the request of the Mission, shall make every effort to help the Mission to secure such premises as maybe necessary for the conduct of its operational and administrative activities. Although located in the territory of Burundi, all premises of the Mission shall be inviolable and subject to the authority of and exclusive control by the United Nations. The Government shall guarantee free access to such premises. Solely the Special Envoy shall be entitled to authorize Government officials or any other person who is not a member of the Mission to enter the premises in question.

14. The Government shall make every effort to assist the Mission in securing water, electricity and other necessary facilities at the most favourable rates and, in the event of interruption of service or a threat thereof, take steps to ensure that the needs of the Mission are met, as far as possible, at the same level of priority as that of essential government services. It is understood that the Mission shall pay the relevant amounts due on a basis to be determined in agreement with the competent authorities. The Mission shall be responsible for the maintenance of the facilities thus provided.

15. Where appropriate, the Mission shall have the right to generate the electricity it needs in its own premises and transmit and distribute it.

16. The Government shall issue as soon as possible all authorizations, permits and licences necessary for the import, export, or acquisition of equipment, provisions, supplies, fuel, materials and other goods, including spare parts, means of transportation and the telecommunications equipment referred to in paragraphs 8 (*a*) and (*b*) above, used exclusively in support of the Mission, even where imported, exported or purchased by contractors, subject to no prohibition or restriction and free of all fees, costs, charges, imposts and taxes or licences, including value added tax.

17. The Government shall, as far as possible, assist the Mission in obtaining from local sources the equipment, provisions, supplies, fuel, materials and other goods and services necessary required for its subsistence and operations. With regard to equipment, provisions, supplies, materials and other goods purchased officially on the local market by the Mission or its contractors for their exclusive use, the Government shall make the necessary administrative arrangements to refund, or to exempt Mission and contractors from, any duties or taxes included in the price.

The Government shall exempt from sales tax any purchases made officially on the local market by the Mission or its contractors. On the basis of observations made and information provided by the Government in that connection, the Mission shall avoid any negative impact of purchases from local sources on the local economy.

18. In order to enable contractors, other than nationals of Burundi, to provide services in support of the Mission in an adequate manner, the Government agrees to provide contractors with facilities for their entry into and departure from Burundi and for their repatriation in time of crisis. For that purpose, the Government shall promptly issue to contractors, free of charge and without any restrictions, all necessary visas, licenses, permits and authorizations. Contractors, other than nationals of Burundi, shall be exempt from taxes on services provided to the Mission, including corporate, income, social security and other similar taxes arising directly from such services.

19. Against reimbursement in mutually acceptable currency, the Government shall make available to the Mission the local currency that it needs, particularly in order to pay the wages of its members, at the rate of exchange applicable to the Mission.

Status of the members of the Mission

Privileges and immunities

20. The Special Envoy and such high-ranking members as may be agreed upon with the Government shall have the status specified in sections 19 and 27 of the Convention,

provided that the privileges and immunities referred to therein shall be those accorded to diplomatic envoys by international law.

21. Officials of the United Nations assigned to the service of the Mission shall be entitled to the privileges and immunities of articles V and VII of the Convention. Locally recruited members of the Mission shall enjoy the immunities concerning official acts and exemption from taxation and immunity from national service obligations provided for in sections 18 (*a*), (*b*) and (*c*) of the Convention.

22. United Nations volunteers assigned to the service of the Mission shall enjoy the privileges and immunities of United Nations officials under articles V and VII of the Convention. Locally recruited United Nations volunteers shall enjoy the privileges and immunities provided for in sections 18 (*a*), (*b*) and (*c*) of the Convention.

23. Persons other than officials of the United Nations entrusted with tasks for the Mission shall enjoy the privileges and immunities of United Nations staff provided for under article VI and article VII, section 26, of the Convention.

Entry, residence and departure

24. The Special Envoy and members of the Mission shall, whenever so required by the Special Envoy, have the right to enter, reside in and leave Burundi.

25. The Government shall facilitate the entry into and departure from Burundi, without delay or hindrance, of the Special Envoy and members of the Mission and shall be kept informed of such movements. For that purpose, the Special Envoy and members of the 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 or leaving Burundi. They shall also be exempt from any regulations governing the residence of aliens in Burundi, particularly registration, but shall not be considered as acquiring any right to permanent residence or domicile in Burundi.

26. For the purpose of such entry into or departure from the territory, members of the Mission shall present for information and verification, but not surrender, only the personal identity card delivered in line with paragraph 27 of this Agreement, except upon first entry, for which the United Nations *laissez-passer*, the national passport or the certificate referred to in section 26 of the Convention may replace the identity card.

Identification

27. The Special Envoy shall issue to every member of the Mission, before or as soon as possible after his or her first entry into the territory, every member of locally recruited personnel and every contractor, a numbered identity card with his or her name and photograph. That card shall be the only document that a member of the Mission may be required to show, subject to the provisions of paragraph 26 above.

28. Members of the Mission and locally recruited personnel and contractors shall be required to present, but not to surrender, their Mission identity cards if so requested by a competent official of the Government.

Uniforms and arms

29. United Nations Security officers may wear the United Nations uniform. United Nations Security officers designated by the Special Envoy may possess and carry arms while on duty in accordance with the regulations applicable to them. In so doing, they shall wear the United Nations uniform except in the situations set out in paragraph 30.

30. United Nations close protection specialists and United Nations Security Service officers assigned to close protection duty may possess and carry arms and wear civilian dress while on duty.

Permits and licences

31. Mission vehicles shall be exempt from Burundian regulations regarding registration and certification. To enjoy such exemption, Mission vehicles must have United Nations registration and civil liability insurance. The Mission shall communicate the registration numbers of Mission vehicles to the Government.

32. The Government shall accept as valid, without tax or fee, a permit or licence issued by the Special Envoy for the operation by any member of the Mission, including locally recruited personnel, of any Mission vehicles and for the practice of any profession or occupation in connection with the functioning of the 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 license.

33. Without prejudice to the provisions of paragraphs 29 and 30, the Government shall accept as valid, without tax or fee, permits or licenses issued by the Special Envoy to members of the Mission to carry or use firearms or ammunition in connection with the functioning of the Mission.

Arrest, transfer of custody and mutual assistance

34. The Special Envoy shall take all appropriate measures to ensure discipline among members of the Mission and locally recruited personnel.

35. United Nations Security officials may take into custody any person on the premises of the Mission. That 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. Overall coordination activities concerning the United Nations system shall be incumbent upon the United Nations Development Programme (UNDP) in accordance with paragraph (4)(*a*) of the 1975 Agreement concerning assistance by the United Nations Development Programme to the Government of Burundi.

36. Subject to the provisions of paragraphs 20 and 23, officials of the Government may take into custody any member of the Mission:

(*a*) When so requested by the Special Envoy;

(*b*) When the person concerned is apprehended in the commission or attempted commission of a criminal offence. Such person shall be delivered immediately, together with any weapons or other item seized, to the nearest competent representative of the Mission, whereafter the provisions of paragraph 42 shall apply as appropriate.

37. When a person is taken into custody under paragraph 36 (*b*), the Mission or the Government, as the case may be, may proceed with a preliminary interrogation but not delay the transfer of custody to the competent authority of the Mission or the Government, as appropriate. Following such transfer, the person concerned shall be made available upon request to the arresting authority for further interrogation.

38. The 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 be made subject to their return under terms specified by the authority delivering them. As regards traffic accidents involving a member of the Mission, the traffic police and the competent services of the Mission shall cooperate to establish the facts and to draw up the customary reports. Each authority shall notify the other of the decision taken in any case in whose outcome the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 35–37.

Security

39. The Government shall ensure that the provisions of the Convention on the Safety of United Nations and Associated Personnel are applied in respect of the Mission, its property and assets, and its members. In particular:

(i) The Government shall take all necessary measures to ensure the security of the Mission and its members. It shall take all appropriate steps to protect the members of the Mission and their equipment and premises from any attack or action which would prevent them from discharging their mandate, without prejudice to the fact that Mission premises are inviolable and subject to the exclusive authority of and control by the United Nations;

(ii) If they are arrested in the course of the performance of their duties and their identification has been established, members of the Mission shall not be subjected to interrogation but shall be promptly released and returned to United Nations or other appropriate authorities. Meanwhile such personnel shall be treated in accordance with the universally recognized standards of human rights. That obligation of the Government shall not affect its right to take measures, as part of the exercise of its national jurisdiction, with regard to any member of the Mission who violates the country's law and regulations, provided that such measures are compatible with the provisions of this Agreement and do not violate any other of the Government's international legal obligations;

(iii) The Government shall prosecute the following criminal offences on the basis of domestic law:

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

(*b*) Violent attack upon the official premises, private accommodation or means of transport of any member of the Mission, likely to endanger his or her person or liberty;

(*c*) Threat to commit any such attack in order to compel an individual or a legal entity to do or to refrain from doing any act;

(*d*) Attempt to commit such an attack;

(*e*) Any act constituting participation as an accomplice in any such attack, in an attempt to commit such attack or in organizing or ordering others to commit such an attack;

(iv) The Government shall establish its jurisdiction over criminal offences set out in paragraph (iii) above:

(*a*) When they are committed in the territory in its territory;

(*b*) When the alleged offender is a national of Burundi;

(*c*) When the alleged offender, other than a member of the Mission, is present in the territory of Burundi and is not extradited to the State where the crime was committed; or to the State of which the alleged offender is a national; or, if the alleged offender is a stateless person, to the State in which that person has his or her habitual residence; or to the State of which the victim is a national.

The Government shall ensure the prosecution, without exception or delay, of persons accused of the offences set out in paragraph (iii) who are present in its territory (if they have not been extradited) and of persons under its criminal jurisdiction who are accused of other acts which affect the Mission or its members and which, had they been perpetrated against government forces or the civilian population, would have given rise to criminal proceedings against the perpetrators.

40. At the request of the Special Envoy, the Government shall ensure appropriate security for the protection of the Mission, its property and its members during the performance of their duties.

Jurisdiction

41. All members of the Mission, 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 the Mission and after the expiration of the other provisions of this Agreement.

42. Should it consider that any member of the Mission has committed a criminal offence, the Government shall promptly inform the Special Envoy or the Secretary-General of the United Nations and present to him or her any evidence available to it. Subject to the provisions of paragraph 20, the Special Envoy or the Secretary-General 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 47 of this Agreement. In the event that criminal proceedings are instituted in accordance with this Agreement, the courts and authorities of Burundi shall ensure that the member of the 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 Covenant, and that capital punishment is not be imposed.

43. If any civil proceedings are instituted against a member of the Mission before any court of Burundi, the Special Envoy shall be notified immediately and certify to the court whether or not the proceedings are related to the official duties of such member.

(*a*) If the Special Envoy certifies that the proceedings are related to official duties, such proceedings shall be discontinued and the provisions of paragraph 47 of this Agreement shall apply, save in the event of basic disagreement as to the characterization of the act or fact in question, in which case the person concerned shall be judged and convicted so as to redress any damage caused and the Special Envoy shall facilitate the proceedings, particularly by waiving the immunity of that person;

(*b*) If the Special Envoy or the Secretary-General certifies that the proceedings are not related to official duties, the proceedings may continue. In that event, the courts and authorities of Burundi shall grant the Mission member concerned sufficient opportunity to safeguard his or her rights in accordance with due process of law and shall ensure that the proceedings respect the international rules of justice, equity and compliance with the regular procedures specified in the Covenant. If the Special Envoy or the Secretary-General certifies that a member of the Mission is unable, because of his or her official duties or authorized absence, to protect his or her interests in the proceedings, the court shall, at the defendant's request, suspend the proceedings up to the elimination of the inability but for no longer than 90 days. Property of a member of the Mission that is certified by the Special Envoy or the Secretary-General to be needed by the defendant for the fulfilment of his or her official duties shall be free from seizure in enforcement of a judgement, decision or order. The personal liberty of a member of the Mission shall not be restricted in connection with any civil proceedings, whether to enforce a judicial decision, to compel him or her to reveal any facts under oath or for any other reason.

Deceased members

44. The Special Envoy or the Secretary-General of the United Nations may take charge of the body of any member of the Mission who dies in Burundi and of that member's personal property located within Burundi, in accordance with United Nations procedures.

Settlement of disputes

45. The United Nations shall consider any third-party claim against the Mission, provided that the claim is made within six months from the occurrence of the event on which it is based, or, if the claimant did not and could not reasonably have known of the damage or loss, within six months from its discovery, and in no case more than one year after the termination of the mandate of the Mission, on the understanding that, under certain exceptional circumstances, the Secretary-General may decide that a request for compensation submitted after that date is admissible. Once its liability has been established, the United Nations shall pay compensation, subject to the financial limitations approved by the General Assembly in paragraphs 5–11 of its resolution 52/247 of 26 June 1998.

46. Any dispute concerning the terms of employment and conditions of service of locally recruited personnel shall be settled through administrative procedures to be established by the Special Envoy or the Secretary-General of the United Nations in accordance with the principles adopted by the General Assembly in its resolution 63/253 of 24 December 2008.

47. Any dispute between the United Nations and the Government concerning the interpretation or application of this Agreement shall be settled by negotiation or by some other form of settlement that has been agreed upon. Any dispute that it has not been

possible to settle by negotiation, or by another form of settlement that has been agreed upon, shall be referred, by either party, for a final decision, to an arbitral tribunal consisting of three members: one arbitrator shall be appointed by the Secretary-General of the United Nations, another by the Government and the third, who shall preside over the court, by the other two arbitrators. If a party does not appoint an arbitrator within three months after receiving notification of the other party's appointment of an arbitrator, or if the two arbitrators appointed by the parties do not appoint a president within three months from the appointment of the second arbitrator, the third arbitrator shall be appointed, at the request of either party to the dispute, by the President of the International Court of Justice. The tribunal shall determine its own procedures, provides for the replacement of its members and decides by a two-thirds majority. The court's judgments on procedural and substantive issues shall be final and, even in the absence of one of the parties, shall be binding on all parties.

48. All differences between the United Nations and the Government concerning the interpretation or application of these provisions and involving a question of principle regarding the Convention shall be dealt with in accordance with the procedure provided for in section 30 of the Convention.

Supplemental arrangements and amendments

49. The Special Envoy and the Government may conclude supplemental arrangements to this Agreement.

Various and final provisions

50. The Government shall have the ultimate responsibility for the implementation and fulfilment of the privileges, immunities and rights granted to the Mission under this agreement by the competent local authorities of Burundi and for the related facilities that Burundi undertakes to provide to the Mission.

The United Nations shall ensure that the Mission and its members fulfil their obligations as specified in this Agreement

51. This Agreement shall enter into force on the date on which it is signed.

52. The Mission shall conclude its electoral observation tasks in Burundi six weeks after NIEC announces the last definitive results of the series of elections to be held in Burundi in 2015. It is understood that a small basic team of electoral observers may remain in Burundi after that date so as to finalize the report of the Mission to the Secretary-General of the United Nations and to meet with NIEC in order to evaluate the electoral process. The liquidation of the Mission shall be completed no later than 31 December 2015.

53. This Agreement shall remain in force until the departure of the last element of the Mission from Burundi, with the exception of the provisions of paragraphs:

(*a*) 41, 44, 47 and 48, which shall remain in force;

(*b*) 42, 43, 45 and 46, which shall remain in force until a decision is made on all claims and disputes formulated in accordance with the provisions of this paragraph.

In witness whereof, the undersigned, the duly authorized plenipotentiary of the Government and the official representative of the United Nations, signed this Agreement on behalf of the Parties.

Done at Bujumbura, on 12 December 2014, in duplicate, in French.

For the United Nations	For the Government of the Republic of Burundi
[*Signed*]	[*Signed*]
The Under-Secretary-General for Political Affairs	The Minister of Foreign Affairs and International Cooperation
New York, 20 January 2015	Bujumbura, 21 January 2015

(*c*) Protocol of Amendment of the text of the 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, 23 May 2015[*]

Whereas on 26 February 2014, the United Nations and the Government of the Federal Republic of Somalia concluded the 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 (the "Agreement");

Whereas by resolution 2124 (2013), the Security Council took note of the Secretary-General's intention to deploy an appropriate United Nations Static Guard unit to strengthen security at the United Nations Assistance Mission in Somalia (UNSOM) compounds;

Whereas the President of the Security Council in his letter dated 24 December 2013 addressed to the Secretary-General (S/2013/765) informed him that the Council took note of the arrangements proposed by the Secretary-General in his letter dated 20 December 2013 (S/2013/764) concerning the deployment of a static United Nations Guard Unit to strengthen the security of UNSOM;

Whereas the Government of the Federal Republic of Somalia has welcomed the deployment of the guard unit;

Now, therefore, the United Nations and the Government of the Federal Republic of Somalia hereby agree as follows:

1. The text of the Agreement shall be amended as follows:

(i) Paragraph 1 (*c*) shall be amended to read as follows:

(*c*) "members of UNSOM" means:

[*] Entered into force on 23 May 2015 by signature, in accordance with paragraph 2. United Nations registration no. A-51702. Text of Agreement in Chapter II.A (*d*) of the *United Nations Juridical Yearbook 2014* (United Nations Publication, Sales No. E.19.V.6).

(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;

(iv) other persons assigned to perform missions for UNSOM, including United Nations civilian police advisers and United Nations military advisers;

(v) military personnel of national contingents assigned to UNSOM's guard unit;

(ii) Paragraph 1 (*h*) shall be amended to read as follows:

(*h*) "vehicle" means vehicle in use by the United Nations and operated by members of UNSOM, participating States or contractors in support of UNSOM activities

(iii) Paragraph 1 (*i*) shall be amended to read as follows:

(*i*) "aircraft" means aircraft in use by the United Nations and operated by members of UNSOM, participating States or contractors in support of UNSOM activities;

(iv) Paragraph 1 (*j*) shall be amended to read as follows:

(*j*) "vessels" means vessels in use by the United Nations and operated by members of UNSOM, participating States or contractors in support of UNSOM activities;

(v) The following paragraph shall be added as paragraph 1 (*k*):

(*k*) "participating State" means a State providing personnel, services, equipment, provisions, supplies, materials and other goods to the guard unit of UNSOM.

(vi) The following paragraph shall be inserted after paragraph 3:

3 *bis*. Article II of the Convention, which applies to UNSOM, shall also apply to the property, funds and assets of participating States used in connection with UNSOM.

(vii) The chapeau of paragraph 13 be amended to read as follows:

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 provisions of article II of the Convention which applies to UNSOM shall also apply to the property and funds and assets of Participating States used in Somalia in connection with the national contingents serving in UNSOM, as provided for in paragraph 3 *bis* of the present Agreement. The Government recognizes the right of UNSOM in particular:

(viii) The following paragraph shall be inserted after paragraph 27:

27 *bis*. The military personnel of national contingents assigned to UNSOM's guard unit shall have the privileges and immunities specifically provided for in the present Agreement.

(ix) Paragraph 29 shall be amended to read as follows:

Members of UNSOM, including locally recruited personnel, shall be exempt from taxation on the pay and emoluments received from the United Nations or from a participating State and any income received from outside Somalia. 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.

(x) Paragraph 33 shall be amended to read as follows:

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 (other than military members of national contingent assigned to UNSOM's guard unit), 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 military personnel of national contingents assigned to UNSOM's guard unit shall be exempt from passport and visa regulations. They shall, however, complete and submit arrival and departure cards. For the purpose of such entry and departure, military personnel of national contingents assigned to UNSOM's guard unit shall only be required to have a personal numbered identity card issued by the Special Representative, showing the holder's full name, date of birth, job title and photograph, except in the case of first entry, when a national passport or a personal identity card issued by the appropriate authorities of the contributing State shall be accepted in lieu. The Special Representative and all 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.

(xi) Paragraph 36 shall be amended to read as follows:

United Nations Security Officers may wear the United Nations uniform. United Nations civilian police advisers, United Nations military advisers and military personnel of national contingents assigned to UNSOM's guard unit 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, United Nations military advisers and military personnel of national contingents assigned to UNSOM's guard unit may possess and carry firearms and am-munition 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 or specifically agreed with the Government.

(xii) Paragraph 39 shall be amended to read as follows:

UNSOM shall inform the Government, on a regular basis, of the number of United Nations security officers, close protection officers, United Nations civilian police officers, United Nations military advisers and military personnel of national contingents assigned to UNSOM's guard unit.

(xiii) Paragraph 55 shall be amended to read as follows:

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:

(*a*) If the accused is an official of the United Nations assigned to serve with UNSOM or a United Nations Volunteer assigned to serve with UNSOM or other persons assigned to perform missions for UNSOM, 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.

(*b*) Military personnel of national contingents assigned to UNSOM's guard unit shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences which may be committed by them in Somalia.

(xiv) The following paragraph shall be inserted after paragraph 55.

55 *bis*. The Secretary-General of the United Nations will obtain assurances from Governments of Participating States that they will be prepared to exercise jurisdiction with respect to crimes or offences which may be committed by members of their national contingents serving with UNSOM. In the event of such a criminal offence being committed, the Secretary-General will take the necessary measures with a view to ensuring that the participating State concerned submits the case without delay to its competent national authorities for the purposes of prosecution through proceedings in accordance with the law of that State. The Special Representative will inform the Government of the steps taken by that State

2. This Protocol shall enter into force on the date of its signature by the Parties. The text of the Agreement as signed, shall as of that date be considered amended in accordance with Paragraph 1 of this Protocol.

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 23rd day of May 2015, in two original copies in the English language.

For the United Nations	For the Federal Government of Somalia
[*Signed*] Mr. Nicholas Kay Special Representative of the Secretary-General for Somalia	[*Signed*] Excellency Abdusalam H. Omer Minister of Foreign Affairs

(*d*) Agreement between the Government of Hungary and the United Nations Children's Fund about the establishment of the United Nations Children's Fund Global Shared Services Centre*

Whereas the United Nations Children's Fund was established by the United Nations General Assembly on 11 November 1946;

Whereas the United Nations Children's Fund's 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 United Nations Children's Fund has decided to outpost a number of administrative and operational support functions to a UNICEF Global Shared Services Centre to be located in Budapest, Hungary;

Whereas the Government of Hungary welcomes the establishment of the UNICEF Global Shared Services Centre in Hungary;

Whereas the Government of Hungary and the United Nations Children's Fund wish to establish the terms and conditions under which the UNICEF Global Shared Services Centre, within its mandates, shall operate in Hungary;

Now therefore, the Government of Hungary and the United Nations Children's Fund, in the spirit of friendly co-operation, have entered into this Agreement:

Article I—Definitions

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

(*a*) "UNICEF" shall mean the United Nations Children's Fund;

(*b*) "Country" shall mean Hungary;

(*c*) "Government" shall mean the Government of Hungary;

(*d*) "Parties" shall mean UNICEF and the Government;

(*e*) "Convention" shall mean the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946;

* Entered into force on 15 August 2015, in accordance with article XVII. United Nations registration no. I-52934.

(*f*) "Centre" shall mean the UNICEF Global Shared Services Centre located in the Country;

(*g*) "Centre premises" means a building or part of a building occupied permanently or temporarily by the Centre, and includes any land, buildings or platforms that may from time to time be included, in accordance with this Agreement or supplementary Agreements concluded between the Parties. For the avoidance of doubt, the Parties confirm that any other premises in the Country which may be used for meetings, seminars, training courses, symposiums, workshops and similar activities organized by UNICEF in connection with the activities of the Centre shall be temporarily regarded as being within the meaning of the "Centre premises" for the duration of such meetings, seminars, training courses, symposiums, workshops and similar activities; provided however that the provisions of Article III, paragraph (2) shall not apply to such other premises in the Country referred to in this sentence.

(*h*) "UNICEF archives" and "the archives of UNICEF" include but are not limited to all records in whatever form, including without limitation by reason of this enumeration correspondence, documents, manuscripts, computer records and all other electronic records, still and motion pictures, film and sound recordings, belonging to or held by UNICEF;

(*i*) "Head of Centre" shall mean the Manager of the Centre, and during his/her absence from duty, the Deputy Manager, or any official designated by him/her to act on his/her behalf;

(*j*) "UNICEF officials" shall mean all members of the staff of UNICEF employed under the Staff Regulations and Rules of the United Nations, regardless of nationality, with the exception of persons who are recruited locally and assigned to hourly rates as provided in General Assembly resolution 76 (I) of 7 December 1946;

(*k*) "Experts on mission" shall mean individuals, other than UNICEF officials, performing missions for UNICEF;

(*l*) "UNICEF personnel" shall mean UNICEF officials, experts on mission, and other personnel of UNICEF who are invited to the Centre by UNICEF on official business, and persons who are both recruited locally and assigned to hourly rates as provided in General Assembly resolution 76 (I) of 7 December 1946.

Article II—Co-operation between the Government and UNICEF

1. The Government assures UNICEF that the Centre, as well as the UNICEF personnel assigned to it and all other UNICEF personnel, will enjoy treatment not less favourable than that accorded by the Government to any other intergovernmental or international organizations or other United Nations agencies, funds or programmes present in the Country and their respective personnel.

2. The Government, in agreement with UNICEF, shall take any measure which may be necessary to exempt UNICEF personnel from regulations or other legal provisions which may interfere with operations and projects carried out under this Agreement or any supplementary Agreement concluded between the Parties, and shall grant them such other facilities as may be necessary for the speedy and efficient execution of the work of the Centre.

Article III—The Centre and Government Contribution

1. The Government welcomes that UNICEF establishes and maintains the Centre in the Country for providing such administrative and operational support services as are assigned by UNICEF.

2. The Government shall provide to UNICEF:

(*a*) Free of charge, for a period of at least fifteen (15) years from the entry into force of this Agreement and for such further period as may be agreed between the Parties and approved through the required procedures of each Party, appropriate and adequate office premises for the Centre and its installations, together with office furniture and other facilities which the Parties agree are suitable for the operations of the Centre, all as indicated in a supplementary Agreement concluded between the Parties;

(*b*) To the extent requested by the Head of Centre, the supply of public services necessary for performing the work of the Centre, including, without limitation by reason of this enumeration, electricity, water, sewerage, fire protection, collecting refuse and gas, as indicated in a supplementary Agreement concluded between the Parties.

3. The Government shall ensure the security and protection of the Centre premises and exercise due diligence to ensure that the tranquillity of the Centre premises is not disturbed by the unauthorized entry of persons or groups of persons from outside or by disturbances in its immediate vicinity. If so requested by the Head of Centre, the competent authorities shall provide adequate police force necessary for the preservation of law and order in the Centre premises or in its immediate vicinity, and for the removal of persons therefrom.

4. The Government shall take such effective and adequate action which may be required to ensure the appropriate security, safety and protection of persons referred to in this Agreement, indispensable for the proper functioning of the Centre free from interference of any kind.

5. In case of incidents or events resulting in a complete or partial disruption of the Centre's telecommunications or the utilities services mentioned above, the Centre shall, for the performance of its functions, be accorded the same priority given to essential governmental agencies and organs.

Article IV—UNICEF Personnel

UNICEF may assign to the Centre such UNICEF officials or other UNICEF personnel as it deems necessary for carrying out the particular functions assigned to the Centre.

Article V—Privileges and Immunities

1. The Government shall apply to UNICEF, its property, funds and assets, and to UNICEF personnel, the relevant provisions of the Convention to which the Government became a party on 30 July 1956. The Government also agrees to grant to UNICEF and UNICEF personnel such additional privileges and immunities as may be necessary for carrying out the particular functions assigned to the Centre.

2. Without prejudice to paragraph (1) of this Article, the Government shall in particular extend to UNICEF and its personnel the privileges, immunities, rights and facilities provided in articles VI to VIII of this Agreement.

3. Persons other than UNICEF officials, who are members of UNICEF missions, or who are invited to a UNICEF office by UNICEF on official business, shall be accorded the privileges and immunities specified in Article VIII below, except those specified in paragraphs (*h*), (*j*), (*m*), and (*n*) of paragraph (2) of that Article.

Article VI—Property, Funds and Assets

1. UNICEF, 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 Government recognizes the inviolability of the Centre, which shall be under the control and authority of UNICEF, as provided in this Agreement.

3. No officer or official of the Government, whether administrative, judicial, military or police or other person exercising any public authority within the Country, shall enter the Centre to perform any official duties therein except with the consent of, and under conditions agreed to by, the Head of Centre.

4. The property, funds and assets of UNICEF, 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.

5. The archives of UNICEF, and in general all documents belonging to or held by it, shall be inviolable wherever located.

6. The funds, assets, income and other property of UNICEF shall be exempt from:

(*a*) any form of direct taxation; it being understood, however, that UNICEF will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(*b*) customs duties and prohibitions and restrictions on articles imported or exported by UNICEF for its official use, provided that articles imported under such exemption will not be alienated 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, still and moving pictures, videos and films and sound recordings.

7. UNICEF shall be exempt from levies and duties on operations and transactions, and from excise duties, sales charges, and other indirect taxes when it is making purchases for official use by UNICEF of property on which such duties or taxes are normally chargeable. Exemption from value added tax and excise duty concerning acquisition of goods and services in the Country made by UNICEF is provided by means of tax refund, under terms and conditions foreseen for the diplomatic missions and their members.

8. Without being subject to any financial controls, regulations or moratoria of any kind, UNICEF:

(*a*) may acquire from authorised commercial agencies, hold and use any amount of funds, gold or currency of any kind and maintain foreign currency accounts in any currency;

(*b*) shall be free to transfer its funds, securities, gold or currency from one country to another or within the Country and to convert any currency held by it into any other currency.

Article VII—Communication Facilities

1. UNICEF 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, international organizations in the matter of priorities, tariffs and charges on mail, cablegrams, telephotos, telephone, telegraph, telex and all other communications including electronic forms of communications.

2. The Government shall secure the inviolability of the official communications and correspondence to and from UNICEF and shall not apply any censorship to such communications and correspondence. Such inviolability, without limitation by reason of this enumeration, shall extend to publications, still and moving pictures, videos and films and sound recordings, regardless of their size and number.

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

4. UNICEF shall have the right to import and operate effectively, and free of license fees, radio telecommunications and satellite facilities, on UN registered frequencies, and those allocated by the Government, between its personnel, within and outside the Country.

Article VIII—UNICEF Officials

1. The Head of Centre and other senior officials—as determined and communicated by UNICEF to the Government—assigned to the Centre, 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 and Trade shall include their names in the Diplomatic List.

2. UNICEF officials, while in the Country, shall enjoy the following facilities, exemptions, privileges and immunities:

(*a*) Immunity from personal arrest and detention;

(*b*) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity, such immunity shall continue even after termination of employment with UNICEF;

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

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

(*e*) Exemption, with respect to themselves, their spouses and dependent relatives, from immigration restrictions and alien registration;

(*f*) Exemption from any form of taxation on salaries and emoluments and all other remuneration paid to them by UNICEF;

(*g*) Exemption from any form of direct taxation on income derived by them from sources outside the Country;

(*h*) Exemption from the value added tax and excise duty included in the price of all articles and services acquired by the Head of Centre and those acquired by all other UNICEF officials assigned to the Centre in the Hungarian market, such exemption to be implemented by way of refunds from the tax authorities according to the processes established for the reimbursement of the value added tax and excise duty to diplomatic missions and their members;

(*i*) Prompt clearance and issuance, without cost, of visas, licenses or permits, if required and free movement within, to or from the Country to the extent necessary for the carrying out of their official functions;

(*j*) Access while in the Country, for their spouses whose status has been recognized by the United Nations and dependent relatives forming part of their household, to the labour market without requiring a work permit;

(*k*) Freedom to hold or maintain within the Country, foreign exchange, foreign currency accounts, movable and immovable property and the right upon termination of employment with UNICEF to take out of the Country their funds for the lawful possession of which they can show good cause;

(*l*) The same protection and repatriation facilities with respect to themselves, their spouses whose status has been recognized by the United Nations and dependent relatives, as are accorded in time of international crisis to diplomatic envoys;

(*m*) The right to import for personal use and free of duty;

(i) furniture and personal effects in one or more separate shipments upon arrival in the Country and additions to the same thereafter, including motor vehicles, according to the processes established for diplomatic representatives accredited in the Country and/or resident members of international organizations;

(ii) articles for personal use or consumption and not for gift or sale;

(*n*) The right to employ private servants in accordance with the terms and conditions foreseen for members of diplomatic missions in force in the Country.

3. UNICEF officials who are nationals of or permanent residents in the Country shall enjoy only those privileges and immunities provided for in the Convention.

Article IX—Locally recruited personnel assigned to hourly rates

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

2. The terms and conditions of employment for the persons referred to in paragraph (1) of this Article IX shall be in accordance with the relevant United Nations resolutions, Regulations and Rules and those of UNICEF.

Article X—Social Security and Pension

1. Because of the social security scheme established by or conducted under the authority of the United Nations, UNICEF, officials of UNICEF and other UNICEF personnel (if any) to whom the above-mentioned scheme applies shall be exempt from mandatory coverage and all compulsory contribution payments to the social security system of the Country.

2. Pensions paid from the United Nations Joint Staff Pension Fund, whether by lump sum or by periodic payments, and whether to beneficiaries or surviving spouses or other beneficiaries, shall be exempt from taxes in the Country. In accordance with the Convention, withdrawal benefits (i.e., payments other than the payments referred to in the preceding sentence) paid by the United Nations Joint Staff Pension Fund upon withdrawal from the United Nations Joint Staff Pension Fund shall be exempt from taxes in the Country when, upon receipt, such withdrawal benefits are transferred to any of the following Hungarian pension accounts of the person withdrawing from the United Nations Joint Staff Pension Fund: Voluntary Mutual Pension Fund, or Occupational Retirement Institution as supplementary payment, or to an Individual Retirement Account or a pension insurance contract.

3. The provisions of paragraph (1) above shall apply, *mutatis mutandis*, to the spouses whose status has been recognized by the United Nations and dependent relatives forming part of the households of persons referred to in paragraph (1) above, unless they are employed or self-employed in the Country or receive social security benefits from the Country.

Article XI—Experts on mission

Experts on mission 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 missions. In particular they shall be accorded:

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

(*b*) Immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of the performance of their mission. This immunity shall continue to be accorded notwithstanding that they are no longer employed on missions for UNICEF;

(*c*) Inviolability for all papers and documents;

d) For the purpose of their official communications, including any electronic forms of communications, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

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

(*f*) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Article XII—Notification

1. UNICEF shall notify the Ministry of Foreign Affairs and Trade of the names of UNICEF officials, and of any change in the status of such individuals.

2. UNICEF officials shall be provided with a temporary certificate or a special identity card by the Government certifying their status under this Agreement.

Article XIII—Waiver of Immunity

1. Privileges and immunities are granted to UNICEF personnel in the interests of the United Nations and UNICEF and not for the personal benefit of the individuals concerned. The Secretary-General of the United Nations shall have the right and the duty to waive the immunity of any UNICEF personnel in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations and UNICEF.

2. UNICEF shall cooperate at all times with the appropriate Hungarian authorities to facilitate the proper administration of justice, to secure the observance of police regulations and to prevent the occurrence of any abuses in connection with the privileges, immunities and facilities accorded by this Agreement.

Article XIV—Laissez-Passer

1. The Government shall recognize and accept the United Nations *laissez-passer* issued to UNICEF officials, as a valid travel document equivalent to a passport. Applications for visas (if required) from the holders of United Nations *laissez-passer* shall be dealt with as speedily as possible.

2. The Government shall take all necessary measures to facilitate the entry into, sojourn in and departure from the Country, of other persons invited to the Centre on official business, irrespective of their nationalities.

Article XV—Supplementary Agreements

The Government and UNICEF may enter into one or more supplementary Agreements for the implementation of this Agreement as may be found desirable. The supplementary Agreements may be amended as necessary and agreed by the Government and UNICEF.

Article XVI—Settlement of Disputes

Any dispute between the Government and UNICEF arising out of or relating to this Agreement or any supplementary 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 thirty days of the request for arbitration either Party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. 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. The Parties hereto shall notify each other that their respective internal procedures required for the entry into force of this Agreement have been complied with. This Agreement shall enter into force fifteen (15) calendar days after the receipt of the last notification and remains in force for fifteen (15) years. After fifteen (15) years this Agreement shall continue to be in force for further successive periods of ten (10) years each unless terminated under paragraph (4) of this Article.

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

3. Consultations with a view to amending this Agreement may be held at the request of the Government or UNICEF. Amendments shall be made by joint written agreement and will enter into force according to paragraph (1) of this Article.

4. This Agreement and any supplementary Agreements concluded between the Government and UNICEF pursuant to this Agreement shall cease to be in force two (2) years after either of the Parties gives notice in writing to the other of its decision to terminate this Agreement, except as for such provisions as may be applicable in connection with the orderly termination of the operations of UNICEF at its Centre and the disposition of the property therein. In the event of a decision to terminate the Agreement, the Parties shall engage in consultations regarding the appropriate steps to be taken by each Party to facilitate the orderly termination of the operations of the Centre.

In witness whereof the Government and UNICEF have signed this Agreement, in duplicate, in the Hungarian and English languages, both texts being equally authentic. In case of any discrepancy between the texts, the English text shall prevail.

Done at New York, on 15 June 2015

On behalf of the Government of Hungary	On behalf of the United Nations Children's Fund
[*Signed*] Dr. Istvan Mikola	[*Signed*] Anthony Lake
Minister of State	Executive Director

(*e*) Technical Agreement between the United Nations, represented by the Department of Peacekeeping Operations, and the Minister of Defence of the French Republic concerning operational support to the United Nations Operation in Côte d'Ivoire (UNOCI) by the French forces in Côte d'Ivoire within the framework of Security Council Resolution 2226 (2015)*

1. Preamble

The United Nations Security Council established the United Nations Operation in Cote d'lvoire (UNOCI) in its resolution 1528 (2004) with the mandate set out in resolution 2226 (2015);

Acting under Chapter VII of the Charter of the United Nations, the Security Council authorized UNOCI to use all necessary means to carry out its mandate, within its capabilities and its areas of deployment;

The Security Council, in operative paragraph 28 of resolution 2226 (2015), also decided to extend until 30 June 2016, its authorization to the French forces in Cote d'lvoire in order to support UNOCI, within the limits of their deployment and their capabilities, to UNOCI until 30 June 2016;

UNOCI and the French forces in Cote d'lvoire shall respect the relevant rules and principles of international humanitarian, human rights and refugee law;

Further to resolution 2226 (2015), the United Nations, represented by the Department of Peacekeeping Operations, and the Minister of Defense of the French Republic, hereinafter referred to as the "Parties", hereby agree as follows.

2. Definitions

"UNOCI" means the United Nations Operation in Cote d'lvoire, established in accordance with Security Council resolution 1528 (2004) with the mandate set out in resolution 2226 (2015);

"Force Commander" means the UNOCI Force Commander who functions under the overall authority of the Special Representative of the Secretary-General (Special Representative) for Cote d'lvoire and Head of Mission of UNOCI as defined in Security Council resolution 2226 (2015), including with respect to requests for the support of the French forces under this technical agreement.

"Members of UNOCI" means the Special Representative and any member of the military, police or civilian components;

"Elements of UNOCI" means all components and members of UNOCI as well as UN personnel in the Cote d'lvoire contributing to UNOCI's mandate;

"French forces in Cote d'lvoire" means the French forces referred to in operative paragraph 28 of Security Council resolution 2226 (2015);

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* Entered into force on 6 November 2015 by signature, in accordance with article 11. United Nations registration no. I-53085.

3. Purpose

The purpose of this technical agreement (TA) is to establish and define the necessary provisions between UNOCI and the French forces in Cote d'lvoire regarding the operational support by the French forces to UNOCI in the framework of operative paragraph 28 of Security Council resolution 2226 (2015), and the cooperation between the parties.

4. Operational responsibilities and support

4.1 In the framework of operative paragraph 28 of Security Council resolution 2226 (2015), the Secretary General, as delegated to the Special Representative and the Force Commander, may request the French forces to provide operational support to UNOCI as described in paragraphs 4.2 through 4.4 below.

4.2 Before requesting French forces assistance, UNOCI shall first seek to utilize its own capacities and resources prior to seeking the support of the French forces.

4.3 In accordance with the provision of this TA and in the framework of operative paragraph 28 of Security Council resolution 2226 (2015), the French forces would provide support in the following circumstances:

4.3.1 Where there is clear indication of an imminent and serious threat to UNOCI elements, premises, or property;

4.3.2 Any other circumstance where it is mutually agreed that there is an imminent and serious threat to UNOCI elements;

4.3.3 Where it is mutually agreed that the operational support of the French forces is necessary to enable UNOCI to carry out its mandate;

4.4 French forces shall provide the requested operational support subject to the limits of their deployment and their capabilities. This operational support shall include the following:

4.4.1 Provide direct or indirect, ground or air, support;

4.4.2 In case of emergency, provide tactical medical evacuation of elements of UNOCI and related medical interventions;

4.4.3 Provide emergency evacuation of isolated UNOCI elements endangered by a serious and imminent threat;

4.4.4 Sharing of intelligence and intelligence products.

5. Operational command and control

5.1 UNOCI, including any French contingents thereof, shall not place any of its elements under the command and control of the French forces; shall at all times remain under unified United Nations command and control; and shall operate under its own rules of engagement and directives on the use of force as issued by the Under-Secretary-General of the Department of Peacekeeping Operations.

5.2 The French forces shall not place any of its elements under the command and control of UNOCI, excluding those French contingents or FPUs pursuant to specific arrangements between UNOCI and France as a Troop or Police Contributing Country; shall

at all times remain under the French command structure; and shall operate under their own rules of engagement as per national law.

6. Planning, coordination and liaison

6.1 UNOCI and the French forces shall coordinate and de-conflict their operations, including with respect to supporting operations of the armed forces of Cote d'lvoire ("*Forces Republicaines de Cote d'lvoire*").

6.2 UNOCI and the French forces shall maintain liaison arrangements to facilitate exchange of information, communication, and coordination between them.

7. Financial Provisions

The operational support provided by the French forces in paragraph 4.4 above shall be on a cost-reimbursable basis, on the basis of rates and financial implementation procedures to be determined by the Parties within a reasonable time frame from the date of the request for support, taking into consideration the nature of the support requested.

8. Claims

8.1 Each Party shall be liable for, and be responsible for dealing [with], and will hold the other Party harmless in respect of, all claims for injury or death suffered by its personnel and for damage to or loss or destruction of its property, or the property of its personnel, arising out of, or in connection with, the implementation of this TA, except where such injury, death, damage, loss or destruction is due to the negligence, reckless omission, reckless act or willful misconduct of the other Party, its personnel or agents.

8.2 Without prejudice to the international agreements concluded by either the United Nations or the Government of France, each Party shall be responsible for claims brought by third parties for death, personal injury or illness, or for loss or destruction of or damage to third-party property to the extent that such claims arise from or in connection with the acts or omissions of that Party, its personnel or agents.

9. Settlement of disputes

All disputes between the Parties concerning the interpretation or application of the present TA or any supplementary arrangement shall be settled amicably by consultation or negotiation between the Parties.

10. Amendment and supplementary arrangements

10.1 This TA may be amended by mutual written consent of the Parties.

10.2 The Parties may conclude supplementary arrangements not inconsistent with this TA.

11. Entry into force, duration and termination

11.1 This TA shall enter into force on the date of signature.

11.2 This TA shall remain in effect for the duration of UNOCI's mandate.

11.3 The Parties can terminate this TA at any time by mutual written consent.

11.4. This TA can be terminated at any time by any of the Parties. This termination shall come into effect 30 days after written notice to the other Party.

11.5. The termination of this TA will not affect the application of paragraphs 7, 8, and 9.

Done in New York on 6 November 2015 in French and English, both versions being equally authentic.

[*Signed*]	[*Signed*]
Under Secretary General for Peacekeeping Operations	Minister of Defence of the French Republic
Harvé Ladsous	Jean-Yves Le Drian

(*f*) Supplementary Arrangement concerning the implementation of the United Nations Security Council Resolution 2235 (2015) between the United Nations and the Organization for the Prohibition of Chemical Weapons*

Recalling the Agreement concerning the Relationship between the United Nations and the Organization for the Prohibition of Chemical Weapons (hereinafter the "OPCW"), approved by the General Assembly of the United Nations on 7 September 2001 and by the Conference of the States Parties of the Organization on 17 May 2001 (hereinafter the "Agreement");

Recognising that the OPCW is an independent, autonomous international organization, established by the Chemical Weapons Convention** (hereinafter the "Convention") to achieve its object and purpose, to ensure the implementation of its provisions, including those for international verification of compliance with the Convention, and to provide a forum for consultation and cooperation among States Parties;

Recalling that, pursuant to Security Council resolution 2235 (2015), the United Nations Secretary-General (hereinafter the "Secretary-General") is requested, in coordination with the OPCW Director-General (hereinafter the "Director-General"), to undertake the steps, measures, and arrangements necessary for the speedy establishment and full functioning of an OPCW-United Nations Joint Investigative Mechanism (hereinafter the "JIM") to identify to the greatest extent feasible individuals, entities, groups, or governments who were perpetrators, organisers, sponsors, or otherwise involved in the use of chemicals as weapons, including chlorine or any other toxic chemical, in the Syrian Arab Republic where the OPCW Fact-Finding Mission (herein-after the "FFM") determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons, including chlorine or any other toxic chemical;

Recalling that, in accordance with operative paragraph 9 of Security Council resolution 2235 (2015), the Security Council requested the FFM to collaborate with the JIM from the commencement of the JIM's work to provide full access to all of the information and evidence obtained or prepared by the FFM, including but not limited to, medical records,

* Entered into force 20 November 2015 by signature, in accordance with article IX. United Nations registration no. B-1240.

** United Nations, *Treaty Series*, vol. 1975, p. 45.

interview tapes and transcripts, and documentary material, and requested the JIM, with respect to allegations that are subject to investigation by the FFM, to work in coordination with the FFM to fulfil its mandate;

Recalling that, in accordance with operative paragraph 5 of Security Council resolution 2235 (2015), the Security Council authorised the recommendations, including elements of Terms of Reference, regarding the establishment and operation of the JIM, submitted by the Secretary-General in coordination with the Director-General, by letters dated 27 August 2015 and 9 September 2015;

Recalling that, according to Article II, paragraph 3, of the Agreement, the OPCW, within its competence and in accordance with the provisions of the Convention, shall cooperate with the Security Council by furnishing it, at its request, such information and assistance as may be required in the exercise of its responsibilities under the United Nations Charter;

Recognising that, pursuant to Article XIV of the Agreement, the Secretary-General and the Director-General may enter into such supplementary arrangements and develop such practical measures for the implementation of the Agreement as may be found desirable;

Now therefore, the Secretary-General and the Director-General on behalf of the United Nations and the OPCW, respectively (hereinafter jointly referred to as the "Parties" and separately referred to as a "Party"), have agreed, pursuant to Article XIV of the Agreement, on the following modalities of cooperation in the context of the implementation of Security Council resolution 2235 (2015):

Article I. Purpose of the supplementary arrangement and principles governing operation

1. Pursuant to Security Council resolution 2235 (2015), the Secretary-General is requested, in coordination with the Director-General, to undertake the steps, measures, and arrangements necessary for the speedy establishment and full functioning of the JIM. This Supplementary Arrangement is intended to establish the framework for such coordination between the United Nations and the OPCW. All references to the FFM and the JIM in this Agreement, insofar as they give rise to any legal rights or obligations and/or liabilities, shall be interpreted as referring to the OPCW and the United Nations, respectively.

2. The United Nations and the OPCW shall operate in the areas of their particular, respective competencies.

3. The Parties shall cooperate for the implementation of Security Council resolution 2235 (2015) and the terms of this Supplementary Arrangement in accordance with their own constituent instruments; any relevant decisions of their respective policy-making organs; and any regulations, rules, policies, and procedures of the United Nations and the OPCW applicable thereto.

4. The JIM and the FFM shall cooperate closely under the overall coordination of the Assistant Secretary-General leading the JIM and the Director-General to promote the implementation of Security Council resolution 2235 (2015).

Article II. Logistical aspects

1. The Parties shall cooperate in the area of logistics and security, as required.

2. The OPCW and the United Nations shall conclude arrangements for (i) the JIM's use of office space, equipment, and information technology infrastructure in the OPCW Headquarters in The Hague; and (ii) administrative, logistical, and other support, as required.

Article III. Staffing of the JIM

1. The OPCW shall take such measures it deems appropriate to assist its personnel in taking up positions with the JIM and where relevant returning to positions with the OPCW.

2. The OPCW and the United Nations shall make administrative arrangements to facilitate currently serving OPCW staff members to join the JIM, where appropriate.

Article IV. Access to information and protection of confidentiality

1. The JIM and the OPCW shall develop the procedures and systems necessary for the safe and confidential exchange and retention of information and material referenced in operative paragraphs 9 and 12 of Security Council resolution 2235 (2015).

2. Any release to the other Party of confidential material and information shall be for official use only and shall be done in accordance with the applicable rules and procedures of the releasing Party governing the protection, control, and release of such information.

Article V. Reporting aspects

1. The Secretary-General and the Director-General shall coordinate as required with respect to the reports referenced in operative paragraph 10 of Security Council resolution 2235 (2015).

2. The OPCW Executive Council shall be informed of the reports pursuant to operative paragraphs 10 and 11 of Security Council resolution 2235 (2015) through the Director-General.

Article VI. Financial aspects

1. Except as may be otherwise agreed, each Party shall bear its own costs, if any, arising out of the implementation of this Supplementary Arrangement and/or subsequent arrangements.

2. To the extent that any activity under Article I above may give rise to undertakings that entail additional legal or financial obligations not provided for in this Supplementary Arrangement, these shall be subject to separate arrangements between the Parties prior to such activity being undertaken.

3. Each Party shall be subject to its own Financial Regulations and Rules.

Article VII. Liability

1. The OPCW shall be responsible for dealing with, and shall hold the United Nations harmless in respect of, any claims, proceedings, or suit by their officials, experts on mission, or contractors, arising from or related to the activities of the OPCW under this Supplementary Arrangement and/or any subsequent arrangements, except where the Parties agree that any loss, damage, injury, or death suffered by the OPCW, its officials, or experts on mission is due to the gross negligence or willful misconduct of the United Nations officials or experts on mission or of its contractors.

2. The United Nations shall be responsible for dealing with, and shall hold the OPCW harmless in respect of, any claims, proceedings, or suit by their officials, experts on mission, or contractors, arising from or related to the activities of the United Nations under this Supplementary Arrangement and/or any subsequent arrangements, except where the Parties agree that any loss, damage, injury, or death suffered by the United Nations, its officials, or experts on mission is due to the gross negligence or willful misconduct of the OPCW officials or experts on mission or of its contractors.

3. Without prejudice to paragraphs 1 and 2 above, each Party shall be liable for, and shall be responsible for dealing with, all third party claims arising from its own acts or omissions or those of its officials, experts on mission, or contractors in connection with, or as a result of, the implementation of the activities under this Supplementary Arrangement and/or any subsequent arrangements, except where the Parties agree that any loss, damage, or injury suffered by one Party is due to the gross negligence or willful misconduct of the other Party, its officials, experts on mission, or its contractors.

4. The OPCW and the United Nations shall closely cooperate in the handling of any proceedings, claims, demands, losses, and liability brought by any third party against either Party, arising out of the implementation of this Supplementary Arrangement and/or any subsequent arrangements.

Article VIII. Privileges and immunities

Nothing in or related to this Supplementary Arrangement shall be deemed to constitute any waiver, express or implied, of the immunities, privileges, exemptions, and facilities enjoyed by the United Nations and the OPCW.

Article IX. General provisions

1. This Supplementary Arrangement shall become effective upon signature by both Parties. If there is more than one date of signature, the latest date shall be the date from which this Supplementary Arrangement shall become effective. Any Party may terminate this Supplementary Arrangement at any time without cause with six (6) months prior written notice.

2. This Supplementary 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.

3. Any dispute arising out of or relating to the interpretation or implementation of this Supplementary Arrangement shall be settled amicably by negotiation between the United Nations and the OPCW.

In witness whereof, the representatives of the Parties sign this Supplementary Arrangement in duplicate.

For the Secretary-General of the United Nations

[*Signed*]

Kim Won-soo

Under-Secretary-General, Acting High Representative for Disarmament Affairs

United Nations Office for Disarmament Affairs

New York, 18 November 2015

For the Organization for the Prohibition of Nuclear Weapons

[*Signed*]

Ahmet Uzumcu

Director-General

Organization for the Prohibition of Chemical Weapons

The Hague, 20 November 2015

(*g*) Exchange of letters constituting an agreement between the United Nations and the Government of the Republic of Tunisia regarding the urgent temporary relocation of UNSMIL from Libya to Tunisia*

I

30 November 2015

Sir,

I have the honour to refer to the activities of the United Nations Support Mission in Libya (UNSMIL), which was established pursuant to Security Council resolution 2009 (2011) of 16 September 2011.

The United Nations is hereby requesting the assistance and support of the Government of Tunisia to facilitate the temporary relocation of UNSMIL from Libya to Tunisia in the event of an emergency that temporarily affects the ability of UNSMIL, in whole or in part, to continue to carry out its mandate in Libya.

Accordingly, I am seeking your Government's approval of the following provisions:

(i) To grant members of UNSMIL, upon their initial relocation from Libya, the right to enter Tunisia and, within two weeks following their arrival, to leave without delay or hindrance and free of all duties, taxes and fees on entry into or departure from the territory. To this end, to exempt members of UNSMIL from passport and visa regulations and immigration restrictions. To only require members of UNSMIL, upon their entry into Tunisia, to submit a United Nations *laissez-passer* or a United Nations certificate issued in accordance with article VII, section 26, of the Convention on the Privileges and Immunities of the United Nations or, for United Nations Volunteers, a valid national passport, as well as a certificate provided by the Special Representative of the Secretary-General and Head of UNSMIL (hereinafter "the Special Representative") stating that the person concerned is a member of UNSMIL;

* Entered into force on 30 November 2015 by the exchange of the said letters, in accordance with their provisions. United Nations registration no. I-53297.

(ii) To allow members of UNSMIL, if the United Nations decides that they must remain in Tunisia, to stay there until they are able to return to Libya to resume their work with UNSMIL in Libya or until the United Nations deploys them in another country and, to this end, to grant the members of UNSMIL, if necessary, a renewable multiple entry and exit visa for a period of six months preferably within the three days, and not later than six days, following the submission of the necessary documentation along with an official letter provided by UNSMIL;

(iii) To allow the members of UNSMIL who join the Mission, for the duration of the temporary relocation of UNSMIL in Tunisia, to enter and leave Tunisia, without delay or hindrance and free of all duties, taxes and fees on entry into or departure from the country and, to this end, to grant the members of UNSMIL, if necessary, a multiple entry and exit visa for a period of six months, renewable, within the three days following the submission of the necessary documentation along with an official letter provided by the United Nations;

(iv) To allow the United Nations to import into Tunisia or export from Tunisia, without delay or hindrance, without prohibition or restriction, and without duties, fees, charges or taxes, the property, funds and assets of UNSMIL, including transportation and telecommunications equipment. For this purpose, to promptly issue, free of charge, all necessary permits, authorizations or licences. However, UNSMIL shall not claim exemption from duties, fees, charges or taxes that are in fact charges for services rendered, it being understood that such fees shall be charged at the most favourable rate.

(v) To grant members of UNSMIL and the property, funds and assets of UNSMIL, including its vehicles and aircraft, freedom of movement in Tunisia, which in respect of military and security areas shall be coordinated jointly with the Government. In this regard, to allow UNSMIL and its members, as well as their vehicles and aircraft, to use roads, bridges, airfields and airspace free of charge. However, UNSMIL shall not claim exemption from fees which are in fact charges for services rendered, it being understood that such charges shall be charged at the most favourable rate. To provide UNSMIL, where necessary, with maps and other available information on the locations of dangers and impediments, which would facilitate the movement of UNSMIL and the safety of its members;

(vi) To allow UNSMIL to operate temporarily in Tunisia to carry out its mandate and, to that end, to grant it:

(*a*) The right to communicate by radio, email, facsimile or any other means and to install and operate the necessary facilities to maintain such communications between UNSMIL staff in Tunisia and between the temporary UNSMIL facilities in Tunisia and United Nations offices in other countries, using the frequencies allocated by the Government without delay to that end. To expedite the import of telecommunications terminal equipment for use by UNSMIL and the radio terminal equipment that may or not be intended for connection to a public telecommunications network, such equipment shall, within 48 (forty-eight) hours, be verified by the authorities approved by the Government for compliance with Tunisian regulations adopted in accordance with the instruments and recommendations of the International Telecommunication Union. UNSMIL shall notify the Government by UNSMIL, within 48 (forty-eight) hours of installation, of any connection to a public telecommunications network, and export of such equipment; and

(*b*) The freedom of movement of vehicles, imported under the temporary admission regime, bearing numbers attributed by UNSMIL, it being understood that all vehicles must carry third party insurance, and recognition by the Government, in this regard, of the validity of all permits or authorizations issued by the Special Representative to any member of UNSMIL and enabling the interested party to use any vehicle of UNSMIL, it being understood that no driving licence shall be issued to any person who is not already in possession of an appropriate and valid national licence;

(vii) To the extent possible, to help UNSMIL to obtain and provide it with:

(*a*) Support to facilitate its settlement in its premises, including safety measures; and

(*b*) Materials and other goods and services required for its subsistence and the conduct of its operations from local sources. In this connection, the Government shall make appropriate administrative arrangements for the remission or return of any excise, tax or financial payment included in the price, and exempt from sales taxes all local purchases by UNSMIL.

(viii) To agree to accept as valid licenses and certificates already issued by the appropriate authorities of other States Members of the United Nations in respect of aircraft, in accordance with articles 1, 32 and 33 of the Convention on International Civil Aviation and its annexes.

(ix) To allow United Nations close protection officers to possess and carry firearms and ammunition and wear civilian clothes while performing their functions in Libya. In this regard, the Government agrees to accept as valid, without payment of any related tax or fee, the permits issued by the Special Representative to those officers empowering them to carry firearms and ammunition while performing their official duties. The Special Representative shall inform the Government of the identity of the officers to whom it has granted such permits. The Government shall issue licences for the import and re-export of firearms and ammunition expeditiously and without charge upon receiving a request from UNSMIL specifying the names and functions of the United Nations officials to be protected, the duration of their presence in Tunisia and the identity of the members of the close protection team assigned to their protection. The Tunisian authorities shall provide firearms and ammunition to the close protection officers concerned upon their entry into Tunisia or the entry of the person whom they are assigned to protect, whichever occurs first. Firearms and ammunition must be re-exported from Tunisia immediately following the departure of the staff members to be protected and their security details from Tunisia. Alternatively, they may be left for safekeeping with the Tunisian border authorities, in which case they shall be immediately delivered, upon the written request of UNSMIL, to close protection officers of the United Nations identified by UNSMIL when they or the person whom they are assigned to protect enter Tunisia, whichever occurs first. The Tunisian Government shall be responsible for such safekeeping as long as the firearms and ammunition are held by its authorities.

(x) For the purposes hereof, "members of UNSMIL" includes:

(*a*) The Special Representative;

(*b*) United Nations staff members assigned to UNSMIL;

(*c*) United Nations Volunteers assigned to UNSMIL; and

(*d*) Other persons (other than United Nations staff members and United Nations Volunteers) who are assigned to carry out missions on behalf of UNSMIL whose names are for that purpose provided to the Government by the Special Representative

(xi) In addition, I propose that the Government extend to UNSMIL, its property, funds and assets and its members, the privileges and immunities, exemptions and facilities set forth in the Convention on the Privileges and Immunities of the United Nations, to which Tunisia is a party. In this regard, United Nations Volunteers shall be considered United Nations staff members and therefore shall enjoy the privileges and immunities under articles V and VII of the Convention.

(xii) UNSMIL 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 arrangements. UNSMIL and its members shall respect all local laws and regulations. The Special Representative shall take all appropriate measures to ensure the observance of those obligations.

Finally, I would like to recall that Tunisia is a party to the Convention on the Safety of United Nations and Associated Personnel adopted by the United Nations General Assembly on 9 December 1994. The United Nations expects the Government, of course, to take the necessary measures to ensure that the Convention is applied in respect of UNSMIL personnel and property and assets during the period of their temporary relocation in Tunisia.

If the foregoing provisions are acceptable to the Government of Tunisia, I propose that this letter, together with your reply to that effect, constitute an agreement between the United Nations and the Government of Tunisia regarding the urgent temporary relocation of UNSMIL from Libya to Tunisia, which will enter into force on the date of your reply.

Martin Kobler
[*Signed*]
Special Representative of the Secretary-General
Head of UNSMIL

II

Tunis, 30 November 2015

Sir,

By letters dated 30 November 2015, you informed me of the following regarding the activities of the United Nations Support Mission in Libya (UNSMIL), established pursuant to the Security Council resolution 2009 (2011) of 16 September 2011.

[See letter I]

In response, I have the honour to inform you that the provisions mentioned above and contained in your letters, are acceptable to the Government of Tunisia. Your letters and this reply therefore constitute an agreement between Tunisia and the United Nations, which will enter into force from the date of this letter.

Accept, Sir, the assurances of my highest consideration.

Taieb Baccouche

[*Signed*]

(*h*) Agreement between the United Nations and the Syrian Arab Republic concerning the status of the United Nations Joint Investigative Mechanism established by Security Council Resolution 2235 (2015)*

Without prejudice to the sovereignty of the Syrian Arab Republic;

And in order to ensure the timely, safe and secure conduct of the mandate of the Joint Investigative Mechanism (the "JIM") set out in United Nations Security Council resolution 2235 (2015) of 7 August 2015 and any subsequent decision or resolution of the United Nations relevant to, and relating specifically to, the JIM;

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

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*) The "JIM" means the Joint Investigative Mechanism established by the United Nations Security Council in its resolution 2235 (2015) of 7 August 2015;

(*b*) The "Head of the JIM" means the person appointed by the Secretary-General to lead the JIM;

(*c*) A "member of the JIM" means the Head of the JIM and such persons who are assigned by the Secretary-General to serve as part of the JIM;

(*d*) The "Government" means the Government of the Syrian Arab Republic;

* Entered into force provisionally on 11 December 2015, in accordance with article XXI. United Nations registration no. I-53468.

(*e*) The "territory" means the territory of the Syrian Arab Republic;

(*f*) A "contributing State or organization" means a Member State of the United Nations or an organization providing support to the JIM, including but not limited to, personnel, equipment, services, provisions, supplies, materials or other goods, including spare parts and means of transport, including vehicles and other means of transport, if any, for the JIM;

(*g*) The "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 JIM, engaged by the United Nations, including juridical as well as natural persons and their employees and subcontractors, to perform services for the United Nations and the JIM 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 JIM. Such contractors shall not be considered third party beneficiaries to this Agreement;

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 JIM or to any member thereof or to contractors thereunder shall apply in the Syrian Arab Republic only.

III. Application of the General Convention

3. The JIM, 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 General Convention.

4. Article II of the General Convention shall apply to the JIM and to the property, funds and assets of contributing States used in connection with the JIM.

IV. Status of the JIM

5. The JIM 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 JIM 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 JIM and its members shall respect all local laws and regulations.

6. The Government undertakes to respect the exclusively international nature of the JIM.

V. Flags, markings and identification

7. The Government recognizes the right of the United Nations to display within the Syrian Arab Republic the United Nations flag on the premises of the JIM in Syria and on vehicles, aircraft and vessels and otherwise as decided by the Head of the JIM.

8. Vehicles, aircraft and vessels of the JIM shall carry a distinctive United Nations identification, which shall be notified to the Government.

VI. Communications

9. In addition to the privileges and immunities enjoyed by the United Nations under the General Convention, the JIM 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 JIM. All communications directed to the JIM and all outward communications of the JIM, by whatever means or whatever form transmitted, shall be unrestricted and inviolable. The JIM 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.

VII. Travel and transport

10. The JIM, its members and contractors, together with their property, equipment, provisions, supplies, fuel, materials and other goods, including spare parts, as well as vehicles and other necessary means of transport, if any, 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.

11. The JIM shall inform the competent Syrian authorities of the movement of its personnel within the country as appropriate.

12. Within the framework of the mandate of the JIM, the Government shall, where necessary, provide the JIM 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 JIM's movements and ensuring the safety and security of its members and contractors.

13. The JIM's vehicles and other necessary means of transport, if any, including the vehicles of its contractors, and other necessary means of transport, if any, shall be notified to the Syrian government and shall not be subject to registration or licensing by the Government and shall be exempt from search and seizure.

14. The JIM shall promptly notify the competent Syrian authorities of the loss of a JIM vehicle and where appropriate shall authorize the Syrian authorities to recover any such vehicle.

VIII. Privileges and immunities granted to the JIM

15. The JIM 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 3 of the present Agreement, the JIM, 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 General 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 JIM, including the equipment and any information generated, received, stored or processed by the JIM;

(*b*) The JIM 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 JIM, 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 including value-added tax 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 JIM.

IX. Premises required for conducting the operational and administrative activities of the JIM

16. The Government shall assist the JIM in obtaining for as long as may be required, such areas for office space and facilities as may be necessary for the conduct of the investigation, in a manner that preserves the JIM's ability to carry out its mandated activities without jeopardizing health and safety, and without compromising its freedom of action and judgment. 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. The Government shall guarantee unimpeded access to the members of the JIM to such premises.

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

X. Provisions, supplies and services

18. 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 JIM, 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 and without the payment of monetary contributions, duties, fees, charges or taxes.

XI. Recruitment of local personnel

19. The JIM may recruit locally such personnel as it requires. Upon the request of the Head of the JIM, the Government undertakes to facilitate the recruitment of qualified local staff by the JIM and to accelerate the process of such recruitment.

XII. Currency

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

XIII. Status, privileges and immunities of the members of the JIM

21. The Head of the JIM, the two deputies in charge of the political and investigative components of the JIM, respectively, and such high-ranking members of the JIM as may be agreed upon with the Government, shall have the status specified in Sections 19 and 27 of the General Convention, provided that the privileges and immunities referred to therein shall be those accorded to diplomatic envoys by international law.

22. Officials of the JIM shall be entitled to the privileges and immunities of Articles V and VII of the General Convention.

23. Experts assigned to serve with the JIM, whose names are for that purpose notified to the Government by the Head of the JIM, 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 General Convention.

24. Locally recruited personnel of the JIM, whose names are notified to the government, 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 General Convention. It is understood that locally recruited personnel are only exempt from national service obligations for the period of their service with the JIM and can, therefore, fulfil their national service obligations after they have completed their service with the JIM.

25. Members of the JIM shall be exempt from taxation in respect of salaries and emoluments paid to them by 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.

26. Members of the JIM 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 JIM. 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 JIM upon prior written notification by, and in coordination with, the Head of the JIM and the United Nations Secretariat. On departure from the Syrian Arab Republic, members of the JIM may take with them such funds that were received by them in pay and emoluments from the United Nations, any unspent funds that the members of the JIM have brought into the

Syrian Arab Republic in connection with the conduct of activities for the JIM, or any funds from a contributing State and are a reasonable residue thereof.

XIV. Entry and departure

27. The Head of the JIM and members of the JIM shall, whenever so required, have the right to enter into and depart from the Syrian Arab Republic.

28. The Government undertakes to facilitate the entry into and departure from the Syrian Arab Republic, without delay or hindrance, of the Head of the JIM and members of the JIM and shall be kept informed of such movement. For that purpose, the Head of the JIM and members of the JIM 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.

29. For the purpose of such entry or departure, members of the JIM shall only be required to have a United Nations laissez passer and/or a national passport with a certificate that they are travelling on the official business of the United Nations. In view of the Secretary-General's responsibility for the JIM and its members, in the event that an aircraft provided by the Government is not used for security or other compelling considerations, medical evacuations and other emergency flights shall be given prompt clearance and shall in any event be entitled to proceed as soon as the relevant authorities of the Government have been notified of the details of the flights, and the Government shall ensure the safe conduct of such flights within its airspace.

XV. Safety and security

30. The JIM will arrange for security guards and related services without prejudice to the Government's responsibility for the security and safety of the JIM and its members.

31. Military liaison officers of the JIM 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 JIM may be authorized by the Head of the JIM at other times. Military liaison officers of the JIM, as well as United Nations Security Officers and United Nations close protection officers designated by the Head of the JIM, 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, JIM 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 Head of the JIM.

32. 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 JIM, its members and associated personnel and their equipment and premises. In particular:

(*a*) The Government shall ensure the safety, security and freedom of movement on the territory of the Syrian Arab Republic, of the JIM, 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 JIM 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 United Nations Security Council resolution 2235 (2015) and any subsequent decision or resolution of the relevant organs of the United Nations relevant to, and relating specifically to, the JIM. This is without prejudice to the fact that all premises of the JIM are inviolable and subject to the exclusive control and authority of the United Nations;

(*b*) If members of the JIM 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 United Nations or to the JIM 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.

33. Upon the request of the Head of the JIM, the Government shall provide such security, as necessary, to protect the JIM, its members and associated personnel and their equipment during the exercise of their functions.

XVI. Support for JIM activities

34. The Government shall provide such support as is requested by the JIM to facilitate the activities pursued by the JTM in the performance of its mandate in the Syrian Arab Republic. Such support, coordinated between the Government and the JIM in a manner consistent with paragraph 7 of resolution 2235 (2015), shall include, but not be limited to:

(*a*) Assuring the security and, upon request, provide transportation for the JIM and its members, their equipment, documents and other materials, including samples, required for their activities;

(*b*) Providing appropriate medical assistance and services as necessary to the JIM and its members and facilitate access to hospitals and related facilities in the event of the need to evacuate from the Syrian Arab Republic, for medical reasons, members of the JIM;

(*c*) Providing the JIM and its members full access to all locations, individuals, materials and other information that the JIM deems relevant to its investigation and where the JIM determines that there are reasonable grounds to believe access is justified based on its assessment of the facts and circumstances known to it at the time;

(*d*) Allowing the JIM to collect, remove and transport of any and all materials, including samples, required by the JIM for analysis and permitting the unhindered passage through agreed border crossings, without customs inspection, of the JIM's equipment, materials, including samples, and gear;

(*e*) Securing and preserving the sites where it is alleged that chemicals have been used as weapons, including chlorine or any other toxic chemical, as far as possible while also consistent with the protection of the surrounding population and the environment;

(*f*) Locating, identifying and, as appropriate, preserving, any material, such as samples of a suspected chemical substance, remnants of munitions, contaminated soil, vegetation or water, contaminated clothes, biomedical samples obtained from casualties as well as post-mortem samples or other articles.

XVII. Limitations on liability

35. The Government shall be responsible for dealing with, and hold the United Nations harmless in respect of any claims, including third party claims, arising from the implementation of United Nations Security Council resolution 2235 (2015) and any subsequent decision or resolution of the relevant organs of the United Nations relevant to, and relating specifically to, the JIM, unless the United Nations agrees that such claims arise from or are directly attributable to the gross negligence or wilful misconduct of the United Nations, its officials or experts on mission.

XVIII. Settlement of disputes

36. Subject to paragraph 35 above, all other disputes between the JIM and the Government arising out of the interpretation or application of the present Agreement will be amicably settled by negotiations between the United Nations 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 Secretary-General of the United Nations 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 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 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 creation 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 JIM, the Head of the JIM 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.

37. All differences between the United Nations and the Government arising out of the interpretation or application of the present arrangements concerning the General Convention shall be dealt with in accordance with the procedure set out in Section 30 of that Convention.

XIX. Supplementary arrangements

38. The Secretary-General of the United Nations and/or the Head of the JIM and the Government may conclude supplementary arrangements to the present Agreement, including on the provision of medical services and emergency medical evacuation services.

XX. Liaison

39. The Head of the JIM and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

XXI. Miscellaneous provisions

40. Wherever the present Agreement refers to privileges, immunities and rights of the JIM and to facilities that the Syrian Arab Republic undertakes to provide to the JIM, 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, in areas under its control.

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

42. The present Agreement shall remain in force until the departure of the final element of the JIM from the Syrian Arab Republic upon completion of the JIM's mandate within the Syrian Arab Republic, in accordance with Article I, paragraph 1(a) above, except that:

(*a*) The provisions of paragraph 35 shall remain in force;

(*b*) The provisions of paragraphs 36 and 37 shall remain in force until all claims made in accordance with the provisions of paragraph 36 have been settled.

43. 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 JIM.

44. 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 JIM, provided that this is done with the written consent of the Head of the JIM, 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.

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

Done at … in two original copies in each of the English and Arabic languages, on

For the United Nations	For the Government of the Syrian Arab Republic
[*Signed*]	[*Signed*]
Virginia Gamba	Bashar Ja'afari
Head OPCW-UN, Joint Investigative Mechanism	Permanent Representative of the Syrian Arab Republic to the United Nations

3. Other agreements

Exchange of letters between the United Nations and Cambodia concerning the loan of certain maps by the United Nations to the Royal Government of Cambodia

I

5 August 2015

Excellency,

I have the honour to refer to the letter dated 5 August 2015 from the Secretary-General to His Excellency Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia. A copy of that letter is attached for your information.*

Further to that letter, I wish to propose the conditions and understandings that are to apply to the loan of the maps in question by the United Nations Dag Hammarskjöld Library to your Government. These proposed conditions and understandings are set out in an attachment to this letter.

If these conditions and understandings meet with your approval, I would propose that this letter and your reply confirming your acceptance of these conditions and understandings shall constitute an agreement between the United Nations and Cambodia, which shall enter into force on the date of your reply.

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

[*Signed*]

Cristina Gallach

Under-Secretary-General
for Communications and Public Information

Conditions and understandings applicable to the loan by the United Nations of certain maps to the Government of the Kingdom of Cambodia

1. The United Nations agrees to loan the original copies of the following maps that are in its possession (the "maps") to the Government of the Kingdom of Cambodia (the "Government"):

[List not reproduced]

2. The maps shall be loaned by the United Nations to the Government for a period of up to 14 days, commencing from the date of their handover in Phnom Penh by a designated official of the United Nations to a designated official of the Government.

3. The designated official of the United Nations will transport the maps to and from Phnom Penh. He or she may be accompanied for this purpose by one other United Nations official. That/Those United Nations official(s) will remain in Cambodia for the duration of the loan.

* Copy of the letter omitted.

4. The designated official of the United Nations shall hand over the maps to the designated official of the Government on the day following his or her arrival in Phnom Penh at a time and place in Phnom Penh to be mutually agreed between them.

5. The designated official of the United Nations and the designated official of the Government shall sign two copies of a document confirming the handover of the maps by the United Nations to the Government. One copy of this document shall be kept by the United Nations and one by the Government.

6. The designated official of the United Nations and the designated official of the Government shall serve as liaison between the United Nations and the Government on all matters relating to the implementation of this exchange of letters throughout the period that the maps are on loan to the Government.

7. The United Nations and the Government shall inform each other of the identities of their respective designated officials in advance of the travel of the designated official of the United Nations to Phnom Penh.

8. The designated official of the United Nations shall have no functions in respect of or concerning the maps other than those that are specified in the present agreement.

9. During the period that the maps are on loan to the Government, the Government shall at all times keep them in its possession and control on Government premises. The location of those premises shall be notified to the designated official of the United Nations. Any change in the premises at which the maps are being kept shall be immediately notified to that designated official.

10. The Government agrees to take all necessary precautions and measures to ensure that the maps are preserved in their original state and to ensure that they are not destroyed, damaged, lost or undergo any form of deterioration while they are on loan to the Government. To these ends, the Government agrees to keep the maps in a secure environment that will ensure their protection from humidity, water, fire, natural disasters, theft or other causes that may destroy or damage, or result in the loss or deterioration of the maps.

11. The Government agrees to notify the United Nations of the precautions and measures that it will put in place for the purposes specified in the preceding paragraph in advance of the travel by the designated official of the United Nations to Phnom Penh.

12. In the event that the United Nations considers that the precautions and measures notified by the Government in accordance with the preceding paragraph are not sufficient for the purposes specified in paragraph 9, the United Nations may request that the Government put in place additional or different precautions and measures for those purposes. Upon receipt of any such request, the Government shall take the precautions and measures specified by the United Nations and inform the United Nations once this has been done. It is understood that the designated official of the United Nations will not transport the maps to Phnom Penh unless and until the United Nations is so notified.

13. The maps may only be handled and used by Government officials for official governmental purposes.

14. The Government may copy or electronically scan the maps. The means employed for such purpose shall be of such a nature that the maps will not be exposed to risk of destruction, loss, damage or any form of deterioration.

15. The designated official of the United Nations shall, upon request, be afforded full and immediate access to all of the maps and to inspect the conditions under which they are being kept and used.

16. In the event that the designated official of the United Nations considers that the maps are being kept or used in a manner that is not consistent with the terms of this agreement, he or she may, at any time, request the Government to take specified corrective measures or request that the maps be returned to the United Nations. Upon receipt of any such request, the Government shall immediately take the corrective measures specified or return the maps to the designated official of the United Nations.

17. Subject to the preceding paragraph, the maps shall be returned to the designated official of the United Nations no later than 14 days after their initial handover to the designated official of the Government, at a time and place in Phnom Penh to be mutually agreed between those two officials.

18. All the maps shall be returned to the designated official of the United Nations in their original condition.

19. The designated official of the United Nations and the designated official of the Government shall sign two copies of a document confirming that the maps have been returned by the Government to the United Nations. One copy of this document shall be kept by the United Nations and one by the Government.

20. All expenses related to the transportation of the maps by the United Nations official(s) to and from Cambodia and the stay of that or those official(s) in Cambodia shall be borne by the Government. The standard and costs of travel of, and the costs of the daily subsistence allowance payable to, such United Nations official(s) shall be determined and calculated in accordance with the applicable rules, regulations and rates of the United Nations.

21. Should any of the maps be destroyed or lost while they are on loan to the Government, the Government shall pay full compensation to the United Nations for their loss. Should any of the maps be damaged or undergo any form of deterioration while they are on loan to the Government, the Government shall pay compensation to the United Nations in the full amount necessary to defray all of the costs incurred by the United Nations for their repair, restoration or stabilization.

22. The maps shall remain the property of the United Nations at all times. They shall at all times enjoy the inviolability that is enjoyed by all documents belonging to the United Nations pursuant to Article 105 of the Charter of the United Nations and Article II, Section 4, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which the Kingdom of Cambodia is party. Nothing in or related to this exchange of letters shall be deemed to constitute a waiver, express or implied, of the privileges and immunities of the United Nations or of any of its officials.

23. The United Nations is not to be understood to officially endorse or accept the boundaries and names shown on the maps.

II

7 August 2015

Excellency,

I am pleased to inform you that the Royal Government of Cambodia is agreeable to the Conditions and Understandings applicable to the loan by the United Nations of certain maps to the Royal Government of Cambodia as stated in the attachment of your letter dated 5 August 2015.

On behalf of the Royal Government of Cambodia, I wish to confirm the Government's acceptance to the Conditions and Understandings, which shall constitute an official agreement between the Royal Government of Cambodia and the United Nations, and shall enter into force on the date of my reply.

[Details of designated officials and their arrangements omitted]

Once the maps are handed over, the Royal Government of Cambodia guarantees the security and protection of the maps which will be safely kept in the Peace Palace.

…

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

[*Signed*]

Ry Tuy

Ambassador and Permanent Representative
of Cambodia to the United Nations

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*

During 2015, the Comoros acceded to the Convention and a number of States undertook to apply the provisions of the Convention to the following specialized agencies:

State	*Date of receipt of instrument of accession*	*Specialized agencies*
Comoros	16 April 2015	ILO
France	6 November 2015	UNWTO
Lithuania	12 June 2015	UNWTO
Paraguay	11 November 2015	UNWTO
Seychelles	24 August 2015	UNWTO

As at 31 December 2015, there were 127 States parties to the Convention.**

2. International Labour Organization

On 25 February 2015, an agreement for extension of the "Supplementary Understanding and its Minutes of the Meeting dated 26 February 2007"*** was concluded and entered into force with the Government of Myanmar. This agreement extends the Supplementary Understanding relating to the role of the Liaison Officer with respect to forced labour complaints channelled through him/her.****

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

** For the list of the 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.

*** International Labour Office (ILO), Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29), document GB.298/5/1, Appendix. Available from https://www.ilo.org/public/english/standards/relm/gb/docs/gb298/pdf/gb-5-1.pdf.

**** Available from https://www.ilo.org/yangon/info/meetingdocs/WCMS_350060/lang--en/.

3. Food and Agriculture Organization

(*a*) Agreements regarding the establishment of FAO Representations and Offices

The legal status, privileges and immunities enjoyed by FAO representations, regional, country and liaison offices, their personnel and assets are set out in agreements concluded with the host States. In 2015, agreements concerning the establishment of FAO representations were concluded with the Argentine Republic (8 June 2015), the Republic of Azerbaijan (25 May 2015), the Republic of Cameroon (8 September 2015), the Republic of the Congo (1 November 2015), the Republic of Fiji (6 June 2015), the Republic of Kazakhstan (23 May 2015), the Russian Federation (5 February 2015), and Solomon Islands (11 May 2015). These confirm the applicability of the 1947 *Convention on the Privileges and Immunities of the Specialized Agencies* to the representation, FAO's personnel and its assets, as well as the activities carried out by FAO within that State.

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

For the purpose of holding international conferences and meetings of FAO bodies outside FAO Headquarters and premises, FAO normally concludes agreements specifying the privileges and immunities and other facilities that the Organization and participants (delegations and observers) will enjoy for the purpose of the meeting. These agreements are based on a standard Memorandum of Responsibilities.* During 2015, Memoranda of Responsibilities were concluded with the Federative Republic of Brazil, the Kingdom of Cambodia, the People's Republic of China, the Republic of Colombia, the Republic of Cyprus, the Republic of Italy, the United Mexican States, the Kingdom of Morocco, and the United States of America.

(*c*) Agreements concerning FAO technical assistance activities

In accordance with Article XVI of the FAO Constitution, and in line with longstanding practice, a substantial number of agreements were concluded with FAO Members for the purpose of regulating technical assistance activities to be conducted within their jurisdictions. Generally, these agreements addressed the legal status of FAO, its privileges and immunities, and included provisions holding FAO harmless from any claim or liability arising from, or in connection with, the FAO activities within the State concerned.

(*d*) Resource mobilization and collaboration with other entities

FAO works with a variety of partners, including Member Nations, international financing institutions, the private sector and civil society organizations. Partners may provide financial support, as well as contribute their knowledge, expertise and networks to the implementation of activities under FAO's Strategic Framework. FAO also promotes partnership through South-South Cooperation. Various legal instruments are entered into by

* See Chapter II.B.2.(*a*) of the *United Nations Juridical Yearbook 1972* (United Nations Publication, Sales No. E.74.V.1).

FAO in the context of its collaboration with partners. The status of the individual partner will, to a large extent, inform the content of each legal instrument.

Agreements with resource partners are designed with a view to ensuring that the neutrality and impartiality of the Organization is maintained and its integrity, independence and reputation are not put at risk. Typically, these agreements will maintain the privileges and immunities of the Organization, confirm the non-applicability of any single national system of law, and establish specific dispute settlement procedures to be applied in the case of differences. In addition, in line with its mandate as a knowledge-sharing institution, intellectual property clauses will normally establish that FAO owns the copyright to outputs of activities funded by the resource partner to ensure that dissemination of information is possible. Moreover, agreements will reflect the requirement in the Financial Regulations that voluntary contributions do not draw upon the Organization's regular programme resources.[*] During 2015, specific templates and framework agreements were negotiated and agreed with several partners.

Furthermore, FAO enters into general frameworks for cooperation with other intergovernmental organizations, including sister UN System entities, civil society organizations, private sector actors, academic and research institutions.[**] Partnerships are memorialized in legal arrangements (e.g. Memoranda of Understanding or Exchanges of Letters), defining the rights and responsibilities of the Parties and safeguarding FAO's status and privileges and immunities. Typically, these instruments do not establish binding commitments in respect of resources; rather, they establish the general conditions for future collaboration, to be operationalized by supplementary agreements for specific activities.

(*e*) The Participation Contract of Expo Milano 2015

In 2015, the UN System entities participated in the exhibition *Expo Milano 2015*, which was held in Milan, Italy, from 1 May to 31 October (*see* Chapter III-B, Section (*c*) on *The participation of the United Nations System in Expo Milano 2015*).

The modalities of participation of the UN System in *Expo Milano 2016* were addressed in the *Participation Contract of Expo Milano 2015, Italy* concluded between the United Nations, including its Funds, Programmes and Specialized Agencies, and *Expo 2015 S.p.A.*. The *Participation Contract* defined the rights and responsibilities of the Parties, confirmed the privileges and immunities of the United Nations System as

[*] FAO Financial Regulation 6.7, which provides that "Voluntary contributions, whether or not in cash, may be accepted by the Director-General, and Trust and Special Funds may be established by him to cover moneys made available to the Organization for special purposes, provided that the purposes of such contributions and moneys are consistent with the policies, aims and activities of the Organization. The purposes and limits of any Trust and Special Funds shall be clearly defined. The acceptance of any such contributions and moneys which directly or indirectly involves additional financial obligations for Member Nations and Associate Members shall require the consent of the Conference. Trust and Special Funds and voluntary contributions shall be administered in accordance with the Financial Regulations of the Organization, unless otherwise provided for by the Conference. Trust and Special Funds shall be reported to the Finance Committee". Available from http://www.fao.org/3/a-mp046e.pdf.

[**] See the *Strategy for Partnerships with the Private Sector and the Strategy for Partnerships with Civil Society Organizations*, as adopted by the Council at its 146th Session in 2013, Report of the 146th Session (22–26 April 2013) (CL146/REP), paras. 14, 24–25 and Appendices C and F.

established in the 1946 *Convention on the Privileges and Immunities of the United Nations* and the 1947 *Convention on the Privileges and Immunities of the Specialized Agencies*, as well as in other agreements, laws or decrees of national or international character, as applicable to the Republic of Italy. The *Participation Contract* also included provisions holding the UN System and its officials harmless from any claim or liability arising out of, or relating to, the participation of the UN System in the exhibition.

4. United Nations Educational, Scientific and Cultural Organization

For the purpose of holding international conferences on the territory of Member States, UNESCO concludes various agreements that contained the provisions concerning the legal status of the Organization.*

However, in 2015, UNESCO encountered difficulties convincing Member States which hosted international conferences to sign such agreements to ensure the Organization's privileges and immunities.

5. International Fund for Agricultural Development

In 2015 the International Fund entered into a host country agreement with each of the following Member States: Indonesia (17 February 2015); Cote d'Ivoire (18 March 2015); Morocco (8 May 2015); and Cambodia (11 August 2015).

6. United Nations Industrial Development Organization

(*a*) Letter of agreement between the United Nations Industrial Development Organization and the Republic of Chad regarding the implementation of a project in Chad entitled "Project on building the commercial capacity of the Chadian gum arabic industry", signed on 2 and 14 April 2015**

"…

11. *Privileges and Immunities*

The Government agrees to accord the Agency, including its organs, property, funds and assets, its officials, and its staff and consultants in the country, the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the United Nations adopted by the United Nations General Assembly on 13 February 1945, in the implementation of the activities specified in annex III. In addition, the Government undertakes to apply to the Agency, and in particular to the activities listed in annex III to this Agreement, mutatis mutandis, the provisions of the Basic Agreement between the Government and the United Nations Development Programme (UNDP) of 14 October 1977. Nothing in this LoA shall be considered as a waiver of the privileges and immunities of the Agency."***

* For the text of the provisions, see Chapter II.B.3 of the *United Nations Juridical Yearbook 2013* (United Nations Publication, Sales No. E.17.V.3).

** Entered into force on 14 April 2015.

*** Unofficial translation by the Secretariat.

(*b*) Exchange of letters amending the basic cooperation agreement of 24 April 1989 between the United Nations Industrial Development Organization and the Government of the Republic of Cameroon, signed on 9 June and 6 July 2015*

… Considering that, during the phase of installation of the palm fruit processing equipment in the sheds built in the pilot sites, a dispute of a fiscal nature arose between a Cameroonian supplier of goods and services and the tax administration about the payment of VAT in the context of services provided on behalf of UNIDO, and in order to clarify the tax treatment of goods and services provided by service providers residing in the Republic of Cameroon and selected by UNIDO, the Government of Cameroon proposes to exempt UNIDO from:

(*a*) all customs duties, taxes and duties due on imports of goods and services directly related to any project involving UNIDO assistance to Cameroon; and

(*b*) VAT due on local purchases of goods and services directly related to any project involving UNIDO assistance to Cameroon;

It is further understood that the fees, duties and taxes referred to in subparagraphs (*a*) and (*b*) above, excluding service charges, shall be borne by the budget of the State.**

(*c*) Agreement between the United Nations Industrial Development Organization and the Swiss Agency for Development and Cooperation (SDC) regarding the implementation of a project entitled "Eastern azir: Support for enhancing the competitiveness of the rosemary value chain in the Oriental region", signed on 28 August 2015***

17. Nothing in or relating to this Agreement shall be deemed a waiver of any of the privileges and immunities of the United Nations, its subsidiary organs and its specialized agencies including UNIDO, whether under the Convention on the Privileges and Immunities of the United Nations, or otherwise, and no provision of this Agreement shall be interpreted or applied in a manner, or to an extent, inconsistent with such privileges and immunities.

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* Entered into force on 6 July 2015.

** Unofficial translation by the Secretariat.

*** Entered into force on 28 August 2016.

(*d*) Trust Fund Agreement between the United Nations Industrial Development Organization and the Ministry of Industry of the Republic of Sudan regarding the implementation of a project in Sudan entitled "Inclusive and sustainable industrial investment forum in the Republic of Sudan", signed on 1 November 2015*

ANNEX A—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 and entered into force on 7 March 1996.

(*e*) Delegation agreement between the United Nations Industrial Development Organization and the European Union regarding the implementation of a project entitled "Mitigating Toxic Health Exposures in Low- and Middle-Income Countries: Global Alliance on Health and Pollution", signed on 16 and 22 December 2015**

ANNEX II—GENERAL CONDITIONS FOR PA GRANT OR DELEGATION AGREEMENT

Article 14. Applicable law and settlement of disputes

14.1 The Parties shall endeavor to amicably settle any dispute or complaint relating to the interpretation, application or fulfilment of the Agreement, including its existence, validity or termination.

…

14.4 Where the Organization is an international organization:

(*a*) nothing in the Agreement shall be interpreted as a waiver of any privileges or immunities accorded to any Party by its constituent documents, privileges and immunities agreements or international law;

(*b*) in the absence of amicable settlement in accordance with Article 14.1 above, any dispute, controversy or claim arising out of or relating to the interpretation, application or performance of this Agreement, including its existence, validity or termination, shall be settled by final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organizations and States, as in effect on the date of this Agreement. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration. The arbitrator's decision shall be binding on all Parties and there shall be no appeal."

* Entered into force on 1 November 2015.

** Entered into force on 22 December 2015.

7. Organization for the Prohibition of Chemical Weapons

In 2015, agreements on the privileges and immunities of the Organization for the Prohibition of Chemical Weapons (OPCW) between the OPCW and the Republic of Kenya, the Republic of Burundi and the Government of Colombia entered into force on 19 February 2015, 30 April 2015 and 7 September 2015, respectively.*

8. International Criminal Court

Agreement on the Privileges and Immunities of the International Criminal Court

On 2 January 2015, the State of Palestine acceded to the Agreement on the Privileges and Immunities of the International Criminal Court.**

* The agreements are textually similar to the agreement published in Chapter II.B.6 of the *2013 United Nations Juridical Yearbook* (United Nations Publication, Sales No. E.17.V.3) with the main exception that the agreement with the Government of Colombia applies to "spouses or permanent partners", rather than only to "spouses". The texts of the agreements are not reproduced in this volume.

** For an overview of States parties, see https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-13&chapter=18&lang=en.

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

As of 31 December 2015, the number of Member States of the United Nations was 193.

2. Peace and Security

(*a*) Peacekeeping missions and operations[1]

(i) *Peacekeeping missions and operations established in 2015*

No peacekeeping missions and operations were established in 2015.

(ii) *Changes in the mandate and/or extensions of time limits of ongoing peacekeeping operations or missions in 2015*

a. Cyprus

The United Nations Peacekeeping Force in Cyprus (UNFICYP) was established by Security Council resolution 186 (1964) of 4 March 1964.[2] The Security Council decided to extend the mandate of UNFICYP by resolutions 2197 (2015) of 29 January 2015 and 2234 (2015) of 29 July 2015, until 31 July 2015 and 31 January 2016, 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.[3] The Security Council renewed

[1] The missions and operations are listed in chronological order as per their date of establishment.

[2] For more information on UNFICYP see https://unficyp.unmissions.org. See also the reports of the Secretary-General on the United Nations operation in Cyprus for the period from 16 December 2014 to 20 June 2015 (S/2015/517), from 21 June to 18 December 2015 (S/2016/11) and from 19 December 2015 to 24 June 2016 (S/2016/598).

[3] For more information on UNDOF see https://undof.unmissions.org. See also the reports of the Secretary-General on the United Nations Disengagement Observer Force (UNDOF) for the period from 20 November 2014 to 3 March 2015 (S/2015/177), from 3 March to 28 May 2015 (S/2015/405), from

the mandate of UNDOF by resolutions 2229 (2015) of 29 June 2015 and 2257 (2015) of 22 December 2015 until 31 December 2015 and 30 June 2016, respectively.

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.[4] Following a request by the Lebanese Foreign Minister, presented in a letter dated 14 July 2015 addressed to the Secretary-General, the Secretary-General recommended the Security Council to consider the renewal of UNIFIL for a further period of one year.[5] The Security Council renewed the mandate of UNIFIL by resolution 2236 (2015) of 21 August 2015, until 31 August 2016.

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.[6] By resolution 2218 (2015) of 28 April 2015, the Security Council decided to extend the mandate of MINURSO until 30 April 2016.

e. Democratic Republic of the Congo[7]

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).[8]

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29 May to 28 August 2015 (S/2015/699), from 29 August to 18 November 2015 (S/2015/930) and from 19 November 2015 to 29 February 2016 (S/2016/242).

[4] For more information on UNIFIL see https://unifil.unmissions.org. See also the twenty-first semi-annual report of the Secretary-General to the Security Council on the implementation of Security Council resolution 1559 (2004) (S/2015/258), the twenty-second semi-annual report of the Secretary-General to the Security Council on the implementation of Security Council resolution 1559 (2004) (S/2015/764), the reports of the Secretary-General on the implementation of Security Council resolution 1701 (2006) (S/2015/147, S/2015/475, S/2015/837 and S/2016/189), and the statement of the President of the Security Council dated 19 March 2015 (S/PRST/2015/7).

[5] Letter dated 5 August 2015 from the Secretary-General addressed to the President of the Security Council (S/2015/598).

[6] For more information MINURSO see https://minurso.unmissions.org. See also the reports of the Secretary-General on the situation concerning Western Sahara for the period from 11 April 2014 to 10 April 2015 (S/2015/246) and from 11 April 2015 to 10 April 2016 (S/2016/355).

[7] See subsection (*f*) (iii) below on sanctions concerning the Democratic Republic of the Congo.

[8] 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/2015/172, S/2015/486, S/2015/741 and S/2015/1031), the reports 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/2015/173 and S/2015/735), and the statements of the President of the Security Council of 8 January 2015 (S/PRST/2015/1) and 9 November 2015 (S/PRST/2015/20).

Acting under Chapter VII of the United Nations Charter, the Security Council, by its resolution 2211 (2015) of 26 March 2015, extended the mandate of MONUSCO until 31 March 2016 including, on an exceptional basis and without creating a prejudice to the agreed principles of peacekeeping, its Intervention Brigade. The Security Council also decided that future reconfigurations of MONUSCO and its mandate should be determined on the basis of the evolution of the situation on the ground and the objectives of reduction of violence and stabilization through the establishment of state institutions.

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

f. Liberia[9]

The United Nations Mission in Liberia (UNMIL) was established by Security Council resolution 1509 (2003) of 19 September 2003.[10] Acting under Chapter VII of the Charter of the United Nations, the Security Council, by resolution 2215 (2015) of 2 April 2015, endorsed the Secretary-General's recommendation in his update of 16 March 2015 on the drawdown of UNMIL uniformed personnel, and consistent with resolution 2190 (2014), authorized the Secretary-General to implement the third phase of the phased drawdown. The Security Council also decided that UNMIL's mandate would no longer include providing electoral support as set out in paragraph 10(*d*)(i) of resolution 2190 (2014) of 15 December 2014.

By resolution 2239 (2015) of 17 September 2015, the Security Council decided to extend the mandate of UNMIL until 30 September 2016 and that its mandate would include (*a*) the protection of civilians; (*b*) reform of justice and security institutions; (*c*) human rights promotion and protection; and (*d*) protection of United Nations personnel. It further decided that UNMIL should put renewed focus on transitioning all security responsibility to the Liberian authorities. The Security Council also reduced UNMIL's authorized military and police strength, from 3,950 to 1,240 military personnel and from 1,515 to 606 police personnel, respectively. It affirmed its intention to consider a withdrawal of UNMIL and transition to a future United Nations presence, based on the Security Council's review by 15 December 2016.

[9] See subsections (*f*) (ii) below on sanctions concerning Liberia.

[10] For more information on UNMIL see http://unmil.unmissions.org. See also the twenty-ninth and thirtieth progress report of the Secretary-General on the United Nations Mission in Liberia (S/2015/275 and S/2015/620, respectively) and the letter dated 31 July 2015 from the Secretary-General addressed to the President of the Security Council, concerning a review of major relevant developments in Liberia (S/2015/590).

g. Côte d'Ivoire[11]

The United Nations Operation in Côte d'Ivoire (UNOCI) was established by Security Council resolution 1528 (2004) of 27 February 2004.[12] By resolution 2226 (2015) of 25 July 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNOCI until 30 June 2016.

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 full operationalization of the quick reaction force established by resolution 2162 (2014) and requested the Secretary-General to continue to maintain the unit for the period of one year. The Security Council authorized the Secretary-General to deploy the unit to Liberia in the event of a serious deterioration of the security situation on the ground, with the consent of the troop-contributing countries and the Government of Liberia, and stressed that the unit should prioritize implementation of UNOCI's mandate.

h. Haiti

The United Nations Stabilization Mission in Haiti (MINUSTAH) was established by Security Council resolution 1542 (2004) of 30 April 2004.[13] By resolution 2243 (2015) of 14 October 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of MINUSTAH as contained in relevant prior resolutions until 15 October 2016, affirming its intention to consider possible withdrawal of MINUSTAH and transition to a future United Nations presence by that date.

i. Republic of the Sudan (Darfur) [14]

The African Union-United Nations Hybrid Operation in Darfur (UNAMID) was established and authorized by Security Council resolution 1769 (2007) of 31 July 2007.[15]

By resolution 2228 (2015) of 29 June 2015, the Security Council decided to extend the mandate of UNAMID until 30 June 2016.

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[11] See subsection (*f*) (iv) below on sanctions concerning Côte d'Ivoire.

[12] For more information on UNOCI see https://onuci.unmissions.org. See also the thirty-sixth and thirty-seventh report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (S/2015/320 and S/2015/940, respectively).

[13] 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/2015/157 and S/2015/667).

[14] See subsection (*f*) (v) below on sanctions concerning the Republic of Sudan.

[15] For more information on UNAMID, see http://unamid.unmissions.org. See also the reports of the Secretary-General on UNAMID (S/2015/141, S/2015/378, S/2015/729 and S/2015/1027) and the special report of the Secretary-General on UNAMID (S/2015/163).

j. Republic of the Sudan and Republic of South Sudan (Abyei)[16]

The United Nations Interim Security Force for Abyei (UNISFA) was established by Security Council resolution 1990 (2011) of 27 June 2011.[17] 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 resolution 2205 (2015) of 26 February 2015, resolution 2230 (2015) of 14 July 2015 and resolution 2251 (2015) of 15 December 2015, until 15 July 2015, 15 December 2015 and 15 May 2016, respectively.

Acting under Chapter VII of the Charter of the United Nations, the Council, in resolutions 2205 (2015), 2230 (2015) and 2251 (2015), 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. By the same resolutions, it decided to maintain the troops authorized by resolution 2104 (2013) already deployed.

k. Republic of South Sudan[18]

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.[19] By resolution 2223 (2015) of 28 May 2015, resolution 2241 (2015) of 9 October 2015 and resolution 2252 (2015) of 15 December 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNMISS through 30 November 2015, 15 December 2015 and 31 July 2016, respectively.

By resolution 2223 (2015), the Security Council endorsed the 9 November 2014 Rededication and Implementation Modalities for the Cessation-of-Hostilities. It also authorized UNMISS to use all necessary means to perform the tasks set out in the resolution and set the troop levels of the military and police components. It further decided that the civilian component would continue to be reduced.

By resolution 2241 (2015), the Security Council endorsed the "Agreement on the Resolution of the Conflict in the Republic of South Sudan", as contained in the annex to S/2015/654. Slightly amending its mandate, the Security Council authorized UNMISS to use all necessary means to perform the tasks set out in the resolution. It further decided to maintain the overall force levels of UNMISS.

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[16] See subsection (*f*) (v) and (xiii) below on sanctions concerning the Republic of Sudan and the Republic of South Sudan, respectively.

[17] For more information on UNISFA see https://unisfa.unmissions.org. See also the reports of the Secretary-General on the situation in Abyei (S/2015/77, S/2015/302, S/2015/439, S/2015/700 and S/2015/870).

[18] See subsection (*f*) (xiii) below on sanctions concerning the Republic of South Sudan.

[19] For more information on UNMISS, see http://unmiss.unmissions.org. See also the reports of the Secretary-General on South Sudan (S/2015/118, S/2015/296, S/2015/655 and S/2015/902), the special report of the Secretary-General on the review of the mandate of UNMISS (S/2015/899), and the statements of the President of the Security Council dated 24 March 2015 (S/PRST/2015/9) and 28 August 2015 (S/PRST/2015/16).

By resolution 2252 (2015), the Security Council again amended UNMISS' mandate, authorizing it use all necessary means to perform the tasks set out in the resolution. It further decided to increase the force levels of UNMISS.

l. Mali

The United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) was established by Security Council resolution 2100 of 25 April 2013.[20] By resolution 2227 (2015) of 29 June 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of MINUSMA until 30 June 2016.

By the same resolution, the Security Council welcomed the signing of the Agreement on Peace and Reconciliation in Mali by the Government of Mali, the *Platforme* coalition of armed groups and the *Coordination des Mouvements de l'Azawad* coalition of armed groups (S/2015/364). The Security Council re-authorized MINUSMA to take all necessary means to carry out its mandate, within its capabilities and its areas of deployment. It also amended the mandate of MINUSMA and decided that it should perform the tasks specified in the resolution.

m. Central African Republic[21]

The United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) was established by Security Council resolution 2149 (2014) of 10 April 2014.[22] By resolution 2212 (2015) of 26 March 2015, the Security Council decided to authorize an increase of 750 military personnel, 280 police personnel and 20 corrections officers for MINUSCA.

The Security Council confirmed these numbers in resolution 2217 (2015) of 28 April 2015, by which, acting under Chapter VII of the Charter of the United Nations, it decided to extend the mandate of MINUSCA until 30 April 2016. It decided that MINUSCA had an authorized troop ceiling of 10,750 military personnel, including 480 Military Observers and Military Staff Officers and 2,080 police personnel, including 400 Individual Police Officers and 40 corrections officers.

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[20] For more information on MINUSMA, see https://minusma.unmissions.org. See also the reports of the Secretary-General on the situation in Mali (S/2015/219, S/2015/426, S2015/732 and S/2015/1030), the Lessons-learned exercise on the transitions from African Union peace operations to United Nations peacekeeping operations in Mali and in the Central African Republic (letter) (S/2015/3), the statement by the President of the Security Council dated 6 February 2015 (S/PRST/2015/5), and the concept note for the Security Council Working Group on Peacekeeping Operations thematic discussion on the theme "The United Nations Multidimensional Integrated Stabilization Mission in Mali: a 'peacekeeping operation' within a counterterrorism setting", 31 July 2015 (S/2015/1038).

[21] See subsection (*e*)(*c*) below concerning actions of Member States authorized by the Security Council, and subsection (*f*) (xi) below on sanctions concerning the Central African Republic.

[22] 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/2015/227, S/2015/576 and S/2015/918), the Lessons-learned exercise on the transitions from African Union peace operations to United Nations peacekeeping operations in Mali and in the Central African Republic (letter) (S/2015/3), and the statement of the President of the Security Council dated 20 October 2015 (S/PRST/2015/17).

By the same resolution, the Security Council commended the transition of authority from the International Support Mission to the Central African Republic (MISCA) to MINUSCA on 15 September 2014. It also welcomed the launching by the European Union of a military advice mission based in Bangui (EUMAM-RCA). The Security Council authorized MINUSCA to take all necessary means to carry out its mandate, within its capabilities and areas of deployment, and decided that the mandate of MINUSCA should include the immediate priority tasks, essential tasks and additional tasks as listed in paragraph 32, 33 and 34 of the resolution, respectively.

(iii) *Other ongoing peacekeeping operations or missions*

a. India and Pakistan

The United Nations Military Observer Group in India and Pakistan (UNMOGIP) was established by resolutions 39 (1948) and 47 (1948) of 20 January and 21 April 1948 respectively, in order to supervise, in the State of Jammu and Kashmir, the ceasefire between India and Pakistan, as well as 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.[23] UNMOGIP continued to operate in 2015.

b. Middle East

The United Nations Truce Supervision Organization (UNTSO) was established by Security Council resolution 50 (1948) on 29 May 1948 in order to supervise the observation of the truce in Palestine. [24] UNTSO continued to operate in 2015.

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.[25] UNMIK continued to operate in 2015.

(iv) *Peacekeeping missions or operations concluded in 2015*

No peacekeeping missions or operations were concluded in 2015.

(*b*) Political and peacebuilding missions

(i) *Political and peacebuilding missions established in 2015*

No new political and peacebuilding missions were established in 2015.

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[23] For more information on UNMOGIP, see https://unmogip.unmissions.org.

[24] For more information on UNTSO, see http://untso.unmissions.org.

[25] For more information on UNMIK, see https://unmik.unmissions.org. See also the reports of the Secretary-General on UNMIK (S/2015/74, S/2015/303, S/2015/579 and S/2015/833).

(ii) *Changes in the mandate and/or extensions of the time limits of ongoing political and peacebuilding missions in 2015*

a. Afghanistan[26]

The United Nations Assistance Mission in Afghanistan (UNAMA) was established by Security Council resolution 1401 (2002) of 28 March 2002.[27] On 16 March 2015, the Security Council decided by resolution 2210 (2015) to extend the mandate of UNAMA until 17 March 2016.

In the same resolution, the Council recognized that the renewed mandate of UNAMA took full account of the completion of the transition process and the initiation of the Transformation Decade (2015–2024) on 1 January 2015. The Security Council further decided that UNAMA and the Special Representative of the Secretary-General, within their mandate and in a manner consistent with 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 Board, 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; (*c*) supporting, through outreach and good offices, the Afghan process of peace and reconciliation; (*d*) supporting regional cooperation; and (*e*) promoting human rights protection, including through cooperation with the Afghanistan Independent Human Rights Commission.

b. Iraq

The United Nations Assistance Mission for Iraq (UNAMI) was established by Security Council resolution 1500 (2003) of 14 August 2003.[28] By resolution 2233 (2015) of 29 July 2015, the Security Council decided to extend the mandate of UNAMI until 31 July 2016. It decided further that the Special Representative of the Secretary-General and UNAMI, at the request of the Government of Iraq, and taking into account the letter from the Minister of Foreign Affairs of Iraq to the Secretary-General (S/2015/520), should continue their mandate as stipulated in resolution 2107 (2013) of 27 June 2013.

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[26] See subsection (*f*) (ix) on sanctions concerning Afghanistan.

[27] 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/69/801–S/2015/151, A/69/929–S/2015/422, A/70/359–S/2015/684 and A/70/601–S/2015/942) and the report of the Secretary-General on children and armed conflict in Afghanistan (reporting period: 1 September 2010 to 31 December 2014) (S/2015/336).

[28] For more information on the activities of UNAMI, see http://www.uniraq.org. See also the sixth, seventh and eighth reports of the Secretary-General pursuant to paragraph 4 of resolution 2107 (2013) (S/2015/298, S/2015/518 and S/2015/826, respectively), the second, third and fourth report of the Secretary-General pursuant to paragraph 6 of Security Council resolution 2169 (2014) (S/2015/82, S/2015/305 and S/2015/530, respectively) and the first report of the Secretary-General submitted pursuant to paragraph 7 of resolution 2233 (2015) (S/2015/819).

c. Guinea Bissau[29]

The United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGIBIS) was established by Security Council resolution 1876 (2009) of 26 June 2009.[30] By resolution 2203 (2015) of 18 February 2015, the Security Council decided to extend the mandate of UNIOGIBIS until 29 February 2016.

d. Central African region

The United Nations Regional Office for Central Africa (UNOCA), located in Libreville, Gabon, was established in August 2010 on the basis of an exchange of letters between the Secretary-General and the Security Council.[31] UNOCA began its operations on 2 March 2011. By letter dated 16 July 2015 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 36 months until 31 August 2018.[32] The Secretary-General also submitted a draft mandate for UNOCA during this period. By letter dated 21 July 2015 from the President of the Security Council to the Secretary-General, the Security Council took note of the proposal of the Secretary-General.[33]

e. Libya[34]

The United Nations Support Mission in Libya (UNSMIL) was established by Security Council resolution 2009 (2011) of 16 September 2011.[35] By resolution 2208 (2015) of 5 March 2015, resolution 2213 (2015) of 27 March 2015 and resolution 2238 (2015) of 10 September 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNSMIL until 31 March 2015, 15 September 2015 and 15 March 2016, respectively.

By resolution 2213 (2015), 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 focus, as an immediate priority, on support to the Libyan political process and security arrangements, through mediation and good offices, and further, within operational and security constraints, should undertake: (*a*) human rights monitoring and reporting; (*b*) support for securing uncontrolled arms and related materiel and countering its proliferation; (*c*) support to key Libyan institutions; (*d*) support, on request, for the provision of essential services, and delivery of humanitarian assistance

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[29] See subsection (*f*) (x) below on sanctions concerning Guinea-Bissau.

[30] For more information on UNIOGBIS, see http://uniogbis.unmissions.org. See also the report of the Secretary-General on developments in Guinea-Bissau and the activities of UNIOGBIS (S/2015/37 and S/2015/626).

[31] For more information about UNOCA, see https://unoca.unmissions.org. See also the statement of the President of the Security Council dated 11 June 2015 (S/PRST/2015/12).

[32] S/2015/554.

[33] S/2015/555.

[34] See subsection (*f*) (viii) below on sanctions concerning Libya.

[35] For more information on UNSMIL, see https://unsmil.unmissions.org, the reports of the Secretary-General on UNSMIL (S/2015/144 and S/2015/624) and the Special report on the strategic assessment of the United Nations presence in Libya (S/2015/113).

and in accordance with humanitarian principles; and (*e*) support for the coordination of international assistance.

By resolution 2238 (2015), the Security Council reaffirmed this mandate, with the amendment that UNSMIL should focus on support to the Libyan political process towards the formation of a Government of National Accord and security arrangements, through the security track of the United Nations-facilitated Libyan Political Dialogue.

By resolution 2259 (2015), the Security Council welcomed the signature on 17 December 2015 of the Libyan Political Agreement of Skhirat, Morocco, to form a Government of National Accord and the formation of the Presidency Council. It also endorsed the Rome Communique of 13 December 2015 to support the Government of National Accord as the sole legitimate government of Libya and requested that UNSMIL support the implementation of these agreements. It further affirmed its readiness to review UNSMIL's mandate in light of developments in Libya.

f. Somalia[36]

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.[37] By resolution 2221 (2015) of 26 May 2015 and resolution 2232 (2015) of 28 July 2015, the Security Council decided to extend the mandate of UNSOM until 7 August 2015 and 30 March 2016, respectively.

(iii) *Other ongoing political and peacebuilding missions in 2015*

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,[38] continued to operate throughout 2015.[39]

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.[40] The mandate was expanded to include coordination of United Nations political activities for the whole of Lebanon and the title changed to Personal Representative

[36] See subsection (*f*) (i) below on sanctions concerning Somalia.

[37] For more information on UNSOM, see https://unsom.unmissions.org. See also the reports of the Secretary-General on Somalia (S/2015/51, S/2015/331 and S/2015/702).

[38] Exchange of letters between the Secretary-General and the Security Council (S/1999/983 and S/1999/984).

[39] For more information on UNSCO, see https://unsco.unmissions.org.

[40] S/2000/718.

for Lebanon in 2005,[41] and Lebanon and to Special Coordinator for Lebanon in 2007,[42] respectively. UNSCOL continued to operate throughout 2015.[43]

c. West Africa

The United Nations Office for West Africa (UNOWA), originally established by the Secretary-General in 2002,[44] with subsequent extensions of its mandate in 2004,[45] 2007,[46] 2010,[47] and 2013,[48] continued to operate throughout 2015.[49]

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 (S/2007/279). UNRCCA continued to function throughout 2015.[50]

e. Somalia[51]

The United Nations Support Office for AMISOM (UNSOA) 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.[52] Its mandate was to deliver a logistics capacity support package to the African Union Mission in Somalia (AMISOM) critical in achieving its operational effectiveness and in preparation for a possible United Nations peacekeeping operation. By resolution 2245 (2015) of 9 November 2015, the Security Council decided to change the mission's name to the United Nations Support Office in Somalia (UNSOS).

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[41] Letter dated 17 November 2005 from the Secretary-General to the President of the Security Council (S/2005/726).

[42] Letter dated 8 February 2007 from the Secretary-General to the President of the Security Council (S/2007/85).

[43] For more information on the activities UNSCOL, see http://unscol.unmissions.org.

[44] 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).

[45] 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).

[46] 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).

[47] 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).

[48] Exchange of letters between the Secretary-General and the President of the Security Council dated 19 December 2913 (S/2013/753) and 23 December 2013 (S/2013/759).

[49] For more information on UNOWA, see http://unowa.unmissions.org. See also the reports of the Secretary-General on the activities of the UMOWA (S/2015/472 and S/2015/1012).

[50] For more information on UNRCCA, see http://unrcca.unmissions.org.

[51] See subsection (*f*) (i) below on sanctions concerning Somalia.

[52] For more information on UNSOA, see http://unsos.unmissions.org. See also the reports of the Secretary-General on Somalia (S/2015/51, S/2015/331 and S/2015/702).

By the same resolution, the Security Council specified that the mission would be responsible for support to AMISOM, UNSOM and the Somali federal security institutions, including the Somali National Army and the Somali Police Force, on joint operations with AMISOM. It agreed with the Secretary-General that UNSOS leadership should be Mogadishu-based and decided that the Head of UNSOS should report to the Security Council, through the SRSG, on the delivery of UNSOS' mandate. It further decided to keep UNSOS' mandate under review in line with that of AMISOM and to renew or revise it before 30 May 2016.

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.[53]

(iv) *Political and peacebuilding missions concluded in 2015*

Burundi

The United Nations Electoral Observation Mission in Burundi (MENUB) was established following a statement by the Minister of Foreign Affairs and International Cooperation of Burundi in the Security Council, on 28 January 2014, where he requested, *inter alia*, the establishment, immediately after the closing of United Nations Office in Burundi (BNUB),[54] of a team of electoral observers to be deployed before, during and after elections scheduled in Burundi in 2015.[55] Taking note of this request, the Security Council requested the Secretary-General to establish MENUB by resolution 2137 (2014) of 13 February 2014.[56] MENUB deployed on 1 January 2015. It concluded its mandate on 18 November 2015 and the operation drew to a close on 31 December 2015.[57]

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[53] For more information on UNOAU, see https://unoau.unmissions.org.

[54] BNUB was established by Security Council resolution 1959 (2010) of 16 December 2010 and concluded its mandate on 31 December 2014. For more information about BNUB, see https://bnub.unmissions.org.

[55] S/PV.7104.

[56] For more information on MENUB see https://menub.unmissions.org. See also the exchange of letters between the Secretary-General and the President of the Security Council (S/2015/447 and S/2015/448) and the letters from the Secretary-General addressed to the President of the Security Council (S/2015/926 and S/2015/1032).

[57] For more information about the situation in Burundi, see the statements of the President of the Security Council dated 18 February 2015 (S/PRST/2015/6), 26 June 2015 (S/PRST/2015/13) and 28 October 2015 (S/PRST/2015/18). See also Security Council resolution 2248 (2015) of 12 November 2015, by which the Security Council welcomed the decision of the Secretary-General to appoint a Special Advisor on Conflict Prevention, including in Burundi, to work with the government of Burundi and other concerned stakeholders, as well as sub-regional, regional and other international partners, in support of an inclusive inter-Burundian dialogue and peaceful resolution of conflict and in support of national efforts to build and sustain peace.

(*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.[58] 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 2015.[59]

(ii) *Monitoring mechanism for Syria*

The United Nations monitoring mechanism for Syria was established by Security Council resolution 2165 of 14 July 2014 to monitor, under the authority of the United Nations Secretary-General and with the consent of the relevant neighbouring countries of Syria, the loading of all humanitarian relief consignments of the United Nations humanitarian agencies and their implementing partners at the relevant United Nations facilities.[60] By resolution 2258 (2015) of 22 December 2015, the Security Council decided to renew its decisions in paragraphs 2 and 3 of Security Council resolution 2165 (2014) for a further period of twelve months, until 10 January 2017.

(iii) *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.[61] It closed on 31 July 2015, having achieved its core objective scaling up the response on the ground.

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[58] *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria: Equatorial Guinea intervening), Judgment, I.C.J. Reports 2002*, p. 303.

[59] For more information on the Commission's work in 2015, see the exchange of letters between the Secretary-General and the President of the Security Council (S/2015/1025 and S/2015/1026).

[60] For more information on the Monitoring Mechanism, see the report of the Secretary-General on the revised estimates relating to the programme budget for the biennium 2016–2017 under sections 27, Humanitarian assistance, and 36, Staff assessment, United Nations Monitoring Mechanism (A/70/726).

[61] For more information about UNMEER, see http://ebolaresponse.un.org/un-mission-ebola-emergency-response-unmeer. See also the letters from the Secretary-General to the President of the General Assembly (A/69/759, A/69/812, A/69/871, A/69/908, A/69/939, A/69/992 and A/69/1014).

(iv) *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 and submitted its report on 5 February 2015. In view of the seriousness of the events and the public interest they had generated, the Secretary-General communicated a summary of the internal report to the Security Council on 27 April 2015.[62]

(v) *Organization for the Prohibition of Chemical Weapons—United Nations Joint Investigative Mechanism*

The Organization for the Prohibition of Chemical Weapons—United Nations Joint Investigative Mechanism (OPCW-JIM) was established following Security Council resolution 2235 (2015) of 7 August 2015, in which the Security Council requested Secretary-General, in coordination with the OPCW Director-General, to submit for authorisation to the Security Council recommendations, including elements of Terms of Reference, regarding the establishment and operation of an OPCW-United Nations Joint Investigative Mechanism. The Security Council authorized the proposals of the Secretary-General on 10 September 2015.[63] The Joint Investigate Mechanism, whose mandate commenced on 24 September 2015, was tasked with identifying, in collaboration with the OPCW's Fact-Finding Mission, persons or entities involved in incidents involving the use of chemicals as weapons in Syria.

Earlier, by resolution 2209 (2015) of 6 March 2016, the Security Council had condemned in the strongest terms any use of any toxic chemical, such as chlorine, as a weapon in the Syrian Arab Republic, and had expressed support for the OPCW Executive Council decision of 4 February 2015 to continue the work of the OPCW Fact-Finding Mission, in particular to study all available information relating to allegations of use of chemical weapons in Syria. It also recalled the decisions made by the Security Council in resolution 2118 (2013) of 27 September 2013, and in that context decided in the event of future non-compliance with resolution 2118 (2013) to impose measures under Chapter VII of the United Nations Charter.

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[62] S/2015/286, annex.

[63] See the exchange of letters between the Secretary-General and the President of the Security Council (S/2015/669, S/2015/696 and S/2015/697).

(*d*) Missions of the Security Council

(i) *Haiti*

In a letter dated 19 January 2015, the President of the Security Council informed the Secretary-General of the Council's decision to send a mission to Haiti from 23 to 25 January 2015, outlining in an annex to the letter the mission's terms of reference.[64]

The mission to Haiti, *inter alia*, underscored the importance of inclusiveness and constructiveness to political stability and urged Haiti's political actors to work cooperatively to hold urgent elections at all levels of government. It also assessed the ongoing strengthening of the Haitian National Police, as well as the implementation of relevant Security Council resolutions. The mission further expressed its support for MINUSTAH and the Special Representative of the Secretary-General.[65]

(ii) *Africa*

In a letter dated 5 March 2015, the President of the Security Council informed the Secretary-General that the Council's decision to send a mission to the Central African Republic, Ethiopia (African Union) and Burundi from 9 to 13 March 2015, outlining in an annex to the letter the mission's terms of reference.[66]

The mission to the Central African Republic, *inter alia*, reiterated the support of the Security Council for the political process in the Central African Republic. It further discussed elections, disarmament and security, urgent temporary measures and the humanitarian situation with the relevant authorities of the Central African Republic. The mission also commended the efforts of the European Union military operation in the Central African Republic (EUFOR-RCA) and of MINUSCA.

The mission to the African Union, *inter alia*, exchanged views on issues of interest to both the United Nations Security Council and the African Union Peace and Security Council. It also explored ways of reinforcing and supporting the African Union conflict prevention tools and to enhance the cooperation between the United Nations and the African Union.

The mission to Burundi, *inter alia*, took note of the significant progress made by Burundi since the adoption of the Arusha Agreement in 2000 and stressed the crucial need for a free, transparent, credible, inclusive and peaceful electoral process. During meetings with various entities, it discussed the elections and political developments, security, development and human rights.[67]

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[64] Letter dated 19 January 2015 from the President of the Security Council addressed to the Secretary-General (S/2015/40).

[65] For more information, see the oral report of the Security Council mission to Haiti of 29 January 2015 (S/PV.7372).

[66] Letter dated 5 March 2015 from the President of the Security Council addressed to the Secretary-General (S/2015/162).

[67] For more information, see the report of the Security Council mission to the Central African Republic, Ethiopia and Burundi, including the African Union (S/2015/503).

(*e*) Action of Member States authorized by the Security Council

a. 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 2226 (2015) of 25 June 2015, the Security Council decided to extend this authorization until 30 June 2016.

b. Bosnia and Herzegovina

The European Union Force Althea (EUFOR ALTHEA) was initially authorized by Security Council resolution 1575 (2004) of 22 November 2004.[68] By its resolution 2247 (2015) of 10 November 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, authorized the Member States acting through or in cooperation with the European Union to establish for a further period of twelve months a multinational stabilization force (EUFOR ALTHEA). It also decided to renew the authorization provided by paragraph 11 of resolution 2183 (2014) for Member States acting through or in cooperation with NATO to continue to maintain a NATO Headquarters, as a legal successor to SFOR under unified command and control.

The Security Council further authorizes these Member States to take all necessary means to effect the implementation of and to ensure compliance with annexes 1-A and 2 of the Peace Agreement,[69] and to take all necessary measures to ensure compliance with the rules and procedures governing command and control of airspace over Bosnia and Herzegovina with respect to all civilian and military air traffic. Moreover, it authorized Member States to take all necessary means, at the request of either EUFOR ALTHEA or the NATO Headquarters, in defence of the EUFOR ALTHEA or NATO presence respectively, and to assist both organizations in carrying out their missions. It also recognized the right of both EUFOR ALTHEA and the NATO presence to take all necessary measures to defend themselves from attack or threat of attack.

c. Somalia[70]

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.[71] By resolution 2232 (2015) of 28 July 2015, 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 May 2016, in

[68] For more information on the European Union military mission in Bosnia and Herzegovina (EUFOR), see: http://www.euforbih.org/eufor/index.php, and the forty-seventh to forty-ninth reports of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina (S/2015/300, S/2015/841 and S/2016/663, annexes, respectively).

[69] 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).

[70] With regard to acts of piracy off the coast of Somalia, see subsection (*k*) below.

[71] For more information AMISOM, see: http://amisom-au.org.

line with the Security Council's request to the African Union for a maximum level of 22,126 troops and as part of an overall exit strategy for AMISOM, after which a decrease in AMISOM's force strength will be considered. It further authorized AMISOM 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.

d. Central African Republic

French forces had initially been authorized by the Security Council in resolution 2127 (2013) of 5 December 2013 to take all necessary measures to support the African-led International Support Mission in the CAR (MISCA) and, by resolution 2149 (2014) of 10 April 2014, to use all necessary means to provide operational support to elements of MINUSCA, from the commencement of the activities of MINUSCA until the end of its mandate. By resolution 2217 (2015) of 28 April 2015, the Security Council reiterated this authorization.

e. Mali

French forces had initially been authorized by Security Council resolution 2164 (2014) of 25 June 2014 to use all necessary means to intervene in support of elements of MINUSMA when under imminent and serious threat upon request of the Secretary-General. By resolution 2227 (2015) of 29 June 2015, the Security Council decided to extend this authorization until the end of MINUSMA's mandate as authorized in the resolution.[72]

f. 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. In resolution 2258 (2015) of 22 December 2015, the Security Council, underscoring the obligations of Member States under Article 25 of the Charter of the United Nations, decided to renew the authorization for a further period of twelve months, until 10 January 2017.[73]

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[72] See Report on operational support provided by French forces to MINUSMA from 3 December 2014 to 23 February 2015, 24 February to 19 May 2015, 20 May to 31 August 2015, 1 September to 30 November 2015, and 1 December 2015 to 29 February 2016 (S/2015/187, S/2015/444, S/2015/755, S/2016/8 and S/2016/288, respectively).

[73] See also resolution 2254 (2015) of 18 December 2015, in which the Security Council, *inter alia*, endorsed the "Vienna Statements" in pursuit of the full implementation of the Geneva Communiqué of 30 June 2012, as the basis for a Syrian-led and Syrian-owned political transition in order to end the conflict in Syria. See further the reports of the Secretary-General on the implementation of Security Council resolutions 2139 (2014) and 2165 (2014) and 2191 (2014) (S/2015/48, S/2015/124, S/2015/206, S/2015/264, S/2015/368, S/2015/468, S/2015/561, S/2015/651, S/2015/698, S/2015/813, S/2015/862 and S/2015/962)

(*f*) Sanctions imposed under Chapter VII of the Charter of the United Nations[74]

(i) *Somalia and Eritrea*

The Security Council Committee established pursuant to resolution 751 (1992) of 24 April 1992 concerning Somalia 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 resolutions 751 (1992), 1356 (2001) and 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 1907 (2009) concerning Somalia and Eritrea".[75] The Security Council Committee submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[76]

By resolution 2244 (2015) of 23 October 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed the existing arms embargo on Somalia and reiterated that it 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). It further decided that until 15 November 2016 and without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of resolution 1844 (2008) should not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia.

By the same resolution, the Security Council reaffirmed the existing arms embargo on Eritrea. It also decided to extend until 15 December 2016 the mandate of the Somalia and Eritrea Monitoring Group.[77]

(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 relevant Security Council resolutions, continued its operations in 2015. The

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and the statements of the President of the Security Council dated 24 April 2015 (S/PRST/2015/10) and 17 August 2015 (S/PRST/2015/15).

[74] 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/.

[75] 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).

[76] Report of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea (S/2015/968).

[77] See the Somalia report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2182 (2014) (S/2015/801) and the Eritrea report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2182 (2014) (S/2015/802).

Security Council Committee submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[78]

By resolution 2237 (2015) of 2 September 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to renew the measures on arms as set out in earlier relevant resolutions for a period of 9 months. It also decided to terminate the travel and financial measures set forth in paragraph 4 of resolution 1521 (2003) and paragraph 1 of resolution 1532 (2004).

By the same resolution, the Security Council, decided to extend the mandate of the Panel of Experts appointed pursuant to paragraph 9 of resolution 1903 (2009) for a period of 10 month and specified Panel's tasks.[79]

(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 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[80]

By resolution 2198 (2015) of 29 January 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, to renew until 1 July 2016 the measures on arms imposed by paragraph 1 of resolution 1807 (2008). The Security Council also decided to renew, for the same period, the measures on transport imposed by paragraphs 6 and 8 of resolution 1807 (2008) and the financial and travel measures imposed by paragraphs 9 and 11 of resolution 1807 (2008).

In the same resolution, the Security Council decided to extend until 1 August 2016 the mandate of the Group of Experts established pursuant to resolution 1533 (2004).

(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 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[81]

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[78] Report of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia (S/2015/945).

[79] See also the final report of the Panel of Experts on Liberia submitted pursuant to paragraph 5 (*b*) of Security Council resolution 2188 (2014) (S/2015/558).

[80] Report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo (S/2015/993).

[81] Report of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire (S/2015/952).

By resolution 2219 (2015) of 28 April 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, that for a period ending on 30 April 2016, 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.

In the same resolution, the Security Council decided to renew until 30 April 2016 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.

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) until 30 May 2016 and requested the Secretary-General to take the necessary measures to support its action.[82]

(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 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[83]

By resolution 2200 (2015) of 12 February 2015, 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), until 12 March 2016, and expressed its intent to review the mandate and take appropriate action regarding further extension no later than 12 February 2016.[84] It also reaffirmed the mandate of the Committee to encourage dialogue with interested Member States, in particular those in the region, and further encouraged the Committee to continue its dialogue with UNAMID.

(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 resolutions 1874 (2009), 2087 (2013) and 2094 (2013), continued

[82] See the final report of the Group of Experts on Côte d'Ivoire pursuant to paragraph 27 of Security Council resolution 2153 (2014) (S/2015/252).

[83] Report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (S/2015/991).

[84] See the final report of the Panel of Experts submitted in accordance with paragraph 2 of resolution 2138 (2014) (S/2015/31).

its operations in 2015 and submitted, on 31 December 2015, a report on its work to the Security Council.[85]

By resolution 2207 (2015) of 4 March 2015, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided to extend until 5 April 2016 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 7 March 2016.[86]

(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 2015 and submitted, on 31 December 2015, a report on its work to the Security Council.[87]

By resolution 2224 (2015) of 9 June 2015, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided to extend until 9 July 2016 the mandate of the Panel of Experts monitoring sanctions against Iran, as specified in paragraph 29 of resolution 1929 (2010), and expressed its intent to review the mandate and take appropriate action regarding further extension no later than 9 June 2016. [88]

In resolution 2231 (2015) of 20 July 2015, the Security Council endorsed the Joint Comprehensive Plan of Action (JCPOA) concluded on 14 July 2015 between China, France, Germany, the United States, the United Kingdom, the European Union and Iran and attached as Annex A to the resolution. It requested the International Atomic Energy Agency (IAEA) to verify and report on Iran's compliance with the JCPOA and decided, acting under Article 41 of the Charter of the United Nations, that, upon receipt by the Security Council of that report (*a*) the provisions of resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010) and 2224 (2015) should be terminated; and (*b*) all States should comply with the relevant paragraphs in Annex B to the resolution.[89] It further decided, acting under Article 41 of the Charter of the United Nations, that on the date ten years after the JCPOA Adoption Day, as defined in the JCPOA, all the provisions of the resolution should be terminated, and none of the previous resolutions described in the resolution should be applied, the Security Council would have concluded its consideration of the Iranian nuclear issue, and the item "Non-proliferation" would be

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[85] Report of the Security Council Committee established pursuant to resolution 1718 (2006) (S/2015/987).

[86] See the report of the Panel of Experts submitted pursuant to resolution 1874 (2009) (S/2015/131).

[87] Report of the Security Council Committee established pursuant to resolution 1737 (2006) (S/2015/947).

[88] See the Final report of the Panel of Experts established pursuant to resolution 1929 (2010) (S/2015/401).

[89] See the Report by the Director General of the IAEA on verification and monitoring in the Islamic Republic of Iran in the light of United Nations Security Council resolution 2231 (2015) (S/2015/706).

removed from the list of matters of which the Council is seized. It also decided that the terminations described in Annex B and paragraph 8 of the resolution should not occur if the provisions of the relevant resolutions mentioned above had been applied pursuant to paragraph 12 of the resolution.

In the same resolution, the Security Council decided, acting under Article 41 of the Charter of the United Nations, that, within 30 days of receiving a notification by a JCPOA participant State of an issue that the JCPOA participant State believed constituted significant non-performance of commitments under the JCPOA, it should vote on a draft resolution to continue in effect the terminations specified in the resolution. It further decided that if, within 10 days of the notification referred to above, no Member of the Security Council had submitted such a draft resolution for a vote, then the President of the Security Council should submit such a draft resolution and put it to a vote within 30 days of the notification referred to above. Moreover, the Security Council decided, still acting under Article 41 of the Charter of the United Nations, that, if the Security Council did not adopt a resolution under paragraph 11 to continue in effect the terminations in paragraph 7 (*a*), then effective midnight Greenwich Mean Time after the thirtieth day after the notification to the Security Council described in the resolution, all of the provisions of the relevant resolutions that had been terminated pursuant to paragraph 7 (*a*) should apply in the same manner as they applied before the adoption of the resolution, and the measures contained in paragraphs 7, 8 and 16 to 20 of the said resolution shall be terminated, unless the Security Council decided otherwise.

Moreover, the Security Council decided, acting under Article 41 of the Charter of the United Nations, to review recommendations of the Joint Commission regarding proposals by States to participate in or permit nuclear-related activities set forth in paragraph 2 of Annex B, and that such recommendations should be deemed to be approved unless the Security Council adopted a resolution to reject a Joint Commission recommendation within five working days of receiving it. The Security Council also decided, acting under Article 41 of the Charter of the United Nations, to exempt, with particular conditions, the sanctions specified in the relevant resolutions to the supply, sale or transfer of items, materials, equipment, goods and technology, and the provision of any related technical assistance, training, financial assistance, investment, brokering or other services, by JCPOA participant States or Member States acting in coordination with them, that was directly related to: (*a*) the modification of two cascades at the Fordow facility for stable isotope production; (*b*) the export of Iran's enriched uranium in excess of 300 kilograms in return for natural uranium; and (*c*) the modernization of the Arak reactor based on the agreed conceptual design and, subsequently, on the agreed final design of such reactor.

Furthermore, the Security Council decided to make the necessary practical arrangements to undertake directly tasks related to the implementation of this resolution, including those tasks specified in Annex B and the release of guidance. Moreover, it decided that all provisions contained in the JCPOA were only for the purposes of its implementation between the E3/EU+3 and Iran and should not be considered as setting precedents for any other State or for principles of international law and the rights and obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and other relevant instruments, as well as for internationally recognized principles and practices.

(viii) *Libya*

The Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya to oversee the relevant sanctions measures continued its operations in 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[90]

In resolution 2208 (2015) of 5 March 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend until 31 March 2015 the authorizations provided by and the measures imposed by resolution 2146 (2014), relating to prevention of illicit oil exports.

In resolution 2213 (2015) of 27 March 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed that the travel ban and asset freeze 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). It decided to further extend until 31 March 2016 the authorizations provided by and the measures imposed by resolution 2146 (2014), relating to prevention of illicit oil exports. Moreover, it reaffirmed its decision to authorize all Member States to, and that all Member States should, upon discovery of items prohibited by in previous resolutions, seize and dispose of such items and further reaffirmed its decision that all Member States should cooperate in such efforts. By the same resolution, the Security Council decided to extend until 30 April 2016 the mandate of the Panel of Experts, established by paragraph 24 of resolution 1973 (2011) and modified by resolutions 2040 (2012), 2146 (2014) and 2174 (2014), and specified the tasks of the Panel.[91]

By resolution 2214 (2015) of 27 March 2015, the Security Council called upon the Committee established pursuant to paragraph 24 of resolution 1970 (2011) to consider expeditiously requests under paragraph 8 of resolution 2174 (2014) for the transfer or supply of arms and related materiel, including related ammunition and spare parts, to the Libyan Government for the use by its official armed forces to combat ISIL and related groups.

(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 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[92]

By resolution 2255 (2015) of 22 December 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, that States should continue to take the measures set out in the resolution with respect to individuals and entities designated prior to the date of adoption of resolution 1988 (2011) as the Taliban.

In the same resolution, the Security Council also decided, in order to assist the Committee in fulfilling its mandate, that the 1267/1988 Monitoring Team, established

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[90] Report of the Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya (S/2015/994).

[91] Final report of the Panel of Experts established pursuant to resolution 1973 (2011) (S/2015/128).

[92] Report of the Security Council Committee established pursuant to resolution 1988 (2011) (S/2015/977).

pursuant to paragraph 7 of resolution 1526 (2004), should also support the Committee for a period of twenty-four months from the date of expiration of the current mandate in December 2017, with the mandate set forth in the annex to the resolution.[93]

(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 2015 and submitted, on 16 December 2015, a report on its work in 2015 to the Security Council.[94]

(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 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[95]

By resolution 2196 (2015) of 22 January 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that, through 29 January 2016, all Member States should continue to take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Central African Republic of arms and related materiel of all types, and technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel, excluding, *inter alia*, supplies intended for MINUSCA, the African Union-Regional Task Force (AU-RTF), the European Union Missions and French Forces deployed in the Central African Republic, and those supplies intended solely for humanitarian or protective use, as approved in advance by the Committee. It also decided to authorize all Member States to seize, register and dispose any of these items upon discovery, and that Member States should cooperate in this matter.

In the same resolution, the Security Council decided that, through 29 January 2016, all Member States should continue to take the necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee.[96]

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[93] For more information, see Report of the Analytical Support and Sanctions Monitoring Team on specific cases of cooperation between organized crime syndicates and individuals, groups, undertakings and entities eligible for listing under paragraph 1 of Security Council resolution 2160 (2014) (S/2015/79) and the Sixth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2160 (2014) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan (S/2015/648).

[94] Report of the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau (S/2015/973). See also the Report of the Secretary-General on the progress made with regard to the stabilization of and restoration of constitutional order in Guinea-Bissau (S/2015/619).

[95] Report of the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic (S/2015/979).

[96] See also the statement of the President of the Security Council dated 20 October 2015 (S/PRST/2015/17).

The Security Council further decided that all Member States should, through 29 January 2016, continue to freeze without delay all funds, other financial assets and economic resources which are on their territories, which were owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee, 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 were 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.[97] It decided to allow certain exceptions to this regime, as listed in the resolution.

The Security Council also decided to extend the mandate of the Panel of Experts until 29 February 2016, and specified that its mandate should include the tasks as listed in the resolution.

(xii) *Yemen*

The Security Council Committee established pursuant to resolution 2140 (2014) of 26 February 2014, to monitor the implementation of the measures imposed by the resolution, continued its operations in 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[98]

By resolution 2201 (2015) of 15 February 2015, the Security Council, *inter alia*, strongly deplored actions taken by the Houthis to dissolve parliament and take over Yemen's government institutions, including acts of violence. It urged all parties, in particular the Houthis, to accelerate inclusive United Nations-brokered negotiations, to continue the political transition in order to reach a consensus solution in accordance with the Gulf Cooperation Council Initiative and its Implementation Mechanism, the outcomes of the comprehensive National Dialogue conference, and the Peace and National Partnership Agreement and its security annex, and to implement it. It also declared its readiness to take further steps in case of non-implementation by any Yemeni party of the resolution.

By resolution 2204 (2015) of 24 February 2015, the Security Council, *inter alia*, decided to renew until 26 February 2016 the measures imposed by paragraphs 11 and 15 of resolution 2140 (2014). It also decided to extend until 25 March 2016 the mandate of the Panel of Experts as set out in paragraph 21 of resolution 2140 (2014) and expressed its intention to review the mandate and take appropriate action regarding the further extension no later than 25 February 2016.[99]

By resolution 2216 (2015) of 14 April 2015, the Security Council, *inter alia*, listed a number of individuals to be subject to the measures imposed by paragraphs 11 and 15 of resolution 2140 (2014). It also decided to establish an arms embargo as specified in the

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[97] See also the statement of the President of the Security Council dated 20 October 2015 (S/PRST/2015/17).

[98] Report of the Security Council Committee established pursuant to resolution 2140 (2014) (S/2015/965). For more information about the situation in Yemen, see the statement of the President of the Security Council dated 22 March 2015 (S/PRST/2015/8).

[99] See Final report of the Panel of Experts in accordance with paragraph 21 (*c*) of resolution 2140 (2014) (S/2015/125).

resolution and authorized all Member States to seize and dispose illicit items upon discovery. Furthermore, it broadened the mandates of the Committee and the Panel of Experts. It also reaffirmed its readiness to take further measures in case of non-implementation by any Yemeni party of that resolution and resolution 2201 (2015).

(xiii) *South Sudan*

In resolution 2206 (2015) of 3 March 2015, the Security Council decided to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council in relation to the sanctions established by the resolution.[100] The Security Council requested the Secretary-General to create for an initial period, thirteen months from the adoption of that resolution, in consultation with the Committee, a group of up to five experts, under the direction of the Committee, and to make the necessary financial and security arrangements to support the work of the Panel.[101] It also decided on the tasks of the Panel.

In the same resolution, the Security Council also decided that, for an initial period of one year from the date of adoption of the resolution and with certain conditions, (*a*) all Member States should take the necessary measures to prevent the entry into or transit through their territories of any individuals who might be designated by the Committee, provided that nothing in the resolution obliged a State to refuse its own nationals entry into its territory; and (*b*) all Member States should freeze without delay all funds, other financial assets and economic resources which were on their territories, which were owned or controlled, directly or indirectly, by any individuals or entities that might be designated by the Committee, or by any 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 for that initial period ensure that neither those nor any other funds, financial assets or economic resources were made available, directly or indirectly for such persons' benefit, by their nationals or by persons within their territory.

(*g*) Terrorism

(i) *General Assembly*

On 14 December 2015, the General Assembly adopted resolution 70/120 entitled "Measures to eliminate international terrorism" without a vote, upon the recommendation of the Sixth Committee.

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[100] See Report of the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan (S/2015/997) and the statement of the President of the Security Council dated 24 March 2015 (S/2015/9).

[101] See Interim report of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) (S/2015/656).

(ii) *Security Council*

a. Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida and associated individuals, groups, undertakings 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 2015 and submitted, on 31 December 2015, a report on its work in 2015 to the Security Council.[102]

By resolution 2199 (2015) of 12 February 2015, the Security Council, acting under Chapter VII of the Charter of the United Nations, condemned any engagement in direct or indirect trade, in particular of oil and oil products, and modular refineries and related material, with ISIL, ANF and any other individuals, groups, undertakings and entities designated as associated with Al-Qaida by the Committee pursuant to resolutions 1267 (1999) and 1989 (2011). It also decided that Member States shall inform the 1267/1989 Committee within 30 days of the interdiction in their territory of any oil, oil products, modular refineries, and related material being transferred to or from ISIL or ANF. Moreover, it reaffirmed the requirements set out in resolution 2161 (2014) with regard to the oil trade and refined oil products, assets freezes, the trade in Iraqi and Syrian cultural property, payment of ransoms, and the arms trade.

By resolution 2249 (2015), the Security Council unequivocally condemned in the strongest terms the horrifying terrorist attacks perpetrated by ISIL also known as Da'esh which took place in various places between 26 June and 13 November 2015. It also expressed its intention to swiftly update the 1267 Committee sanctions list in order to better reflect the threat posed by ISIL also known as Da'esh.[103]

By resolution 2253 (2015) of 17 December 2015, the Security Council decided, *inter alia*, that, from the date of adoption of that resolution, the 1267/1989 Al-Qaida Sanctions Committee should henceforth be known as the "1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee" and the Al-Qaida Sanctions List should henceforth be known as the "ISIL (Da'esh) and Al-Qaida Sanctions List". It also decided that States should take the measures by previous resolutions with respect to ISIL (Da'esh), Al-Qaida, and associated individuals, groups, undertakings and entities, relating to asset freezes, travel bans and arms embargoes. The Security Council furthermore specified listing criteria, implementation measures and decided that Member States should undertake appropriate measures to prevent the relevant organizations from purchasing, transferring and storing explosives and related materials

[102] Report of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) and 2253 (2015) concerning Al-Qaida and associated individuals and entities (S/2015/976).

[103] See also the statement by the President of the Security Council of 16 December 2015 (S/PRST/2015/25).

By the same resolution, the Security Council decided to extend the mandate of the Office of the Ombudsperson, established by resolution 1904 (2009),[104] and the mandate of the Analytical Support and Sanctions Monitoring Team and its members, established pursuant to paragraph 7 of resolution 1526 (2004),[105] for a period of 24 months from the date of the expiration of their mandates at the time. The Security Council also reaffirmed the role of the Focal Point mechanism established in resolution 1730 (2006). The Security Council gave various directions to the Committee and the Monitoring Team. Moreover, it decided to review the measures described in paragraph 2 of the resolution with a view to their possible further strengthening in eighteen months or sooner if necessary.

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.[106] 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 2253 (2015) of 17 December 2015, *inter alia* reaffirmed its resolution 1373 (2001), in particular its decisions that all States shall prevent and suppress the financing of terrorist acts and refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists. It also reiterated and clarified some of the obligations imposed by resolution 1373 (2001).

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 2015

[104] See the Reports of the Office of the Ombudsman pursuant to Security Council resolution 2161 (2014) (S/2015/80 and S/2015/533).

[105] See the Seventeenth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2161 (2014) concerning Al-Qaida and associated individuals and entities (S/2015/441), the Analysis and recommendations with regard to the global threat from foreign terrorist fighters (S/2015/358), and the Chair's summary of the assessment by the Analytical Support and Sanctions Monitoring Team of the impact of the measures imposed in Security Council resolution 2199 (2015), pursuant to paragraph 30 of the resolution (S/2015/739).

[106] See also Security Council resolution 1624 (2005) of 14 September 2005 and the statement of the President of the Security Council dated 29 May 2015 (S/PRST/2015/11).

and submitted, on 30 December 2015, a review of the implementation of resolution 1540 (2004) in 2015 to the Security Council.[107]

d. Other activities

In a statement of the President of the Security Council of 19 January 2015,[108] the Security Council, *inter alia*, condemned in the strongest terms a recent escalation in attacks perpetrated by Boko Haram. It demanded that Boko Haram immediately and unequivocally cease all hostilities and all abuses of human rights and violations of international humanitarian law and disarm and demobilise. It also took note of the decisions of member States of the Lake Chad Basin Commission (LCBC) and Benin to operationalize a Multinational Joint Task Force (MNJTF) to conduct military operations against Boko Haram. Furthermore, the Security Council welcomed the vote by the National Assembly of Chad on 16 January 2015, which authorized Chadian armed troops and security forces to assist Cameroonian and Nigerian soldiers in the fight against Boko Haram terrorists.

In a statement of the President of the Security Council of 28 July 2015,[109] the Security Council, *inter alia*, reaffirmed its condemnation of the actions by Boko Haram and took note of the responses of the affected States. It commended the LBCB States and Benin for their continued efforts to fully operationalize the MNJTF and called upon the international community and donors to support the MNJTF.

In a statement of the President of the Security Council of 8 December 2015,[110] the Security Council took note of the report of the Secretary-General on the progress toward the implementation of the United Nations Integrated Strategy for the Sahel (UNISS).[111] It also, *inter alia*, urged Member States of the Sahel, West Africa and the Maghreb, to coordinate their efforts to prevent the serious threat posed to international and regional security by terrorist groups crossing borders and seeking safe havens in the Sahel region.

(*h*) Humanitarian law and human rights in the context of peace and security

(i) *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.[112] The Working Group continued its operations in 2015 and submitted, on 31 December 2015, a report of its activities in 2015 to the Security Council.[113]

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[107] Review of the implementation of resolution 1540 (2004) for 2014 (S/2015/1052).

[108] S/PRST/2015/4.

[109] S/PRST/2015/14.

[110] S/PRST/2015/24.

[111] S/2015/866.

[112] A/59/659–S/2005/72.

[113] Annual report on the activities of the Security Council Working Group on Children and Armed Conflict, established pursuant to resolution 1612 (2005) (S/2015)/1024). See also the report of

By resolution 2225 (2015) of 18 June 2015, the Security Council reiterated its readiness to adopt targeted and graduated measures against persistent perpetrators of violations and abuses committed against children 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.

(ii) *Women and peace and security*[114]

By resolution 2242 (2015) of 13 October 2015, the Security Council, welcoming the report of the Secretary-General submitting the results of the Global Study on the implementation of resolution 1325 (2000),[115] urged Member States to assess strategies and resourcing in the implementation of the women, peace and security agenda, reiterated its call for Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, and resolution of conflict, and encouraged those supporting peace processes to facilitate women's meaningful inclusion in negotiating parties' delegations to peace talks. It also recognized the ongoing need for greater integration of resolution 1325 (2000) in its own work in alignment with resolution 2122 (2013), and therefore expressed its intention convene meetings of relevant Security Council experts as part of an Informal Experts Group on Women, Peace and Security; decided to integrate women, peace and security concerns across all country-specific situations on the Security Council's agenda, taking into account the specific context of each country; and expressed its intention to invite civil society, including women's organizations, to brief the Council in country-specific considerations and relevant thematic areas.[116]

(iii) *Protection of civilians in armed conflict*

By a statement on 25 November 2015 made by its President, the Security Council reaffirmed its commitment regarding the protection of civilians in armed conflict, as well

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the Secretary-General on children and armed conflict (A/69/926–S/2015/409), the Conclusions on children and armed conflict in South Sudan of the Security Council Working Group on Children and Armed Conflict (S/AC.51/2015/1), the Report of the Secretary-General on children and armed conflict in Afghanistan (S/2015/336), the Report of the Special Representative of the Secretary-General for children and armed conflict (A/70/162); the Report of the Secretary-General on children and armed conflict in Iraq (S/2015/852), the Annual report of the Special Representative of the Secretary-General for Children and Armed Conflict (A/HRC/31/19) and the letter dated 17 June 2015 from the President of the Security Council addressed to the Secretary-General (S/2015/451).

[114] For more information on the legal activities of the United Nations as it relates to women, see section 6 sub-section (*e*) of the present chapter.

[115] S/2015/716. For the Global Study on the implementation of Security Council resolution 1325 (2000) see http://www.peacewomen.org/sites/default/files/UNW-GLOBAL-STUDY-1325-2015%20(1).pdf.

[116] See also the Report of the Secretary-General on Women and Peace and Security (S/2015/716).

as all of its resolutions on women and peace and security, children and armed conflict and peacekeeping, and all relevant statements of its President.[117]

In resolution 2222 (2015) of 27 May 2015, the Security Council, *inter alia*, condemned all violations and abuses committed against journalists, media professionals and associated personnel in situations of armed conflict, and affirmed that the work of a free, independent and impartial media constituted one of the essential foundations of a democratic society, and thereby could contribute to the protection of civilians. It further affirmed that United Nations peacekeeping and special political missions should include in their mandated reporting information on specific acts of violence against journalists, media professionals and associated personnel in situation of armed conflict. It also reaffirmed that it would continue to address the issue of protection of journalists in armed conflict and requested the Secretary-General to include consistently as a sub-item in his reports on the protection of civilians in armed conflict the issue of the safety and security of journalists, media professionals and associated personnel, and to ensure that information on attacks and violence against these persons and preventative actions taken to prevent such incidents is included as a specific aspect in relevant country specific reports.

(iv) *Small arms and light weapons*

In resolution 2220 (2015) of 22 May 2015, the Security Council, welcoming the Secretary-General's report to the Council of 27 April 2015 entitled "Small arms and light weapons",[118] reiterated that the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons fuel conflict and have devastating impact on the protection of civilians, reiterated its demand that all parties to armed conflict comply strictly with the obligations applicable to them under international humanitarian law, international human rights law and international refugee law, and stressed the need for parties to take all required measures to avoid civilian casualties, respect and protect the civilian population. Among other issues, it urged States to consider ratifying or acceding to the Arms Trade Treaty and the United Nations Convention against Transnational Organized Crime and its Protocols, including the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunitions.

(v) *Youth*

In resolution 225 (2015) of 9 December 2015, the Security Council, affirming the important role youth can play in the prevention and resolution of conflicts and as a key aspect of the sustainability, inclusiveness and success of peacekeeping and peacebuilding efforts, *inter alia* urged Member States to consider ways to increase inclusive representation of youth in decision-making at all levels in local, national, regional and international institutions and mechanisms for the prevention and resolution of conflict; called upon all parties to armed conflict to comply strictly with the obligations applicable to them under international law relevant to the protection of civilians, including those who are youth;

[117] S/PRST/2015/23. See also the Report of the Secretary-General on the protection of civilians in armed conflict (S/2015/453).

[118] S/2015/289.

urged Members States to facilitate an inclusive and enabling environment in which youth actors, including youth from different backgrounds, are recognized and provided with adequate support to implement violence prevention activities and support social cohesion.

By the same resolution, the Security Council urged Members States to facilitate an inclusive and enabling environment in which youth actors, including youth from different backgrounds, are recognized and provided with adequate support to implement violence prevention activities and support social cohesion; and encouraged all those involved in the planning for disarmament, demobilization and reintegration to consider the needs of youth affected by armed conflict. It also invited relevant entities of the United Nations to improve the coordination and interaction regarding the need of youth during armed conflicts and post-conflict situations and requested the Secretary-General to carry out a progress study on the youth's positive contribution to peace processes and conflict resolution.

(*i*) Comprehensive assessment of United Nations peace operations

In a statement by the President of the Security Council of 25 November 2015,[119] the Security Council took note of the recommendations in the Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people of 17 June 2015[120] and the report of the Secretary-General entitled "The Future of United Nations Peace Operations: Implementation of the Recommendations of the High-Level Independent Panel on Peace Operations" of 2 September 2015.[121] The Security Council, *inter alia*, underscored the critical importance of improving the accountability, transparency and performance of United Nations peace operations.

In a statement by the President of the Security Council of 31 December 2015,[122] the Security Council took note of the views expressed at the ninth meeting of its Working Group on the theme "Towards a Strategic Dialogue between the Security Council, troop- and police-contributing countries and the Secretariat" held on 11 December 2015.

(*j*) Review of the Peacebuilding Architecture

In a statement by the President of the Security Council of 14 January 2015,[123] the Security Council, *inter alia*, took note with appreciation of the Secretary-General's report on Peacebuilding in the aftermath of conflict[124] and the country-specific evidence of impact and lessons learned it contained. It underlined the need for the review of the Peacebuilding Architecture and recalled the important role of the Peacebuilding Commission.[125]

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[119] S/PRST/2015/22.

[120] A/70/95–S/2015/446.

[121] A/70/357–S/2015/682.

[122] S/PRST/2015/26.

[123] S/PRST/2015/2.

[124] S/2014/694.

[125] For more information about the Peacebuilding Commission, see https://www.un.org/peacebuilding/ and the Chair's summary of its Annual Session 2015, held under the title "Predictable financing for peacebuilding: Breaking the silos" on 23 June 2015 in New York (https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/150709_pbc_annual_session_chairs_summary-final.pdf).

By identical letters dated 29 June 2015, the Chair of the Advisory Group of Experts on the Review of the Peacebuilding Architecture transmitted the report of the Advisory Group, entitled "Challenge of sustaining peace", to the General Assembly and the Security Council.[126]

(*k*) Piracy

In resolution 2246 (2015) of 10 November 2015, the Security Council, welcoming the report of the Secretary-General submitted pursuant to Security Council resolution 2184 (2014) on the implementation of that resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia,[127] and acting under Chapter VII of the Charter of the United Nations, 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), 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 had been provided by Somali authorities to the Secretary-General. The Security Council 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) did 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 such measures.

(*l*) Migrant smuggling and human trafficking

By resolution 2240 (2015) of 9 October 2015, the Security Council condemned all acts of migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya. It decided, with a view to saving the threatened lives of migrants or of victims of human trafficking on board any unflagged vessels, to authorize for a period of one year from the date of the adoption of the resolution, Member States, acting nationally or through regional organizations that are engaged in the fight against migrant smuggling and human trafficking, to inspect on the high seas off the coast of Libya vessels that they have reasonable grounds to suspect are being used for migrant smuggling or human trafficking from Libya, provided that such Member States and regional organizations make good faith efforts to obtain the consent of the vessel's flag State prior to using the authority outlined in this paragraph. It also authorized Member States to seize such vessels that are confirmed as being used for migrant smuggling or human trafficking from Libya.

By the same resolution, the Security Council decided to authorize Member States acting nationally or through regional organizations to use all measures commensurate to the specific circumstances in confronting migrant smugglers or human traffickers in carrying out activities under the resolution and in full compliance with international human rights law, as applicable, and underscored that the authorizations in the resolution did not apply with respect to vessels entitled to sovereign immunity under international law. It also

[126] A/69/968–S/2015/490.

[127] S/2015/776.

expressed its intention to review the situation and consider, as appropriate, renewing the authority provided in this resolution for additional periods.

3. Disarmament and related matters[128]

(*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 all Member States of the United Nations.

The Commission held its organizational session for 2015 in New York on 19 January 2015.[129] The Commission then met in New York from 6 to 24 April 2015, where it held a general exchange of views on all agenda items.[130] Working Group I held nine meetings, from 9 to 22 April 2015, to discuss the agenda item entitled "Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons". Working Group II held eight meetings, from 13 to 22 April, to discuss the agenda item 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 2014,[131] together with all the official records of the sixty-ninth session of the General Assembly relating to disarmament matters, as well as conference room papers submitted by the Chairs of Working Group I and II relating to the substantive questions on its agenda.[132]

On 24 April 2015, the Commission adopted, by consensus, the reports of the Commission and its subsidiary bodies, and agreed to submit them to the General Assembly at its seventieth session. There were no recommendations put forward by the Commission.[133]

(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 was in session from 19 January to 27 March, 25 May to 10 July and 3 August to 18 September 2015, during which it held 40 formal plenary meetings and 33 informal plenary meetings.[134] On 20 January 2015, the Conference adopted its agenda

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[128] For more information about disarmament and related matters, see *The United Nations Disarmament Yearbook,* vol. 40, 2015 (United Nations publication, Sales No. E.16.IX.5), which is also available at http://www.un.org/disarmament.

[129] A/CN.10/PV.343.

[130] A/CN.10/PV.348–350.

[131] *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 42* (A/69/42).

[132] *Ibid., Seventieth Session, Supplement No. 42* (A/70/42), chapter III. B.

[133] *Ibid.,* chapter IV.

[134] CD/2046, para. 2–3.

for the 2015 session, which included, *inter alia*, the items "Cessation of the nuclear arms race and nuclear disarmament", "Prevention of nuclear war, including all related matters", "Prevention of an arms race in outer space", "Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", "New types of weapons of mass destruction and new systems of such weapons; radiological weapons", "Comprehensive programme of disarmament" and "Transparency in armaments".[135] Throughout the 2015 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 2015 session.[136] On 18 September 2015, the Conference adopted its annual report and transmitted it to the General Assembly for its consideration.[137]

(iii) *General Assembly*

In 2015, the General Assembly adopted, on the recommendation of the First Committee, eight resolutions and one decision concerning institutional activities relating to disarmament machinery.

On 7 December 2015, the General Assembly adopted resolution 70/61 entitled "United Nations regional centres for peace and disarmament", without a vote; resolution 70/63 entitled "United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean", without a vote; resolution 70/64 entitled "Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa", without a vote; resolution 70/65 entitled "United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific" without a vote; resolution 70/66 entitled "United Nations Regional Centre for Peace and Disarmament in Africa"; resolution 70/67 entitled "Report of the Conference on Disarmament", without a vote; resolution 70/68 entitled "Report of the Disarmament Commission", without a vote; and resolution 70/69 entitled "Thirty-fifth anniversary of the United Nations Institute for Disarmament Research", without a vote.

On 7 December 2015, the General Assembly adopted decision 70/515 entitled "Revitalizing the work of the Conference on Disarmament and taking forward multilateral disarmament negotiations". On 23 December 2015, the General Assembly also adopted, by a recorded vote of 149 to none, with 5 abstentions, decision 70/551 entitled "Open-ended Working Group on the fourth special session of the General Assembly devoted to disarmament".

(*b*) Nuclear disarmament and non-proliferation issues

In 2015, several preparatory meetings and conferences were held on nuclear disarmament and non-proliferation matters.

[135] CD/2046, para. 13.

[136] *Ibid.*, para. 17.

[137] *Official Records of the General Assembly, Seventieth Session, Supplement No. 27* (A/70/27).

The 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, 1968 (NPT),[138] was held from 27 April to 22 May 2015 in New York.[139] Representatives from 161 State parties, one observer State, the United Nations, the International Atomic Energy Agency (IAEA), 11 observer agencies and 107 non-governmental organizations participated in the Review Conference.[140] At its eighth meeting, on 30 April 2015, the Conference decided to establish, for the duration of the 2015 Review Conference, subsidiary bodies under Main Committee I, Main Committee II and Main Committee III. Subsidiary body I would examine nuclear disarmament and security assurances; Subsidiary body II would examine regional issues, including with respect to the Middle East and implementation of the 1995 Middle East resolution; and Subsidiary body III would examine peaceful uses of nuclear energy and other provisions of the Treaty and improving the effectiveness of the strengthened review process.[141] Despite intensive consultations, the Conference was not able to reach agreement on the substantive part of the draft Final Document. At its 15th and final plenary meeting, on 22 May 2015, the Conference adopted the procedural part of the draft Final Document on the organization and work of the Conference.[142]

On 24 April, the Third Conference of States Parties and Signatories that establish Nuclear-Weapon-Free Zones and Mongolia was held in New York. However, no formal discussions were commenced due to the divergence of opinion on procedural matters.

In addition, the International Atomic Energy Agency (IAEA) held its fifty-ninth General Conference of Member States from 14 to 18 September 2015 in Vienna.[143] The Conference adopted 17 resolutions and 12 decisions[144] 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 29 September 2015, the ninth biennial Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty, 1996 (CTBT),[145] was held in New York.[146] Foreign ministers and other high-level representatives met at the United Nations Headquarters in New York to discuss concrete measures to facilitate the entry into force of the CTBT. In their Final Declaration, the ratifying States and other States signatories affirmed that a universal and effectively verifiable Treaty constituted a fundamental instrument in the field of nuclear disarmament and non-proliferation and also affirmed the vital importance and urgency of the entry into force of the CTBT.[147]

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[138] United Nations, *Treaty Series*, vol. 729, p. 161.

[139] For more information see https://www.un.org/en/conf/npt/2015/.

[140] *Final Documents of the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.2015/50 (Part I)*, para. 17.

[141] *Ibid.*, para. 15.

[142] *Ibid.*, para. 29.

[143] For more information see https://www.iaea.org/about/policy/gc/gc59.

[144] GC(59)/RES/DEC(2015).

[145] A/50/1027, annex.

[146] For more information, see https://www.ctbto.org/the-treaty/article-xiv-conferences/afc2015/.

[147] See https://www.ctbto.org/fileadmin/user_upload/Art_14_2015/FINAL_DECLARATION.pdf.

(i) *General Assembly*

On 17 November 2015, the General Assembly adopted, without reference to a Main Committee, resolution 70/10 entitled "Report of the International Atomic Energy Agency", by a recorded vote of 99 to none, with 10 abstentions.

On 7 December 2015, the General Assembly adopted, upon the recommendation of the First Committee, 23 resolutions concerning nuclear weapons and non-proliferation issues: resolution 70/23 entitled "African Nuclear-Weapon-Free Zone Treaty", without a vote; resolution 70/24 entitled "Establishment of a nuclear-weapon-free zone in the region of the Middle East", without a vote; resolution 70/25 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 127 to none, with 55 abstentions; resolution 70/28 entitled "2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and its Preparatory Committee", by a recorded vote of 176 to none, with 3 abstentions; resolution 70/33 entitled "Taking forward multilateral nuclear disarmament negotiations", by a recorded vote of 138 to 12, with 34 abstentions; resolution 70/34 entitled "Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament", by a recorded vote of 140 to 26, with 17 abstentions; resolution 70/37 entitled "Reducing nuclear danger", by a recorded vote of 127 to 48, with 10 abstentions; resolution 70/38 entitled "Follow-up to nuclear disarmament obligations agreed to at the 1995, 2000 and 2010 Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons", by a recorded vote of 121 to 48, with 12 abstentions (a separate vote was requested on preambular paragraph 6); resolution 70/39 entitled "Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices", by a recorded vote of 179 to 1, with 5 abstentions; resolution 70/40 entitled "United action with renewed determination towards the total elimination of nuclear weapons", by a recorded vote of 166 to 3, with 16 abstentions (separate votes were requested on the operative paragraph 5,15 and 19); resolution 70/45 entitled "Nuclear-weapon-free southern hemisphere and adjacent areas", by a recorded vote of 178 to 4, with 1 abstentions; resolution 70/47 entitled "Humanitarian consequences of nuclear weapons", by a recorded vote of 144 to 18, with 22 abstentions; resolution 70/48 entitled "Humanitarian pledge for the prohibition and elimination of nuclear weapons", by a recorded vote of 139 to 29, with 17 abstentions; resolution 70/50 entitled "Ethical imperatives for a nuclear-weapon-free world", by a recorded vote of 132 to 36, with 16 abstentions"; resolution 70/51 entitled "Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments", by a recorded vote of 142 to 7, with 36 abstention (a separate vote was requested on the operative paragraph 13); resolution 70/52 entitled "Nuclear disarmament", by a recorded vote of 127 to 43, with 15 abstentions (a separate vote was requested on operative paragraph 16); resolution 70/56 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 137 to 24, with 25 abstentions; resolution 70/57 entitled "Universal Declaration on the Achievement of a Nuclear-Weapon-Free World", by a recorded vote of 133 to 23, with 28 abstentions; and resolution 70/59 entitled "Prohibition of the dumping of radioactive wastes", without a vote; resolution 70/60 entitled "Treaty on the South-East Asia Nuclear-Weapon-Free Zone (Bangkok Treaty)", without a vote; resolution 70/62 entitled "Convention on the Prohibition of the Use of Nuclear Weapons", by a recorded vote of 130 to 48, with 8 abstentions; resolution 70/70 entitled "The risk of nuclear proliferation in

the Middle East", by a recorded vote of 157 to 5, with 20 abstentions (separate votes were requested on preambular paragraphs 5 and 6); resolution 70/73 entitled "Comprehensive Nuclear-Test-Ban Treaty", by a recorded vote of 181 to 1, with 3 abstentions (a separate vote was requested on preambular paragraph 6).

(ii) *Security Council*

In 2015, the Security Council adopted three resolutions relating to nuclear disarmament and non-proliferation issues. Resolutions 2207 (2015) of 4 March 2015 and 2224 (2015) of 9 June 2015 related to the mandates of the Panels of Experts established to monitor sanctions measures imposed on the Democratic People's Republic of Korea and the Islamic Republic of Iran, respectively. By resolution 2231 (2015) of 2015, the Security Council endorsed the Joint Comprehensive Plan of Action concerning the Iranian nuclear issue, and provided for the termination of the applicable sanctions regime.[148]

(*c*) Biological and chemical weapons issues

(i) *Biological Weapons Convention*

Pursuant to the final document of the Seventh Review Conference of the States Parties[149] 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),[150] the Meeting of Experts and the Meeting of States Parties were held in Geneva from 10 to 14 August 2015 and from 14 to 18 December 2015, respectively.[151]

The Meeting of Experts held six sessions devoted to each of the standing agenda items,[152] and two sessions devoted to the biennial item of "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 14 August 2015, the Meeting of Experts adopted its report by consensus.[153]

The Meeting of States Parties considered the work of the Meeting of Experts on the three standing agenda items, the biennial item of "How to strengthen implementation of Article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties", the annual item on progress with

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[148] For more information, see above chapter III.A.2*f* (vi) and (vii).

[149] BWC/CONF.VII/7.

[150] United Nations, *Treaty Series,* vol. 1015, p. 164.

[151] BWC/MSP/2015/MX/3 and Corr.1, and BWC/MSP/2015/6, respectively.

[152] The Seventh Review Conference had decided that the following topics should be standing agenda items, which would be addressed by both the Meeting of Experts and the Meeting of States Parties every year from 2012 to 2015: (*a*) cooperation and assistance, with a particular focus on strengthening cooperation and assistance under article X; (*b*) review of developments in the field of science and technology related to the Convention; and (*c*) strengthening national implementation. The Conference had also decided that the item "How to strengthen implementation of Article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties" would be considered in 2014 and 2015.

[153] BWC/MSP/2015/MX/3.

universalization of the Convention, the annual report of the Implementation Support Unit, and arrangements for the Eighth review Conference and its Preparatory Committee in 2016. At its closing meeting on 18 December 2015, the Meeting of States Parties adopted its report by consensus.[154]

The year of 2015 also marked the fortieth anniversary of the Biological Weapons Convention. The occasion was marked by the issuance of several high-level statements and a commemorative event, held on 30 March 2015 in Geneva.

(ii) *Chemical Weapons Convention*

The twentieth 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)[155] was held in The Hague, from 30 November to 4 December 2015. 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 chemical activities, and ensuring the universality of the Convention. On 4 December, the Conference considered and adopted the report of its twentieth session.[156]

Membership of the Organization for the Prohibition of Chemical Weapons (OPCW) membership grew to 192 States parties in 2015, with Angola and Myanmar depositing their instruments of ratification.

(iii) *General Assembly*

On 7 December 2015, the General Assembly, on the recommendation of the First Committee, adopted two resolutions relating to biological and chemical weapons: resolution 70/41 entitled "Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction", and resolution 70/74 entitled "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction".[157]

(iv) *Security Council*

On 7 August 2015, the Security Council adopted resolution 2235 (2015), establishing the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism (OPCW-JIM).[158]

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[154] BWC/MSP/2015/6.

[155] United Nations, *Treaty Series*, vol. 1974, p. 45.

[156] C-20/5.

[157] For the content of the resolutions, see *United Nations Juridical Yearbook* 2013 (Sales No. E.17.V.3), chapter III.A.3.*c*.(i).

[158] See chapter III.A.2.*c*.(v).

(*d*) Conventional weapons issues

(i) *International trade in conventional arms*

In accordance with article 17 (1) of the Arms Trade Treaty (ATT)[159], two formal preparatory meetings for the first Conference of States Parties to the ATT were held, on 23 and 24 February in Port of Spain, Trinidad and Tobago, and from 6 to 8 July in Geneva, Switzerland. Additionally, informal consultations were conducted in Vienna on 20 and 21 April. During those meetings, decisions were made relevant to the infrastructure of the ATT implementation, including decisions related to the Treaty Secretariat, the organization of meetings of State parties, the establishment of subsidiary bodies and the financing for these bodies and their activities.

The first Conference of States Parties to the ATT was held from 24 to 27 August in Cancún, Mexico. On 27 August 2015, the Conference adopted its final report.[160] The Conference adopted Rules of Procedure, Financial Regulations, and decisions regarding the establishment of a Management Committee and a secretariat. It also decided to hold the second Conference in 2016 in Geneva, with an extraordinary session in early 2016 to address outstanding issues of the first Conference.

On 7 December 2015, the General Assembly, on the recommendation of the First Committee, adopted resolution 70/29, entitled "Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them", and resolution 70/49, entitled "The illicit trade in small arms and light weapons in all its aspects", both without a vote.

(ii) *General Assembly*

On 7 December 2015, the General Assembly, on recommendation of the First Committee, adopted eight other resolutions dealing with conventional arms issues: resolution 70/29 entitled "Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them"; resolution 70/35 entitled "Problems arising from the accumulation of conventional ammunition stockpiles in surplus"; resolution 70/46 entitled "Countering the threat posed by improvised explosive devices"; resolution 70/49 entitled "The illicit trade in small arms and light weapons in all its aspects"; resolution 70/54 entitled "Implementation of the Convention on Cluster Munitions"; resolution 70/55 entitled "Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction"; resolution 70/58 entitled "The Arms Trade Treaty"; and resolution 70/71 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".

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[159] United Nations, *Treaty Series*, registration No. 52373.

[160] ATT/CSP1/2015/6.

(iii) *Security Council*

On 22 May 2015, the Security Council adopted resolution 2220 (2015), by which the Council reaffirmed its growing concern over the proliferation of small arms and light weapons and its possible negative effects on peacebuilding measures in affected countries.[161]

(iv) *Other international conferences and meetings*

The 2015 Meeting of Experts relating to the Protocol on Explosive Remnants of War (Protocol V) was held on 7 and 8 April 2015 in Geneva. The main focus of the Meeting of Experts was on the following issues: assessment of implementation progress made by State parties; generic preventive measures; national reporting; Article 4; clearance and victim assistance.[162] The Ninth Conference of the High Contracting Parties to Protocol V was held in Geneva on 9 and 10 November 2015, to consider, *inter alia*, the work of the Meeting of Experts. At its fourth plenary meeting, the Ninth Conference adopted its final document.[163]

The second Open-ended Meeting of Governmental Experts on small arms was convened in New York form 1 to 5 June 2015, with a technical mandate and an aim to allow free discussion on the full and effective implementation of the Programme of Action. The Open-ended Meeting underscored the importance of keeping the International Tracing Instrument as a living and relevant instrument to address the new developments in technologies of small arms and light weapons.[164] At its 10th meeting, the Open-ended Meeting adopted its report.[165]

The First Review Conference to the Convention on Cluster Munitions took place in Dubrovnik, Croatia, from 7 to 11 September 2015, following preparatory meetings in Geneva on 5 February and 24 June.[166] The Conference adopted, *inter alia*, the Dubrovnik Declaration and the Dubrovnik Action Plan.[167].

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)[168] annexed to the Convention on Conventional Weapons, the Seventeenth Annual Conference of the High Contracting Parties to Amended Protocol II was held on 11 November 2015 in Geneva. The Conference, *inter alia*, reviewed the operation and status of the Protocol and considered issues arising from improvised explosive devices, including efforts to promote international humanitarian law compliance. It also took note of the reports on the operation and status of the Protocol and considered matters arising from reports by High Contracting Parties, according to article 13 (4) of the Amended Protocol and the development of technologies to protect civilians against the indiscriminate effects of mines.[169]

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[161] See also chapter III.A.II.*h*.(iv).

[162] United Nations, *Treaty Series*, vol. 2399, p. 100.

[163] CCW/P.V/CONF/2015/11.

[164] For more information, see https://www.un.org/disarmament/convarms/salw/mge2.

[165] A/CONF.192/MGE/2015/1.

[166] See CCM/CONF/2015/PM.1/2 and CCM/CONF/2015/PM.2/2.

[167] CCM/CONF/2015/7, annex I and III.

[168] United Nations, *Treaty Series*, vol. 2048, p. 93.

[169] CCW/AP.II/CONF.17/6.

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, 1980[170] (Convention on Conventional Weapons) was held in Geneva on 12 and 13 November 2015. The Meeting considered, *inter alia*, the report of the 2015 Informal Meeting of Experts on Lethal Autonomous weapons Systems[171], the report on promoting universality of the convention and its protocols,[172] the report of the CCW Sponsorship Programme,[173] the report of the Implementation Support Unit,[174] and the report of the estimated costs of the 2016 Meeting of the High Contracting Parties.[175] On 13 November, the Meeting adopted its final report.[176]

The Fourteenth Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, 1997 (Mine-Ban Convention)[177] was held in Geneva from 30 November to 4 December 2015. The Meeting considered reports on the work of the Convention's four committees, established by the Third Review Conference.[178] It welcomed the announcement by Finland on its completion of destruction of its stockpiles, noted with appreciation Mozambique's completion of destruction of all anti-personnel mines under its jurisdiction or control, and granted Cyprus, Ethiopia, Mauritania, Niger, and Senegal an extension to their article 5 deadlines. At its final plenary session, on 4 December 2015, the Meeting adopted its report.[179]

(*e*) Regional disarmament activities of the United Nations

(i) *Africa*

In 2015, 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.[180]

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 assisted Member States in their implementation of sub-regional instruments to control small arms and light weapons and provided training to civilian authorities, including national commissions on small arms and light weapons, defence and security forces and United Nations

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[170] United Nations, *Treaty Series,* vol. 1342, p. 137.

[171] CCW/MSP/2015/3.

[172] CCW/MSP/2015/4.

[173] CCW/MSP/2015/5.

[174] CCW/MSP/2015/6.

[175] CCW/MSP/2015/7.

[176] CCW/MSP/2015/9.

[177] United Nations, *Treaty Series*, vol. 2056, p. 211.

[178] APLC/CONF/2014/4, para. 25 and annex III.

[179] APLC/MSP.14/2015/33.

[180] For more information, see the reports of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament in Africa (A/70/116 (for the period from July 2014 to June 2015) and A/71/128 (for the period July 2015 to June 2016)).

peacekeeping mission personnel in the area of combating illicit small arms and light weapons. The Centre also partnered with national and international non-governmental organizations and civil society organizations to promote the Arms Trade Treaty.

The Centre further provided technical assistance to Member States in their implementation of instruments relating to weapons of mass destruction, especially the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and of Security Council resolution 1540 (2004). The Centre facilitated the provision of assistance to several African States in preparing their first national reports on the implementation of the resolution and on the next steps to be taken by those States under the resolution.

Moreover, the Centre continued to provide substantive and technical support on disarmament issues to the States members of the United Nations Standing Advisory Committee on Security Questions in Central Africa at their ministerial and governmental expert meetings.

(ii) *Asia and the Pacific*

The United Nations Regional Centre for Peace, Disarmament and Development in Asia and the Pacific (UNRCPD) continued its activities in 2015, focussing its programmatic activities on promoting the implementation of global disarmament and non-proliferation instruments, including by providing assistance to Member States in the region, upon their request, in national capacity-building; enhancing dialogue and confidence-building in the areas of disarmament, non-proliferation and regional security; and taking outreach and advocacy initiatives. The Regional Centre assisted countries including Bangladesh, Indonesia, Maldives, Nepal and the Philippines through workshops and education projects. It also organized two conferences on disarmament and non-proliferation issues, namely the twenty-fifth United Nations Conference on Disarmament Issues entitled "Towards a World Free of Nuclear Weapons" (26 to 28 August 2015, Hiroshima, Japan) and the fourteenth United Nations–Republic of Korea Joint Conference on Disarmament and Non-proliferation Issues entitled "Unfinished Business of Building a More Secure World" (7 and 8 December 2015, Seoul, Republic of Korea).[181]

(iii) *Latin America and the Caribbean*

The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC) focused its assistance to Member States in the region on issues related to small arms and light weapons, other conventional arms and weapons of mass destruction.[182] The Centre implemented more technical, legal and policy assistance activities for the implementation of disarmament and non-proliferation instru-

[181] For more information, see the reports of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific (A/70/114 (for the period from 1 July 2014 to 30 June 2015) and A/71/125 (for the period 1 July 2015 to 30 June 2016)).

[182] For more information, see the reports of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament in Latin America and the Caribbean (A/70/138 (for the period from July 2014 to June 2015) and A/71/127 (for the period July 2015 to June 2016)).

ments, including the Arms Trade Treaty, the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, Security Council resolution 1540 (2004) on preventing the proliferation of weapons of mass destruction and their means of delivery and General Assembly resolution 65/69 on women, disarmament, non-proliferation and arms control. The Centre provided training, upon request, for security sector personnel of Member States in the region on small arms and light weapons control, including on marking, record-keeping, tracing and stockpile management, as well as conventional arms control. The Centre trained national authorities from several Member States in the region using its Arms Trade Treaty implementation course. The Centre provided capacity-building assistance to several States in the Caribbean region in their implementation of resolution 1540 (2004). The Centre also assisted States in the Caribbean region in their development of voluntary national action plans for the implementation of resolution 1540 (2004).

(iv) *General Assembly*

On 7 December 2015, the General Assembly adopted, upon the recommendation of the First Committee, nine resolutions dealing with regional disarmament: resolution 70/22 entitled "Implementation of the Declaration of the Indian Ocean as a Zone of Peace", by a recorded vote of 128 to 3, with 45 abstentions; resolution 70/42 entitled "Confidence-building measures in the regional and subregional context", without a vote; resolution 70/43 entitled "Regional disarmament", without a vote; resolution 70/44 entitled "Conventional arms control at the regional and subregional levels", by a recorded vote of 182 to 1, with 2 abstentions; resolution 70/63, entitled "United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean", without a vote; resolution 70/64, entitled "Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa", without a vote; resolution 70/65, entitled "United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific", without a vote; resolution 70/66, entitled "United Nations Regional Centre for Peace and Disarmament in Africa", without a vote; and resolution 70/72 entitled "Strengthening of security and cooperation in the Mediterranean region", without a vote.

(*f*) Outer space (disarmament aspects)

The 2015 Inter-Agency Meeting on Outer Space Activities (UN-Space) held its thirty-fifth session at the premises of the United Nations Campus in Bonn, Germany, on 27 and 28 May 2015.[183]

On 22 October 2015, the First and Fourth Committees of the General Assembly, pursuant to General Assembly resolution 69/38 of 2 December 2014, held its first joint and *ad hoc* meeting on possible challenges to space security and long-term sustainability. States had a general exchange of views on a range of issues, aiming to advance the implementation of transparency and confidence-building measures.

[183] Report of the Inter-Agency Meeting on Outer Space Activities (UN-Space) on its thirty-fifth and thirty-sixth sessions (Bonn, Germany, 27–28 May 2015 and New York, 3 March 2016), A/AC.105/1114.

General Assembly

On 7 December 2015, the General Assembly, on the recommendation of the First Committee, adopted three resolutions on the matters of outer space regarding disarmament: resolution 70/26 entitled "Prevention of an arms race in outer space", by a recorded vote of 179 to none, with 2 abstentions; resolution 70/27 entitled "No first placement of weapons in outer space", by a recorded vote of 129 to 4, with 46 abstentions; and resolution 70/53 entitled "Transparency and confidence-building measures in outer space activities", without a vote.

On 9 December 2015, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 70/82 entitled "International cooperation in the peaceful uses of outer space", without a vote.

(*g*) Other disarmament measures and international security

General Assembly

On 7 December 2015, the General Assembly, on the recommendation of the First Committee, adopted four resolutions and one decision concerning other disarmament measures and international security: resolution 70/21 entitled "Objective information on Military matters, including transparency of military expenditures", without a vote; resolution 70/30 entitled "Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control", without a vote; resolution 70/31 entitled "Promotion of multilateralism in the area of disarmament and non-proliferation", by a recorded vote of 129 to 4 votes, with 50 abstentions; resolution 70/32 entitled "Relationship between disarmament and development", without a vote; and decision 70/514 entitled "Role of science and technology in the context of international security and disarmament".

On 23 December 2015, the General Assembly, on the recommendation of the First Committee, adopted resolution 70/237 entitled "Developments in the field of information and telecommunications in the context of international security", 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-fourth session at the United Nations Office in Vienna from 13 March to 24 April 2015.[184]

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-fifth session, on their

[184] For the Report of the Legal Subcommittee, see A/AC.105/1090.

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-fifth 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.[185] 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 should be reconvened at its fifty-fifth session, in 2016, to review the need to extend the mandate of the Working Group beyond that 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, which was endorsed by the Subcommittee.[186] The Subcommittee agreed to reconvene the Working Group on Matters Relating to the Definition and Delimitation of Outer Space at its fifty-fifth session.

Concerning the agenda item entitled "National legislation relevant to the peaceful exploration and use of outer space", the Subcommittee, *inter alia,* noted with satisfaction that some States members of the Committee had already begun to implement the recommendations of General Assembly resolution 68/74.

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 increasing knowledge of the legal framework within which space activities were carried out. It welcomed the establishment of the Regional Centre for Space Science and Technology Education, affiliated to the United Nations, at Beihang University in Beijing, as it would supplement space law teaching and training opportunities in the Asia-Pacific region.

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 the extension of the multi-year work plan of the Working Group on the Use of Nuclear Power Sources in Outer Space to 2017.[187]

Under the agenda item "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", 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 the Inter-Agency Space Debris

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[185] See Report of the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, A/AC.105/1090, annex I.

[186] See Report of the Chair of the Working Group on the Definition and Delimitation of Outer Space, A/AC.105/1090, annex II.

[187] A/AC.105/1065, annex II, para. 9.

Coordination Committee Space Debris Mitigation Guidelines and that other States had developed their own space debris mitigation standards based on those guidelines.

Concerning the agenda item "General exchange of information on non-legally binding United Nations instruments on outer space", the Subcommittee welcomed the exchange of information under this agenda item and noted that existing non-legally binding United Nations instruments related to space activities had played an important role by complementing and supporting the United Nations treaties on outer space, and that they continued to be an effective means to address emerging challenges posed by the increase and diversification of activities in outer space, and to serve as a basis for ensuring the safe and sustainable use of outer space.

Regarding the agenda item "Review of international mechanisms for cooperation in the peaceful exploration and use of outer space", the Subcommittee reconvened its Working Group on the Review of International Mechanisms for Cooperation in the Peaceful Exploration and Use of Outer Space and endorsed the report of the Chair of the Working Group. [188]

Concerning future work, the Subcommittee agreed that the three single issues/items for discussion, entitled "Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space", "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", and "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-fifth session. It also agreed that two new single issues/items, entitled "General exchange of views on the legal aspects of space traffic management" and "General exchange of views on the application of international law to small satellite activities", should be included on the agenda of the Subcommittee at its fifty-fifth session.

The Committee on the Peaceful Uses of Outer Space held its fifty-eighth session in Vienna from 10 to 19 June 2015. The Committee took note of the Legal Subcommittee's report and endorsed the recommendations contained therein.[189]

(*b*) General Assembly

In 2015, the General Assembly adopted three resolutions relating to the legal aspects of the peaceful uses of outer space. In its resolution 70/82 of 9 December 2015, 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 seventy-first session, and agreed that during its consideration of the matter the Committee could continue to consider ways to promote regional and interregional cooperation and the role that space technology could play in the implementation of recommendations of the United Nations

[188] See Report of the Chair of the Working Group on the Review of International Mechanisms for Cooperation in the Peaceful Exploration and Use of Outer Space, A/AC.105/1090, annex III.

[189] For the report of the Committee on the Peaceful use of Outer Space, see *Official records of the General Assembly, Seventieth Session, Supplement No. 20* (A/70/20).

Conference on Sustainable Development. It also endorsed the United Nations Programme on Space Applications for 2016, as proposed to the Committee by the Expert on Space Applications and endorsed by the Committee.

The General Assembly also adopted resolution 70/53 of 7 December 2015 entitled "Transparency and confidence-building measures in outer space activities", as well as resolution 70/230 of 23 December 2015 entitled "Matters relating to activities under the United Nations Programme on Space Applications in 2016". By the latter resolution, it agreed to reinstate the United Nations/Costa Rica Workshop on Human Space Technology; the United Nations/South Africa Symposium on Basic Space Technology; the United Nations/Kenya Workshop on Space Technology and Applications for Wildlife Management and Protecting Biodiversity; and the United Nations/Islamic Republic of Iran Workshop on the Use of Space Technology for Dust Storm and Drought Monitoring in the Middle East Region.

5. Human rights[190]

(*a*) Sessions of the United Nations human rights bodies and treaty bodies

(i) *Human Rights Council*

The Human Rights Council, established in 2006,[191] 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.[192] The Council also assumed the thirty-eight country and thematic special procedures existing under its predecessor, the

[190] 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.

[191] General Assembly resolution 60/251 of 15 March 2006. For further details on its establishment, see the *United Nations Juridical Yearbook,* 2006, chapter III, section 5.

[192] 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 website of the Human Rights Council at https://www.ohchr.org.

Commission on Human Rights, while reviewing the mandate and criteria for the establishment of these special procedures.[193] 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.[194]

In 2015, the Human Rights Council held its twenty-eighth, twenty-ninth, and thirtieth regular sessions,[195] its twenty-third special session on "The terrorist attacks and human rights abuses and violations committed by the terrorist group Boko Haram"[196] and its twenty-fourth special session on "Preventing further deterioration of the human rights situation in Burundi".[197]

(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.[198] 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 fourteenth session from 23 to 27 February 2015 and its fifteenth session from 10 to 14 August 2015 in Geneva.[199]

(iii) *Human Rights Committee*

The Human Rights Committee was established under the International Covenant on Civil and Political Rights of 1966[200] to monitor the implementation of the Covenant and its Optional Protocols[201] in the territory of States parties. The Committee held its

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[193] Human Rights Council decision 1/102 of 30 June 2006.

[194] More detailed information on the mandate, work and methods of the Human Rights Council is available at the website of the Human Rights Council at https://www.ohchr.org.

[195] For the reports of the twenty-eighth and twenty-ninth sessions, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 53* (A/70/53). For the report of the thirtieth session, see *ibid.*, *Supplement No. 53A* (A/70/53/Add.1).

[196] For the report of the twenty-third special session, see *ibid., Seventieth Session, Supplement No. 53* (A/70/53).

[197] For the report of the twenty-fourth special session, see *ibid., Seventy-first Session, Supplement No. 53* (A/71/53).

[198] 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.

[199] For the reports of the Advisory Committee on its fourteenth and fifteenth sessions, see A/HRC/AC/14/2 and A/HRC/AC/15/2, respectively.

[200] United Nations, *Treaty Series*, vol. 999, p. 171.

[201] 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.

113th session from 16 March to 2 April 2015, its 114th session from 29 June to 24 July 2015, and its 115th session from 19 October to 6 November 2015 in Geneva.[202]

At its 115th session, the Committee started to review its draft general comment on article 6 (right to life). At its 116th session, the Committee continued its review of the draft.

(iv) *Committee on Economic, Social and Cultural Rights*

The Committee on Economic, Social and Cultural Rights was established by the Economic and Social Council[203] to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights of 1966[204] by its State parties. The Committee 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.[205] 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-fourth, fifty-fifth, and fifty-sixth sessions in Geneva from 23 February to 6 March, 1 to 19 June, and from 21 September to 9 October 2015, respectively.[206]

(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[207] to monitor the implementation of this Convention by its States parties. The Committee held its eighty-sixth, eighty-seventh, and eighty-eighth sessions in Geneva from 27 April to 15 May, 3 to 28 August, and 23 November to 11 December 2015, respectively.[208]

(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

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[202] For the report of the 113th session, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 40* (A/70/40). For the report of the 114th and 115th sessions, see *ibid.*, *Seventy-first Session, Supplement No. 40* (A/71/40).

[203] Economic and Social Council resolution 1985/17 of 28 May 1985.

[204] United Nations, *Treaty Series*, vol. 993, p. 3.

[205] *Ibid.*, registration No. 14531 (no volume number had been determined for this Convention at the time of this publication).

[206] For the reports of the fifty-fourth, fifty-fifth, and fifty-sixth sessions, see *Official Records of the Economic and Social Council, 2015, Supplement No. 2* (E/2016/22).

[207] United Nations, *Treaty Series*, vol. 660, p. 195.

[208] For the report of the eighty-sixth session, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 18* (A/70/18). For the report of the eighty-seventh and eighty-eighth sessions, see *ibid., Seventy-first Session, Supplement No. 18* (A/71/18).

Women of 1979[209] to monitor the implementation of this Convention by its States parties. The Committee held its sixtieth, sixty-first, and sixty-second sessions in Geneva from 16 February to 6 March, 6 to 24 July, and 26 October to 20 November 2015, respectively.[210]

On 24 July 2015, the Committee adopted, by consensus, general recommendation No. 33 on women's access to justice.[211]

(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[212] to monitor the implementation of the Convention by its States parties. In 2015, the Committee held its fifty-fourth, fifty-fifth, and fifty-sixth sessions in Geneva from 20 April to 15 May, from 27 July to 14 August, and from 9 November to 9 December 2015, respectively.[213]

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,[214] held its twenty-fifth, twenty-sixth, and twenty-seventh sessions from 16 to 20 February, 15 to 19 June, and 16 to 20 November 2015, respectively.[215]

(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[216] to monitor the implementation of this Convention by its States parties. The Committee held its sixty-eighth, sixty-ninth, and seventieth sessions in Geneva from 12 to 30 January, 18 May to 5 June, and 14 September to 2 October 2015, respectively.[217]

(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

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[209] United Nations, *Treaty Series*, vol. 1249, p. 13.

[210] For the report of the sixtieth session, see *Official Records of the General Assembly, seventieth Session, Supplement No. 38* (A/70/38). For the report of the sixty-first and sixty-second sessions, see *ibid., Seventy-first Session, Supplement No. 38* (A/71/38).

[211] CEDAW/C/GC/33.

[212] United Nations, *Treaty Series*, vol. 1465, p. 85.

[213] For the report of the fifty-fourth session, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 44* (A/70/44). For the report of the fifty-fifth and fifty-sixth sessions, see *ibid., Seventy-first Session, Supplement No. 44* (A/71/44).

[214] United Nations, *Treaty Series,* vol. 2375, p. 237.

[215] For details of the twenty-fifth, twenty-sixth, and twenty-seventh sessions, see the ninth annual report of the Subcommittee (CAT/C/57/4).

[216] United Nations, *Treaty Series*, vol. 1577, p. 3.

[217] For the report of the sixty-eighth, sixty-ninth, and seventieth sessions, see *Official Records of the General Assembly, Seventy-first Session, Supplement No. 41* (A/71/41).

of the Rights of All Migrant Workers and Members of Their Families of 1990[218] to monitor the implementation of this Convention by its States parties in their territories. In 2015, the Committee held its twenty-second and twenty-third sessions in Geneva from 13 to 24 April and 31 August to 9 September, respectively.[219]

(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[220] and its 2006 Optional Protocol[221] to monitor the implementation of the Convention and the Optional Protocol by States parties. In 2015, the Committee held its thirteenth and fourteenth sessions in Geneva from 25 March to 17 April and 17 August to 4 September, respectively.[222]

(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 of 2006[223] to monitor the implementation of the Convention by its State parties. In 2015, the Committee held its eighth and ninth sessions in Geneva from 2 to 13 February and from 7 to 18 September, respectively.[224]

(*b*) Racism, racial discrimination, xenophobia and related intolerance

(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 2015. The first report, submitted pursuant to Human Rights Council resolution 25/32, focused on racial and ethnic profiling in law enforcement.[225] The second report, submitted pursuant to General Assembly resolution 69/160, paragraph 43, the Special Rapporteur concerned combating glorification of Nazism, neo-Nazism and

[218] United Nations, *Treaty Series*, vol. 2220, p. 3.

[219] For the report of the twenty-second session, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 48* (A/70/48). For the report of the twenty-third session, see *ibid., Seventy-first Session, Supplement No. 48* (A/71/48).

[220] United Nations, *Treaty Series*, vol. 2515, p. 3.

[221] *Ibid.*, vol. 2518, p. 283.

[222] For the reports of the thirteenth and fourteenth sessions, see *Official Records of the General Assembly, Seventy-second Session, Supplement No. 55* (A/72/55).

[223] General Assembly resolution 61/177 of 20 December 2006, annex.

[224] For the report of the eighth session, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 56* (A/70/56). For the report of the ninth session, see *ibid.*, *Seventy-first Session, Supplement No. 56* (A/71/56).

[225] A/HRC/29/46.

other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance.[226]

On 27 March 2015, the Council adopted resolution 28/29, 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, resolution 29/5 entitled "Elimination of discrimination against persons affected by leprosy and their family members" was also adopted, without a vote.

On 2 October 2015, the Council adopted resolution 30/16 entitled "From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance" by a recorded vote of 32 to 12, with 3 abstentions. On the same day, the Council also adopted resolution 30/17 entitled "Forum on people of African descent in the diaspora", by a recorded vote of 32 to 12, with 3 abstentions.

(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, 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 and non-governmental organizations.[227] In his second report to the General Assembly, submitted pursuant to General Assembly resolution 68/151 of 18 December 2013 the Special Rapporteur focused on the recommendation made to Member States to collect disaggregated data with a view to effectively combating such discrimination.[228]

The Secretary-General submitted three reports to the General Assembly. The first report entitled "Programme of activities for the implementation of the International Decade for People of African Descent" summarized initiatives undertaken by all major stakeholders and provided recommendations concerning the implementation of the Decade.[229] The second report, 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 pursuant to General Assembly resolution 69/162 of 18 December 2014 and in follow-up to General Assembly resolution 68/151 of 18 December 2013, summarized information received from various actors and concluded with recommendations.[230] The Secretary-General also transmitted the annual report of the Working Group of Experts on People of African Descent.[231]

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/139 entitled "Combating glorification of Nazism and other

[226] A/HRC/29/47.

[227] A/70/321.

[228] A/70/335.

[229] A/70/339.

[230] A/70/367.

[231] A/70/309.

practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance", by a recorded vote of 133 to 4, with 49 abstentions; and resolution 70/140 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", by a recorded vote of 133 to 11, with 44 abstentions.

(*c*) Right to development and poverty reduction

(i) *Human Rights Council*

The Special Rapporteur on extreme poverty and human rights, Mr. Philip Alston, submitted his report to the Human Rights Council.[232] The report provided an overview of global economic and social inequalities, analysed responses of the international community, and proposed an agenda for the future tackling of these inequalities.

The Chairperson-Rapporteur of the Social Forum, Mr. Faisal bin Abdulla al-Henzab, submitted the report of the 2015 Social Forum, which focussed on access to medicines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including best practices in that regard.[233]

The United Nations High Commissioner for Human Rights also submitted a report to the Council on technical assistance to support inclusive and participatory development and poverty reduction at the national level.[234] The Secretary-General and the United Nations High Commissioner for Human Rights submitted a consolidated report to the Council on the right to development, 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 2014 to April 2015.[235]

On 2 July 2015, the Council adopted resolution 29/19 entitled "The Social Forum", without a vote. On 2 October 2015, the Council adopted resolution 30/28 entitled "The right to development", by a recorded vote of 33 to 10, with 4 abstentions.

(ii) *General Assembly*

In accordance with General Assembly resolution 69/234 of 19 December 2014, the Secretary-General submitted a report, entitled "Implementation of the Second United Nations Decade for the Eradication of Poverty (2008–2017)", to the General Assembly.[236] The report discussed the progress and challenges faced by countries and offered recommendations in that regard.

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[232] A/HRC/29/31.

[233] A/HRC/29/44.

[234] A/HRC/28/42.

[235] A/HRC/30/22.

[236] A/70/281.

On 22 December 2015, the General Assembly adopted, on the recommendation of the Second Committee, resolution 70/218 entitled "Second United Nations Decade for the Eradication of Poverty (2008–2017)", without a vote.

(*d*) Right of peoples to self-determination

(i) *Universal realization of the right of peoples to self-determination*

a. Human Rights Council

On 27 March 2015, the Human Rights Council adopted resolution 28/25 entitled "Right of the Palestinian people to self-determination", by a recorded vote of 45 to 1, with 1 abstention.

b. General Assembly

The Secretary-General submitted a report entitled "Rights of Peoples to self-determination", pursuant to General Assembly resolution 69/164 of 18 December 2014, to the General Assembly.[237]

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/141 entitled "The right of the Palestinian people to self-determination", by a recorded vote of 177 to 7, with 4 abstentions; and resolution 70/143 entitled "Universal realization of the right of peoples to self-determination", without a vote.

(ii) *Mercenaries*

a. Human Right 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, presenting the findings of its ongoing global study of national laws and regulations relating to private military and/or security companies (PMSCs).[238]

On 26 March 2015, the Council adopted resolution 28/7 entitled "Renewal of the mandate of the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies", by a recorded vote of 32 to 13, with 2 abstentions. On 1 October 2015, the Council adopted resolution 30/6 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 to 14, with 1 abstention.

b. General Assembly

In accordance with Commission on Human Rights resolution 2005/2 of 7 April 2005, the Secretary-General transmitted the report of the Working Group on the use of

[237] A/70/314.

[238] A/HRC/30/34.

mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to the General Assembly.[239]

On 17 December 2015, the General Assembly adopted, on recommendation of the Third Committee, resolution 70/142 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 130 to 52, with 6 abstentions.

(*e*) Economic, social and cultural rights

On 26 March 2015, the Human Rights Council adopted resolution 28/12, entitled "Question of the realization in all countries of economic, social and cultural rights", without a vote.

(i) *Right to food*

a. Human Rights Council

The Special Rapporteur on the right to food, Ms. Hilal Elver, 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, which explored the structural, cultural, legal, economic and ecological barriers that women face in their fulfilment of the right to food.[240]

On 26 March 2015, the Human Rights Council adopted resolution 28/10 entitled "The right to food", without a vote. On 1 October 2015, the Council adopted resolution 30/13 entitled "Promotion and protection of the human rights of peasants and other people working in rural areas", by a recorded vote of 31 to 1, with 15 abstentions.

b. General Assembly

The Secretary-General transmitted to the General Assembly the interim report of the Special Rapporteur on the right to food.[241] The report outlined the adverse impact of climate change on the right to food.

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/154 entitled "The right to food", 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.[242] The report focussed on protecting the right to education against commercialization.

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[239] A/70/330.

[240] A/HRC/31/51.

[241] A/70/287.

[242] A/HRC/29/30, Add.1–2.

The United Nations High Commissioner for Human Rights also submitted a summary report on the panel discussion on realizing the equal enjoyment of the right to education by every girl.[243]

On 2 July 2015, the Human Rights Council adopted resolution 29/7 entitled "The right to education", without a vote.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the right to education,[244] which focused on public-private partnerships in education and offered recommendations on the regulatory framework and implementation strategies.

(iii) *Right to adequate standard of living, including adequate housing*

a. Human Rights Council

The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Leilani Farha, submitted her report to the Human Rights Council.[245] The report focused on causes and responses to homelessness, proposing a global campaign to eliminate homelessness by 2030.

On 3 July 2015, the Human Rights Council adopted resolution 29/22 entitled "Protection of the family: contribution of the family to the realization of the right to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development", by a recorded vote of 29 to 14, with 4 abstentions.

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.[246] The report outlined how the right to adequate housing had to guide the development and implementation of a "new urban agenda" that was to be adopted in October 2016.

(iv) *Access to safe drinking water and sanitation*

a. Human Rights Council

In accordance with Human Rights Council resolution 24/18 of 27 September 2013, the Special Rapporteur on the human right to safe drinking water and sanitation, Mr. Léo Heller, submitted his report to the Human Rights Council.[247] The report focused on the importance

[243] A/HRC/30/23.

[244] A/70/342.

[245] A/HRC/31/54.

[246] A/70/270.

[247] A/HRC/30/39.

of setting concrete standards to determine affordability and the importance of regulating and monitoring affordability before providing conclusions and recommendations.

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 to the General Assembly, in accordance with Human Rights Council resolutions 16/2 of 24 March 2011 and 21/2 of 27 September 2012.[248] The report provided an overview of the human rights framework for water, sanitation and hygiene, describing the relevant human rights standards and principles that served to assess different levels and types of service and an assessment of different types of service through the lens of the human rights framework.

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/169 entitled "The human rights to safe drinking water and sanitation", without a vote.

(v) *Right to health*

a. Human Rights Council

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Dainius Pūras, submitted his report to the Human Rights Council.[249] In his report, the Special Rapporteur focused on the right to health framework, the development of the contours and content of the right to health. It also reflected on how the Special Rapporteur saw the way forward, based on the current context, challenges and opportunities for the full realisation of the right to health.

The United Nations High Commissioner for Human Rights submitted a report to the Council, which presented a study on the impact of the world drug problem on the enjoyment of human rights and relevant recommendations.[250]

On 27 March 2015, the Council adopted resolution 28/28 entitled "Contribution of the Human Rights Council to the special session of the General Assembly on the world drug problem of 2016", without a vote. On 2 October 2015, the President of the Human Rights Council delivered a statement entitled "Promoting the right of everyone to the enjoyment of the highest attainable standard of physical and mental health by enhancing capacity-building in public health against pandemics".[251]

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.[252] In the report, the Special Rapporteur argued that early

[248] A/70/203.

[249] A/HRC/29/33.

[250] A/HRC/30/65.

[251] A/HRC/PRST/30/2.

[252] A/70/213.

childhood must receive significantly more attention and a more adequate response from all relevant actors, including in the post-2015 agenda.

(vi) *Cultural rights*

a. Human Rights Council

The Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed, submitted her report to the Human Rights Council. [253] In the 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.

On 26 March 2015, the Human Rights Council adopted resolution 28/9 entitled "Mandate of the Special Rapporteur in the field of cultural rights" to extend the mandate for a period of three years, without a vote.

On 2 October 2015, Ms. Karima Bennoune was appointed to fill the post following the completion of the second term of Ms. Farida Shaheed.[254]

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.[255] The report addressed the implications of patent policy for the human right to science and culture and reaffirmed the distinction to be made between intellectual property rights and human rights, emphasizing that the right to the protection of the moral and material interests of authors did not necessarily coincide with the prevailing approach to intellectual property law.

(*f*) Civil and political rights

(i) *Torture*

a. Human Rights Council

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan Méndez, submitted his report to the Human Rights Council.[256] The report focused on children deprived of their liberty from the perspective of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

b. General Assembly

The Secretary-General submitted a report to the General Assembly, which described the outcome of the forty-first session of the Board of Trustees of the United Nations

[253] A/HRC/28/57.

[254] A/HRC/31/59, para 1.

[255] A/70/279 and Corr.1.

[256] A/HRC/28/68 and Add.1 and Add.4.

Voluntary Fund for Victims of Torture, in particular the expert workshop of practitioners on redress and rehabilitation of victims of torture in emergency contexts and long-term needs of victims. [257] The Secretary-General also transmitted to the General Assembly the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.[258] The report addresses the extraterritorial application of the prohibition of torture and other ill-treatment and attendant obligations under international law. In addition, the Committee against Torture submitted the report of its fifty-third and fifty-fourth session to the General Assembly.[259]

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/146 entitled "Torture and other cruel, inhuman or degrading treatment or punishment", without a vote.

(ii) *Arbitrary detention, persons deprived of liberty, and extrajudicial, summary and arbitrary execution*

a. Human Rights Council

The Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Christof Heyns, submitted his report to the Human Rights Council.[260] The report discussed the implications of information and communications technologies (ICTs) for the protection of the right to life.

The Working Group on Arbitrary Detention submitted two reports to the Human Rights Council. The first report analysed issues relating to detention in the context of drug control and to peaceful protests and arbitrary detention, and emphasized the need of remedies for arbitrary detention as an imperative norm of international human rights law. [261] The second report presented to the Council draft basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before a court.[262]

The United Nations High Commissioner for Human Rights submitted a report to the Council, which analysed the human rights implications of overincarceration and overcrowding, drawing on the experience of United Nations and regional human rights mechanisms and in the light of the views provided by States, including on their practice regarding alternatives to detention, and other relevant stakeholders.[263] The Office of the High Commissioner also submitted a report summarizing the panel discussions on the protection of the human rights of persons deprived of their liberty.[264]

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[257] A/70/223.

[258] A/70/303.

[259] A/70/44.

[260] A/HRC/29/37 and Add. 1–7.

[261] A/HRC/30/36 and Add. 1–3.

[262] A/HRC/30/37.

[263] A/HRC/30/19.

[264] A/HRC/28/29.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions.[265] In the report, the Special Rapporteur provided an overview of his activities and considers two different topics relating to the protection of the right to life: (*a*) the role of forensic investigations; and (*b*) the application of the death penalty to foreign nationals.

(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, detailing the activities of and communications and cases examined by the Working Group on Enforced or Involuntary Disappearances covering the period 17 May 2014 to 15 May 2015.[266]

b. General Assembly

The Secretary General submitted to the General Assembly a report entitled "International Convention for the Protection of All Persons from Enforced Disappearance".[267] The report 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 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/160 entitled "International Convention for the Protection of All Persons from Enforced Disappearance", without a vote.

(iv) *Integration of human rights of women and a gender perspective*[268]

a. Human Rights Council

The Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, submitted a report to the Human Rights Council.[269] The report provided an overview of the legally binding provisions, implementing mechanisms and relevant jurisprudence regarding violence against women in three regional human rights systems, namely the African, European and Inter-American systems.

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[265] A/70/304.

[266] A/HRC/30/38.

[267] A/70/261.

[268] For more information on the rights of women, see section 6 of this chapter.

[269] A/HRC/29/27 and Add.1–3 and 5.

The Working Group on the issue of discrimination against women in law and in practice also submitted a report to the Human Rights Council.[270] The report focused on eliminating discrimination against women in cultural and family life, with a focus on the family as a cultural space.

The United Nations High Commissioner for Human Rights also submitted two reports to the Council. The first report was a compilation of good practices and major challenges in preventing and eliminating female genital mutilation.[271] The second report, entitled "Discrimination and violence against individuals based on their sexual orientation and gender identity" provided an update to an earlier report on the matter.[272] The Office of the High Commissioner also submitted a report to the Council as a summary on the annual-full day of discussion on the human rights of women.[273]

On 2 July 2015, the Council adopted resolution 29/4 entitled "Elimination of discrimination against women", without a vote. On the same day, it also adopted resolution 29/14 entitled "Accelerating efforts to eliminate all forms of violence against women: eliminating domestic violence", without a vote.

b. General Assembly

The Secretary-General submitted five reports to the General Assembly, entitled "Action against gender-related killing of women and girls";[274] "Status of the Convention on the Elimination of All Forms of Discrimination against Women";[275] "Measures taken and progress achieved in follow-up to and implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly",[276] "Improvement of the situation of women in rural areas";[277] and "Women in Development".[278] The Secretary-General also transmitted to the General Assembly the report of the Special Rapporteur on violence against women, its causes and consequences,[279] which provided an overview of the legally binding provisions, implementing mechanisms and relevant jurisprudence regarding violence against women in three regional human rights systems.

On 17 December 2015, the General Assembly adopted five resolutions, on the recommendation of the Third Committee, in this regard: resolution 70/130 entitled "Violence against women migrant workers", without a vote; resolution 70/131 entitled "Convention on the Elimination of All Forms of Discrimination against Women", without a vote; resolution 70/132 entitled "Improvement of the situation of women in rural areas", without a vote; resolution 70/133 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

[270] A/HRC/29/40.

[271] A/HRC/29/20.

[272] A/HRC/29/23; updating A/RCH/19/41.

[273] A/HRC/30/70.

[274] A/70/93.

[275] A/70/124.

[276] A/70/180.

[277] A/70/204.

[278] A/70/256.

[279] A/70/209.

twenty-third special session of the General Assembly", without a vote; and resolution 70/176 entitled "Action against gender-related killing of women and girls", without a vote.

(v) *Trafficking*

a. Human Rights Council

The Special Rapporteur on trafficking in persons, especially women and children, Ms. Maria Grazia Giammarinaro, submitted her annual report to the Human Rights Council.[280] In the report, the Special Rapporteur outlined her vision of the mandate and the working methods she intended to use, drawing on the work and experience of her predecessors.

b. General Assembly

The Secretary-General submitted to the General Assembly two reports. Pursuant to General Assembly resolution 68/192 of 18 December 2013, the Secretary-General submitted a report entitled "Improving the coordination of efforts against trafficking in persons",[281] which summarized the activities undertaken by the United Nations Office on Drugs and Crime (UNODC), as well as the efforts of Member States and the entities of the United Nations system towards implementing resolution 68/192. The Secretary-General also transmitted to the General-Assembly the report of the Special Rapporteur on trafficking in persons, especially women and children.[282] The report addressed a series of legal and operational questions about what due diligence on trafficking in persons required of States with respect to non-State actors.

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/179 entitled "Improving the coordination of efforts against trafficking in persons", without a vote.

(vi) *Freedom of religion, belief, expression and assembly*

a. Human Rights Council

The Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt, submitted a report to the Human Rights Council which provided a typological description of various forms of violence carried out in the name of religion and explored root causes and relevant factors that underlie such violence. [283] The United Nations High Commissioner for Human Rights also submitted a report on combating intolerance, negative stereotyping, stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief.[284]

[280] A/HRC/29/38 and Add.2.

[281] A/70/94.

[282] A/70/260.

[283] A/HRC/28/66.

[284] A/HRC/28/47.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye, submitted his annual report to the Council, which addressed the use of encryption and anonymity in digital communications.[285]

The Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Maina Kiai, submitted his report to the Council regarding the rights to freedom of peaceful assembly and of association in the context of natural resource exploitation projects, based on expert consultations and the responses received to a questionnaire sent out by the Special Rapporteur.[286]

On 27 March 2015, the Council adopted resolution 28/18 entitled "Freedom of religion or belief", without a vote; and resolution 28/29 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.

b. General Assembly

The Secretary-General transmitted to the General Assembly the interim report of the Special Rapporteur on freedom of religion or belief, in accordance with General Assembly resolution 69/175 of 18 December 2014.[287] In his report, the Special Rapporteur focuses on the rights of the child and his or her parents in the area of freedom of religion or belief. The Secretary-General also submitted a report entitled "Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief" to the Assembly, including information on steps taken by States to combat intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief.[288]

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.[289]. The report addressed the protection of sources of information and whistleblowers. He also transmitted the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, which presented a comparative study of enabling environments for businesses and associations. [290],

On 17 December 2015, 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 70/157 entitled "Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief" and resolution 70/158 entitled "Freedom of religion or belief".

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[285] A/HRC/29/32.

[286] A/HRC/29/25 and Add.1–5.

[287] A/70/286.

[288] A/70/415.

[289] A/70/361.

[290] A/70/266.

(vii) *Right to life*

Human Rights Council

The Secretary-General submitted a report to the Human Rights Council regarding capital punishment and the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty.[291]

On 2 July 2015, the Council adopted resolution 29/10 entitled "Human rights and the regulation of civilian acquisition, possession and use of firearms", by a recorded vote of 41 to none, with 6 abstentions. On 1 October 2015, the Human Rights Council adopted resolution 30/5 entitled "The question of death penalty", by a recorded vote of 26 to 13, with 8 abstentions.

(viii) *Right to privacy*

Human Rights Council

On 26 March 2015, the Human Rights Council adopted resolution 28/16 entitled "The right to privacy in the digital age", without a vote. This resolution established the mandate of the Special Rapporteur on the right to privacy. On 1 August 2015, Mr. Joseph Cannataci assumed his post as the first Special Rapporteur on the right to privacy.

(ix) *Right to truth*

a. Human Rights Council

The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Mr. Pablo de Greiff, submitted his annual report to the Human Rights Council.[292] In his report, the Special Rapporteur presented activities undertaken from July 2014 to June 2015, and addressed the topic of establishing a policy on guarantees of non-recurrence in the aftermath of mass violations.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.[293] This report focused on the preventive potential of measures associated with reform of the security sector, including the vetting of security institutions.

[291] A/HRC/30/18.

[292] A/HRC/30/42.

[293] A/70/438.

(*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 Right Council.[294] In the report, the Special Rapporteur outlined the activities undertaken in discharging her mandate and the progress achieved in addressing grave violations against children, including through engagement with parties to conflicts to end and prevent violations. The Special Representative of the Secretary-General on Violence against Children, Ms. Marta Santos Pais, submitted her annual report to the Human Rights Council.[295] The report built on the twenty-fifth anniversary of the adoption of the Convention on the Rights of the Child and the shaping of the post-2015 development agenda, and highlighted the potential and risks associated with children's use of new information and communication technologies.

The Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Maud de Boer-Buquicchio, submitted her report to the Human Rights Council, which outlined the past activities and future plans of the Special Rapporteur and also provided a thematic update on the issue of information and communication technologies and the sale and sexual exploitation of children.[296]

The United Nations High Commissioner for Human Rights submitted three reports to the Council. The first 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.[297] The second report summarized the panel discussion on accelerating global efforts to end violence against children.[298] The third report provided a summary of the full-day meeting on the rights of the child on the theme "Towards better investment in the rights of the child".[299]

On 26 March 2015, the Human Rights Council adopted resolution 28/13 entitled "Birth registration and the right of everyone to recognition everywhere as a person before the law", without a vote. On 27 March 2015, the Council adopted resolution 28/19 entitled "Rights of the child: towards better investment in the rights of the child", without a vote. On 2 July 2015, it also adopted resolution 29/8 entitled "Strengthening efforts to prevent and eliminate child, early and forced marriage", without a vote, and resolution 29/12 entitled "Unaccompanied migrant children and adolescents and human rights", without a vote.

b. General Assembly

The Secretary-General submitted four reports to the Assembly, entitled "Follow-up to the outcome of the special session of the General Assembly on children",[300] "The girl

[294] A/HRC/31/19.
[295] A/HRC/28/55.
[296] A/HRC/28/56.
[297] A/HRC/28/33.
[298] A/HRC/28/34.
[299] A/HRC/30/62.
[300] A/70/265.

child",[301] "Status of the Convention on the Rights of the Child",[302] and "Children and armed conflict",[303] respectively. He also transmitted the report of the Special Rapporteur on the sale of children, child prostitution and child pornography, which described the activities undertaken in relation to the discharge of her mandate since her previous report to the Assembly.[304]

The Special Representative of the Secretary-General for Children and Armed Conflict submitted her annual report to the General Assembly, pursuant to General Assembly resolution 69/157 of 18 December 2014.[305] The report covered the activities undertaken by the Special Representative in the period from August 2014 to July 2015.

The Special Representative of the Secretary-General on Violence against Children also submitted her annual report to the General Assembly, pursuant to General Assembly resolution 69/157 of 18 December 2014.[306] 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 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/137 entitled "Rights of the child", by a recorded vote of 141 to 1, with 42 abstentions; and resolution 70/138, entitled "The girl child", without a vote.

c. Security Council

On 18 June 2015, the Security Council adopted resolution 2205 (2015) on children and armed conflict.

(*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.[307] The report outlined the activities of the Special Rapporteur on the human rights of migrants from 1 April 2013 to 31 March 2014. The thematic section was dedicated to European Union border management and the human rights of migrants.

On 2 July 2015, the Human Rights Council adopted resolution 29/2 entitled "Protection of the human rights of migrants: migrants in transit", without a vote.

b. General Assembly

The Secretary-General submitted a report to the General Assembly entitled "Promotion and protection of human rights, including ways and means to promote the human rights of

[301] A/70/267.

[302] A/70/315.

[303] A/70/836–S/2016/360 and Add.1.

[304] A/70/222.

[305] A/70/162.

[306] A/70/289.

[307] A/HRC/29/36 and Add.1–6.

migrants"[308] The Secretary-General also transmitted the report of the Special Rapporteur on human rights of migrants submitted his annual report to the General Assembly.[309] The report outlined the main activities undertaken by the Special Rapporteur on the human rights of migrants and discussed the impact of recruitment practices on the human rights of migrants, particularly low-wage workers, during labour migration.

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/147 entitled "Protection of migrants", 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.[310] The report provided a thematic analysis of the human rights of internally displaced persons in the context of the post-2015 development agenda.

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.[311] The report considered positive practices in governance structures and institutional arrangements for preventing and managing responses to the different stages of internal displacement that could be replicated in different situations while to could be adapted to national and local contexts.

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/134 entitled "Assistance to refugees, returnees and displaced persons in Africa", without a vote; and resolution 70/165 entitled "Protection of and assistance to internally displaced persons," without a vote.

(*j*) Minorities

a. Human Rights Council

In 2015, the Special Rapporteur on minority issues, Ms. Rita Izsák, submitted two reports to the Human Rights Council, regarding hate speech and incitement to hatred against minorities in the media and the human rights situation of Roma worldwide, with a particular focus on the phenomenon of anti-Gypsyism.[312] The United Nations High Commissioner for Human Rights submitted a report to the Council on rights of persons belonging to national or ethnic, religious and linguistic minorities.[313]

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[308] A/70/259.

[309] A/70/310.

[310] A/HRC/29/34, Add. 1–3.

[311] A/70/334.

[312] A/HRC/28/64 and A/HRC/29/24, respectively.

[313] A/HRC/28/27.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on minority issues, entitled "Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities".[314] The Secretary-General also submitted a report entitled "Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities", which outlined activities conducted with a view to increasing the visibility of the Declaration and promoting its implementation to advance the rights of persons belonging to national or ethnic, religious and linguistic minorities.[315]

On 17 December 2015, the Assembly adopted resolution 70/166 entitled "Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities", on the recommendation of the Third Committee, without a vote.

(*k*) Indigenous issues

a. Human Rights Council

The Special Rapporteur on the rights of indigenous peoples, Ms. Victoria Tauli Corpuz, submitted her report to the Human Rights Council.[316] In the report, the Special Rapporteur presented a study on the situation of indigenous women globally and the common themes and patterns experienced by indigenous women across all regions. The United Nations High Commissioner for Human Rights also submitted a report to the Council on the rights of indigenous peoples.[317]

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 eighth session in Geneva from 20 to 24 July 2015.[318] The Expert Mechanism also submitted a study on the promotion and protection of the rights of indigenous peoples with respect to their cultural heritage[319] and a 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[320] to the Human Rights Council.

On 1 October 2015, the Human Rights Council adopted resolutions 30/4 entitled "Human rights and indigenous peoples", without a vote; and resolution 30/11 entitled "Review of the mandate of the Expert Mechanism on the Rights of Indigenous Peoples", without a vote.

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[314] A/70/212.

[315] A/70/255.

[316] A/HRC/30/41 and Add.1.

[317] A/HRC/30/25.

[318] A/HRC/30/52.

[319] A/HRC/30/53.

[320] A/HRC/30/54.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the rights of indigenous peoples.[321] In the report, the Special Rapporteur provided an analysis of international investment agreements and investment clauses of free trade regimes and their impacts on the rights of indigenous peoples. The Secretary-General also submitted a report entitled "Progress made in the implementation of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples" to the General Assembly.[322].

On 23 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/232 entitled "Rights of indigenous peoples", without a vote.

(*l*) Terrorism and human rights[323]

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.[324] In the report, the Special Rapporteur listed the key activities he undertook from 17 December to 31 December 2014, focused on the human rights challenges posed by the fight against the Islamic State in Iraq and the Levant and made recommendations. The United Nations High Commissioner for Human Rights submitted two reports to the Human Rights Council. The first report focused on the protection of human rights and fundamental freedoms while countering terrorism.[325] The second report provided a summary of the panel discussion on the effects of terrorism on the enjoyment by all persons of human rights and fundamental freedoms, held on 30 June 2015, during the twenty-ninth session of the Council.[326]

On 26 March 2015, the Human Rights Council adopted resolution 28/3 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 29 to 6, with 12 abstentions; and resolution 28/17 entitled "Effects of terrorism on the enjoyment of human rights", by a recorded vote of 25 to 16, with 6 abstentions. On 2 July 2015, the Council adopted resolution 29/9 entitled "Protection of human rights and fundamental freedoms while countering terrorism", without a vote.

On 2 October 2015, the Council adopted resolution 30/15 entitled "Human rights and preventing and countering violent extremism", by a recorded vote of 30 to 3, with 7 abstentions.

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[321] A/70/301.

[322] A/70/84–E/2015/76.

[323] For further information on terrorism, see sections 2(*g*) and 16(*f*) of this chapter.

[324] A/HRC/29/51.

[325] A/28/28.

[326] A/HRC/30/64.

b. General Assembly

The Secretary-General submitted a report to the Assembly entitled "Protecting human rights and fundamental freedoms while countering terrorism".[327] He also transmitted to the Assembly the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.[328] In his report, the Special Rapporteur addresses the negative impact of counter-terrorism legislation and other measures on civil society.

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/148 entitled "Protection of human rights and fundamental freedoms while countering terrorism", without a vote.

(*m*) Persons with disabilities

a. Human Rights Council

The Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas-Aguilar, submitted her annual report to the Human Rights Council, which described her vision of the mandate, her working methods and a work plan for the first three years of the mandate.[329] The Office of the United Nations High Commissioner for Human Rights submitted a report to the Council, which contained a thematic study on the right of persons with disabilities to live independently and be included in the community.[330]

On 26 March 2015, the Human Rights Council adopted resolution 28/4 entitled "The right of persons with disabilities to live independently and be included in the community on an equal basis with others", without a vote. On the same day, the Council also adopted resolution 28/6 entitled "Independent Expert on the enjoyment of human rights by persons with albinism", without a vote. This resolution established the mandate of an Independent Expert on the enjoyment of human rights by persons with albinism for a period of three years. On 1 August 2015, Ms. Ikponwosa Ero took office as the first Independent Expert.

b. General Assembly

The Secretary-General transmitted the report of the Special Rapporteur on the rights of persons with disabilities, which sought to provide guidance to States and other actors on the requirements to establish disability-inclusive social protection systems that promote active citizenship, social inclusion and community participation of persons with disabilities, in conformity with the Convention on the Rights of Persons with Disabilities, while acknowledging the existing difficulties in implementation.[331]

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/145 entitled "Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto", without a vote; and resolution 70/170

[327] A/70/271.

[328] A/70/371.

[329] A/HRC/28/58.

[330] A/HRC/28/37.

[331] A/70/297.

entitled "Towards the full realization of an inclusive and accessible United Nations for persons with disabilities", without a vote. On 23 December 2015, the Assembly adopted resolution 70/229 entitled "Persons with albinism", also on recommendation of the Third Committee, without a vote.

(*n*) 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, which provided a thematic study on enforcing the accountability of States and businesses for preventing, mitigating and redressing contemporary forms of slavery in supply chains.[332]

b. General Assembly

In 2015, the Secretary-General submitted a report to the General Assembly and presented the recommendations for grants to beneficiary organizations that were adopted by the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery at its nineteenth session.[333]

(*o*) Environment and human rights [334]

Human Rights Council

The Special Rapporteur on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste, Mr. Başkut Tuncak, submitted his report to the Human Rights Council.[335] In the report, the Special Rapporteur clarified the scope and content of the right to information throughout the life cycle of hazardous substances and wastes and identified several challenges and potential solutions.

The Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Mr. John Knox, submitted his report to the Human Rights Council.[336] The report described good practices of Governments, international organizations, civil society organizations, corporations and others in the use of human rights obligations relating to the environment.

Mr. John Knox also submitted a report as the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.[337] This report described the increasing attention paid to the relationship between climate change and human rights in recent years, reviewed the effects of climate

[332] A/HRC/30/35 and Add.1–2.

[333] A/70/299.

[334] For more information on the environment, see section 8 of this chapter.

[335] A/HRC/30/40.

[336] A/HRC/28/61 and Add.1–2.

[337] A/HRC/31/52.

change on the full enjoyment of human rights and outlined the application of human rights obligations to climate-related actions.

The Office of the United Nations High Commissioner for Human Rights submitted a report on the outcome of the full-day discussion on specific themes relating to human rights and climate change.[338]

On 26 March 2015, the Human Rights Council adopted resolution 28/11 entitled "Human rights and the environment", without a vote. By the resolution, the Council decided to extend the mandate of the Independent Expert as a special rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment for a period of three years. On 2 July 2015, the Council also adopted resolution 29/15 entitled "Human rights and climate change", without a vote.

(*p*) Business and human rights

a. 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.[339] The report focused on how the Guiding Principles on Business and Human Rights could be further embedded throughout United Nations programmes and processes in order to improve policy coherence for inclusive and sustainable development. The United Nations High Commissioner for Human Rights submitted two reports to the Council. The first report focused on the feasibility of a global fund to enhance the capacity of stakeholders to implement the Guiding Principles on Business and Human Rights.[340] The second report addressed legal options and practical measures to improve access to remedy for victims of business-related human right abuses.[341]

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, which discussed the issue of measuring the implementation of the Guiding Principles on Business and Human Rights of the United Nations[342].

[338] A/HRC/29/19.

[339] A/HRC/29/28 and Add.1–4.

[340] A/HRC/29/18.

[341] A/HRC/29/39.

[342] A/70/216.

(*q*) Promotion and protection of human rights

(i) *International promotion and protection*

a. Human Rights Council

The Independent Expert on human rights and international solidarity, Ms. Virginia Dandan, submitted her report to the Human Rights Council.[343] The main feature of the report consisted of a conceptualization in human rights terms of international solidarity in the context of a proposed draft declaration. The United Nations High Commissioner for Human Rights submitted two reports to the Council. The first report related to the workshop on regional arrangements for the promotion and protection of human rights.[344] The second report presented a study seeking to provide further content to the concept of prevention of human rights violations, to identify practical means through which to prevent violations, and to highlight the role of international and regional stakeholders.[345]

The Independent Expert on the promotion of a democratic and equitable international order, Mr. Alfred de Zayas, submitted his report to the Council, which focused on the adverse impacts of free trade and investment agreements on a democratic and equitable international order.[346]

The Office of the High Commissioner also submitted a summary report on the outcome of the Human Rights Council panel discussion on the role of prevention in the promotion and protection of human rights.[347]

On 26 March 2015, the Human Rights Council adopted resolution 28/2 entitled "Enhancement of international cooperation in the field of human rights", without a vote. On 2 July 2015, the Council adopted resolution 29/3 entitled "Human rights and international solidarity", by a recorded vote of 33 to 14, with no abstentions. On 1 October 2015, the Council adopted resolution 30/12 entitled "Promotion of the right to peace", by a recorded vote of 33 to 12, with 2 abstentions. On 2 October 2015, the Council adopted resolution 30/21 entitled "Enhancement of technical cooperation and capacity-building in the field of human rights", without a vote; resolution 30/25 entitled "Promoting international cooperation to support national human rights follow-up systems and processes", without a vote; and resolution 30/29 entitled "Promotion of a democratic and equitable international order", by a recorded vote of 31 to 14, with 2 abstentions.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Independent Expert on human rights and international solidarity.[348] The report examined preventive solidarity and international cooperation, the constituent components of international solidarity, within the context of the proposed draft declaration on the right of peoples

[343] A/HRC/29/35.

[344] A/HRC/28/31.

[345] A/HRC/30/20.

[346] A/HRC/30/44 and Corr.1.

[347] A/HRC/28/30.

[348] A/70/316.

and individuals to international solidarity. He also transmitted the report of the Independent Expert on the promotion of a democratic and equitable international order, which focused on the impact of investor-State dispute settlement on a democratic and equitable international order and built on his 2015 annual report to the Human Rights Council.[349]

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/149 entitled "Promotion of a democratic and equitable international order", by a recorded vote of 130 to 53, with 5 abstentions; resolution 70/150 entitled "Strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity", without a vote; and resolution 70/153 entitled "Enhancement of international cooperation in the field of human rights", without a vote.

(ii) *Ombudsman, mediator and other national human rights institutions*

a. Human Rights Council

The United Nations High Commissioner for Human Rights submitted to the Council a summary report on the panel discussion on the issue of national policies and human rights, with a particular focus on identifying challenges, further developments and good practices in mainstreaming human rights in national policies and programmes.[350]

On 2 October 2015, the Council adopted resolution 30/24 entitled "National policies and human rights", without a vote.

b. General Assembly

The Secretary-General submitted three reports to the General Assembly, regarding national institutions for the promotion and protection of human rights.[351]

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/163 entitled "National institutions for the promotion and protection of human rights", without a vote.

(iii) *Right to promote and protect universally recognized human rights*

a. Human Rights Council

The Special Rapporteur on the situation of human rights defenders, Mr. Michel Forst, submitted his annual report to the Human Rights Council.[352] In his report, the Special Rapporteur submitted his strategic work plan and explained how he intended to carry out his mandate.

On 1 October 2015, the Council adopted resolution 30/3 entitled "Regional arrangements for the promotion and protection of human rights", without a vote.

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[349] A/70/285 and Corr.1.

[350] A/HRC/30/28.

[351] A/70/347.

[352] A/HRC/28/63 and Add.1.

b. General Assembly

The Secretary-General transmitted to the General Assembly a report of the Special Rapporteur.[353] The report presented the principal observations and findings derived from the seven regional consultations the Special Rapporteur organized with human rights defenders between October 2014 and June 2015 and put forward conclusions and recommendations.

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/161 entitled "Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", by a recorded vote of 127 to 14, with 41 abstentions.

(iv) *Unilateral coercive measures*

a. Human Rights Council

The Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Mr. Idriss Jazairy, submitted his report to the Human Rights Council, which described the activities undertaken since taking office in 1 May 2015 and his views on the foundations and context of the mandate.[354] The Human Rights Council Advisory Committee also submitted a report to the Council containing recommendations on mechanisms to assess the negative impact of unilateral coercive measures on the enjoyment of human rights and to promote accountability.[355]

On 1 October 2015, the Human Rights Council adopted resolution 30/2 entitled "Human rights and unilateral coercive measures", by a recorded vote of 33 to 14, with no abstentions.

b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, in which the Special Rapporteur set out a preliminary review of the human rights adversely affected by unilateral coercive measures and puts forward tentative recommendations as to how to minimize the adverse impact of these measures.[356]

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/151 entitled "Human rights and unilateral coercive measures", by a recorded vote of 135 to 54, with no abstentions.

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[353] A/70/217.

[354] A/HRC/30/45.

[355] A/HRC/28/74.

[356] A/70/345.

(*r*) Miscellaneous

(i) *Human rights and good governance*

The Special Rapporteur on the independence of judges and lawyers, Ms. Gabriela Knaul, submitted her annual report to the Human Rights Council, which examined the protection of children's rights in the justice system and analysed the essential role that had to be played by judges, prosecutors and lawyers in upholding children's human rights and applying international human rights norms, standards and principles at the domestic level.[357]

On 26 March 2015, the Council adopted resolution 28/14 entitled "Human rights, democracy and the rule of law", by a recorded vote of 35 to none, with 12 abstentions, by which it decided to establish a forum for human rights, democracy and the rule of law to provide a platform for promoting dialogue and cooperation on issues pertaining to the relationship between these areas. On 2 July 2015, the Council adopted resolution 29/6 entitled "Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers" without a vote. On 1 October 2015, the council adopted resolution 30/7 entitled "Human rights in the administration of justice, including juvenile justice", without a vote and resolution 30/9 entitled "Equal participation in political and public affairs", without a vote.

(ii) *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. Juan Pablo Bohoslavsky, submitted two reports to the Human Rights Council. The first report focused on the question of lending to States involved in gross violations of human rights.[358] The second report was an interim study focused on illicit financial flows, human rights and the post 2015 development agenda.[359]

On 26 March 2015, the Human Rights Council adopted resolution 28/5 entitled "The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation", by a recorded vote of 33 to 2, with 12 abstentions. On the same day, it also adopted resolution 28/8 entitled "The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights", by a recorded vote of 31 to 14, with 1 abstention. On 2 July 2015, the Council adopted resolution 29/11 entitled "The negative impact of corruption on the enjoyment of human rights", without a vote.

[357] A/HRC/29/26 and Corr.1.

[358] A/HRC/28/59 and Add.1.

[359] A/HRC/28/60 and Corr.1.

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.[360] The report provided an overview of the activities undertaken by the Independent Expert from August 2014 to July 2015.

(ii) *Enjoyment of all human rights by older persons*

The Independent Expert on the enjoyment of all human rights by older persons, Ms. Rosa Kornfeld-Matte, submitted her report to the Council, which provided an overview of the existing international and regional human rights standards of the right to autonomy and care and analysed in depth these two key concepts, as well as their scope.[361]

6. Women[362]

(*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.[363]

The Executive Board of UN-Women held three meeting sessions in New York in 2015,[364] during which it adopted six decisions: decision 2015/1 entitled "Report of the Global Evaluation Advisory Committee on the external assessments of the evaluation function of the United Nations Entity for Gender Equality and the Empowerment of Women"; decision 2015/2 entitled "Progress report of the Under-Secretary-General/Executive Director of UN-Women on the strategic plan, 2014–2017"; decision 2015/3 entitled "Report on the evaluation function of the United Nations Entity for Gender Equality and the Empowerment of Women, 2014"; decision 2015/4 entitled "Report on internal

[360] A/70/275.

[361] A/HRC/30/43.

[362] 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). For more detailed information and documents regarding this topic generally, see the website of UN-Women at http://www.unwomen.org. For information regarding women and human rights, see Chapter III section A.5(*a*)(vi) and section A.5(*f*)(iv).

[363] 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.

[364] See the reports of the Executive Board of UN-Women: report of the first regular session, held on 9 February 2015 (UNW/2015/3); report of the annual session, held from 30 June to 2 July 2015 (UNW/2015/7); and the report of the second regular session, held from 15 to 16 September 2015 (UNW/2015/12). For a compilation of decisions adopted by the Executive Board, see UNW/2015/11.

audit and investigation activities for the period from 1 January to 31 December 2014"; decision 2015/5 entitled "Structured dialogue on financing"; and decision 2015/6 entitled "Integrated budget for the biennium 2016–2017".

(*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-ninth session in New York from 9 March to 20 March 2015.[365] In accordance with the multi-year programme of work adopted by the Economic and Social Council,[366] 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-ninth session, the Commission adopted resolution 59/1, entitled "Political declaration on the occasion of the twentieth anniversary of the Fourth World Conference on Women", by which it adopted the political declaration annexed to the resolution and which was to be brought to the attention of the Economic and Social Council.

(*c*) Economic and Social Council

On 8 June 2015, the Economic and Social Council adopted resolution 2015/6 entitled "Future organization and methods of work of the Commission on the Status of Women", without a vote. On 10 June 2015, the Council adopted resolution 2015/12 entitled "Mainstreaming a gender perspective into all policies and programmes in the United Nations system", without a vote. On the same day, it also adopted resolution 2015/13 entitled "Situation of and assistance to Palestinian women", by a recorded vote of 16 to 2, with 20 abstentions. The Council also adopted, decision 2015/218 entitled "Report of the Commission on the Status of Women on its fifty-ninth session and provisional agenda and documentation for the sixtieth session of the Commission" and decision 2015/241 entitled "Results of the fifty-seventh, fifty-eighth and fifty-ninth sessions of the Committee on the Elimination of Discrimination against Women".

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[365] Commission on the Status of Women, Report on the fifty-ninth session (21 March 2014 and 9–20 March 2015), *Official Records of the Economic and Social Council, 2015 Supplement No. 7* (E/2015/27).

[366] Economic and Social Council resolution 2009/15 of 28 July 2009.

(*d*) General Assembly

On 17 December 2015, the General Assembly adopted five resolutions, on the recommendation of the Third Committee, with regard to the situation of women:[367] resolution 70/130 entitled "Violence against women migrant workers", without a vote; resolution 70/131 entitled "Convention on the Elimination of All Forms of Discrimination against Women", without a vote; resolution 70/132 entitled "Improvement of the situation of women in rural areas", without a vote; resolution 70/133 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", without a vote; and resolution 70/176 entitled "Action against gender-related killing of women and girls", without a vote.

On 22 December 2015, the General Assembly, on recommendation of the Second Committee, adopted resolution 70/212 entitled "International Day of Women and Girls in Science", without a vote; and resolution 70/219 entitled "Women in Development", without a vote.

(*e*) Security Council

On 13 October 2015, the Security Council adopted resolution 2242 (2015) on women and peace and security.[368]

7. Humanitarian matters

(*a*) Third United Nations World Conference on Disaster Risk Reduction

The Third United Nations World Conference on Disaster Risk Reduction was held from 14 to 18 March 2015 in Sendai, Japan.[369] On 18 March 2015, the Conference adopted the Sendai Declaration and the Sendai Framework for Disaster Risk Reduction 2015–2030,[370] which addressed, *inter alia*, the need for improved understanding of disaster risk in all its dimensions of exposure, vulnerability and hazard characteristics; the strengthening of disaster risk governance, including national platforms; accountability for disaster risk management; preparedness to "Build Back Better"; recognition of stakeholders and their roles; mobilization of risk-sensitive investment to avoid the creation of new risk; resilience of health infrastructure, cultural heritage and work-places; strengthening of international cooperation and global partnership, and risk-informed donor policies and programmes, including financial support and loans from international financial institutions.

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[367] See also Chapter III section A.5 (*f*) (iv) *b*.

[368] See also Chapter III section A.2 (*h*) (ii).

[369] For the proceedings of the Conference, see https://www.preventionweb.net/files/45069_proceedingsthirdunitednationsworldc.pdf.

[370] General Assembly resolution 69/283 of 3 June 2015, annex I and II.

(*b*) Economic and Social Council

On 19 June 2015, the Economic and Social Council adopted resolution 2015/14 entitled "Strengthening of the coordination of emergency humanitarian assistance of the United Nations", by which it, *inter alia*, welcomed the adoption of the Sendai Framework for Disaster Risk Reduction 2015–2030.

(*c*) General Assembly

On 3 June 2015, the General Assembly adopted, without reference to a Main Committee, resolution 69/283 entitled "Sendai Framework for Disaster Risk Reduction 2015–2030", without a vote, by which it endorsed the Sendai Declaration and the Sendai Framework for Disaster Risk Reduction 2015–2030, adopted at the Third United Nations World Conference on Disaster Risk Reduction, held in Sendai, Japan, from 14 to 18 March 2015. The Declaration and Framework were annexed to the resolution. On the same day, the General Assembly adopted resolution 69/284 entitled "Establishment of an open-ended intergovernmental expert working group on indicators and terminology relating to disaster risk reduction", also without reference to a Main Committee and without vote.

On 10 December 2015, the General Assembly adopted, without reference to a Main Committee and without a vote, resolution 70/104 entitled "Safety and security of humanitarian personnel and protection of United Nations personnel";[371] resolution 70/105 entitled "Participation of volunteers, "White Helmets", in the activities of the United Nations in the field of humanitarian relief, rehabilitation and technical cooperation for development"; resolution 70/106 entitled "Strengthening of the coordination of emergency humanitarian assistance of the United Nations";[372] and resolution 70/107 entitled "International cooperation on humanitarian assistance in the field of natural disasters, from relief to development".[373]

On 22 December 2015, the General Assembly adopted, on the recommendation of the Second Committee, resolution 70/204 entitled "International Strategy for Disaster Reduction", without a vote.

8. Environment

(*a*) United Nations Climate Change Conference in Paris

The United Nations Climate Change Conference was held in Paris, France, from 30 November to 13 December 2015. The twenty-first session of the Conference of States Parties to the United Nations Framework Convention on Climate Change, 1992,[374] and the

[371] See also the report of the Secretary-General on safety and security of humanitarian personnel and protection of United Nations personnel (A/70/383).

[372] See also the report of the Secretary-General on strengthening of the coordination of emergency humanitarian assistance of the United Nations (A/70/77–E/2015/64).

[373] 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/70/324).

[374] United Nations, *Treaty Series,* vol. 1771, p. 107.

eleventh session of the Conference of the Parties serving as the meeting of Parties to the Kyoto Protocol, 1997,[375] were held during the Conference.

The Conference of States Parties to the United Nations Framework Convention on Climate Change adopted 23 decisions and 1 resolution.[376] In particular, on 12 December 2015, the Conference adopted the Paris Agreement, 2015,[377] through its decision 1/CP.21 entitled "Adoption of the Paris Agreement"[378]. The Agreement, *inter alia*, called for holding the increase in the global average temperature to well below 2°C above pre-industrial levels; it expressed State Parties' aim to reach global peaking of greenhouse gas emissions as soon as possible; it acknowledged the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change; it required State Parties to submit updated plans detailing national strategies to reduce greenhouse gas by 2020 and every five years thereafter; it required a global stocktake as an overall assessment on the implementation of the national plans, starting in 2023 and every five years thereafter; it requested the Ad Hoc Working Group on Paris Agreement to establish a legal instrument as guidance for accounting greenhouse gas emissions; it established the Capacity-Building Initiative for Transparency to support developing countries in meeting Article 13 requirements on enhancing transparency; and it called to establish a new collective quantified goal of at least 100 billion a year in climate-related financing by 2020.

The Conference of the Parties serving as the meeting of Parties to the Kyoto Protocol adopted 12 decisions and one resolution.[379]

(*b*) Economic and Social Council

The Annual Ministerial Review (AMR) was convened on 9 and 10 July 2015 in New York, in the context of the Council's High-level Segment week.[380] It focussed on the theme "Managing the transition from the Millennium Development Goals to the sustainable development goals: what it will take". Moreover, the High-level Political Forum on sustainable development was held from 26 June to 8 July 2015.[381] The theme of its third session was "Strengthening integration, implementation and review: the high-level political forum

[375] United Nations, *Treaty Series*, vol. 2303, p. 107.

[376] For the list of decisions and resolutions, see the report of the Conference (FCCC/CP/2015/10 and Add.1–3).

[377] United Nations, *Treaty Series,* registration No. 54113.

[378] FCCC/CP/2015/10/Add.1.

[379] For the list of decisions and resolutions, see the report of the Conference (FCCC/KP/CMP/2015/8 and Add.1–2).

[380] For more information about the 2015 Annual Ministerial Review, see https://www.un.org/ecosoc/en/AMR_2015.

[381] The Forum was established as a functional body of both the Economic and Social Council and the General Assembly by the Outcome Document of the United Nations Conference on Sustainable Development (Rio+20) (see General Assembly resolution 66/288 of 27 July 2012, annex, para. 84) and General Assembly resolution 67/290 of 9 July 2013. It replaced the Commission on Sustainable Development, which had med annually since 1993. More information concerning the work of the Forum in 2015 is available at https://sustainabledevelopment.un.org/hlpf/2015.

on sustainable development after 2015". The Forum adopted a Ministerial Declaration on the 2015 theme of the AMR.[382]

During the above two meetings, representatives took stock of the significance and impact of the Millennium Development Goals and planned for how best to implement, communicate and review the ambitious and transformative post-2015 development agenda.

On 22 July 2015, the Council adopted resolution 2015/33 entitled "International arrangement on forests beyond 2015", without vote, and resolution 2015/34 entitled "Human settlements", without vote.

(*c*) General Assembly

During its sixty-ninth session, the Assembly adopted, on 26 February 2015, without reference to a Main Committee, resolution 69/266 entitled "A global geodetic reference frame for sustainable development", without vote.

On 15 May 2015, it adopted, without reference to a Main Committee, resolution 69/280 entitled "Strengthening emergency relief, rehabilitation and reconstruction in response to the devastating effects of the earthquake in Nepal", without vote.

On 19 June 2015, the Assembly adopted, without reference to a Main Committee, resolution 69/292 entitled "Development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction", without vote.[383]

On 30 July 2015, the Assembly adopted, without reference to a Main Committee, resolution 69/314 entitled "Tackling illicit trafficking in wildlife", without vote.

During its seventieth session, the General Assembly adopted, on 25 September 2015, without reference to a Main Committee, resolution 70/1 entitled "Transforming our world: the 2030 Agenda for Sustainable Development", without vote, by which the Assembly adopted, *inter alia*, the Sustainable Development Goals and targets.

On 7 December 2015, the General Assembly adopted, on the recommendation of the First Committee, resolution 70/30 entitled "Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control", without vote.

On 22 December 2015, the Assembly adopted, on the recommendation of the Second Committee, resolution 70/194 entitled "Oil slick on Lebanese shores", by a recorded vote of 171 to 6, with 3 abstentions; resolution 70/195 entitled "Combating sand and dust storms", without vote; resolution 70/196 entitled "Sustainable tourism and sustainable development in Central America", without a vote; resolution 70/197 entitled "Towards comprehensive cooperation among all modes of transport for promoting sustainable multimodal transit corridors", without vote; resolution 70/198 entitled "Agricultural technology for sustainable development", by a recorded vote of 146 to none, with 36 abstentions; resolution 70/199 entitled "United Nations forest instrument", without vote; resolution 70/200 entitled "Global Code of Ethics for Tourism", without a vote; resolution 70/201 entitled "Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the

[382] E/2015/L.19–E/HLPF/2015/L.2.

[383] See Chapter III.A.9.*b*(i).

outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development", without vote; resolution 70/203 entitled "World Tsunami Awareness Day", without a vote; resolution 70/205 entitled "Protection of global climate for present and future generations of humankind", without vote; 70/206 entitled "Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa", without a vote; resolution 70/207 entitled "Implementation of the Convention on Biological Diversity and its contribution to sustainable development", without vote; and resolution 70/209 entitled "United Nations Decade of Education for Sustainable Development (2005–2014)", without a vote.

9. Law of the Sea

(*a*) Report of the Secretary-General

Pursuant to paragraph 309 of General Assembly resolution 69/245 of 29 December 2014, the Secretary-General submitted a comprehensive report on oceans and the law of the sea to the General Assembly at its seventieth session under the agenda item entitled "Oceans and the law of the sea." [384] The report consisted of two parts.

The first part of the report[385] was prepared to facilitate discussions on the topic of focus of the sixteenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Informal Consultative Process), on the theme "Oceans and sustainable development: integration of the three dimensions of sustainable development, namely, environmental, social and economic". The report highlighted the current state of integration of the three dimensions of sustainable development in relation to oceans, as well as opportunities for, and challenges to, the enhanced integration of the three dimensions. In doing so, it drew attention to activities and initiatives undertaken with a view to promoting the integration of the three dimensions of sustainable development in relation to oceans.

The second part of the report[386] provided information on the status of the United Nations Convention on the Law of the Sea,[387] its implementing agreements and the work of the bodies established under the Convention, namely the Commission on the Limits of the Continental Shelf (CLCS),[388] the International Seabed Authority (ISA)[389] and

[384] A/70/74 and Add.1.

[385] A/70/74.

[386] A/70/74/Add.1.

[387] United Nations, *Treaty Series*, vol. 1833, p. 3.

[388] For more information on the thirty-seventh (2 February–20 March 2015), thirty-eighth (20 July–4 September 2015), and thirty-ninth (19 October–4 December 2015) sessions of the CLCS, see CLCS/88, CLCS/90 and CLCS/91, respectively.

[389] For more information on the work of the International Seabed Authority, see the reports of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea (ISBA/21/A/2, covering the period from July 2014 to June 2015; and ISBA/22/A/2, covering the period from July 2015 to June 2016).

the International Tribunal for the Law of the Sea (ITLOS).[390] It also provided information on the settlement of disputes; State practice regarding maritime space; international shipping activities; people at sea; maritime security; the 2030 Agenda for Sustainable Development; marine science and the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects; marine living resources; marine biological diversity; pressures on the marine environment; management tools; oceans and climate change and ocean acidification; small island developing States and landlocked developing countries; capacity-building and international cooperation and coordination.

(*b*) Meeting of States Parties to the United Nations Convention on the Law of the Sea

The twenty-fifth Meeting of States Parties to the United Nations Convention on the Law of the Sea was held at United Nations Headquarters from 8 to 12 June 2015.[391]

(*c*) General Assembly

On 8 December 2015, the General Assembly adopted, without reference to a Main Committee, resolution 70/75 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."

On 22 December 2015, the General Assembly adopted, on the recommendation of the Second Committee, resolution 70/226 entitled "United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development", by which it decided to convene the high-level United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development in Fiji, from 5 to 9 June 2017, coinciding with World Oceans Day, to support the implementation of Sustainable Development Goal 14.

On 23 December 2015, the General Assembly adopted resolution 70/235 entitled "Oceans and the law of the sea", by a recorded vote of 143 votes to 1, with 4 abstentions. For its consideration, the Assembly had before it the report of the Secretary-General, the summary of the first global integrated marine assessment,[392] the report on the work of the Ad Hoc Working Group of the Whole on the Regular Process,[393] the report of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the

[390] For more information about the work of the Tribunal, see the annual report of the International Tribunal for the Law of the Sea for 2015 (SPLOS/294) and chapter VII, part B of this publication.

[391] SPLOS/287.

[392] A/70/112.

[393] A/70/418.

Sea (the Informal Consultative Process) at its sixteenth meeting[394] and the report on the twenty-fifth Meeting of States Parties to the Convention.[395]

10. Crime prevention and criminal justice[396]

(*a*) United Nations Congress on Crime Prevention and Criminal Justice

The thirteenth United Nations Congress on Crime Prevention and Criminal Justice was held from 12 to 19 April 2015 in Doha.[397] The Congress adopted two resolutions: resolution 1 entitled "Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation" and resolution 2 entitled "Credentials of representatives to the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice".

(*b*) Conference of the States Parties to the United Nations Convention against Corruption

The sixth session of the Conference of the States Parties to the United Nations Convention against Corruption was held from 2 to 6 November 2015 in Saint Petersburg.[398] The Conference adopted 10 resolutions: resolution 6/1 entitled "Continuation of the review of implementation of the United Nations Convention against Corruption"; resolution 6/2 entitled "Facilitating international cooperation in asset recovery and the return of proceeds of crime"; resolution 6/3 entitled "Fostering effective asset recovery"; resolution 6/4 entitled "Enhancing the use of civil and administrative proceedings against corruption, including through international cooperation, in the framework of the United Nations Convention against Corruption"; resolution 6/5 entitled "St. Petersburg statement on promoting public-private partnership in the prevention of and fight against corruption"; resolution 6/6 entitled "Follow-up to the Marrakech declaration on the prevention of corruption"; resolution 6/7 entitled "Promoting the use of information and communications technologies for the implementation of the United Nations Convention against Corruption"; resolution 6/8 entitled "Prevention of corruption by promoting transparent, accountable and efficient public service delivery through the application of best practices and technological innovations"; resolution 6/9 entitled "Strengthening the implementation of the United Nations Convention against Corruption in small island developing States"; and resolution 6/10 entitled "Education and training in the context of anti-corruption".

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[394] A/70/78.

[395] SPLOS/287.

[396] 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.

[397] A/CONF.222/17.

[398] CAC/COSP/2015/10.

(*c*) 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 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-fourth session of the Commission were held in Vienna from 18 to 22 May 2015 and from 10 to 11 December 2015, respectively. The main theme for the twenty-fourth session of the Commission was "Follow-up to the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice". [399] The Commission adopted four draft resolutions to be recommended by the Economic and Social Council for adoption by the General Assembly.[400] It also adopted two draft resolutions for adoption by the Economic and Social Council, three draft decisions for adoption by the Economic and Social Council; and brought a further two resolutions and one decision to the attention of the Economic and Social Council, the text of which is available in the report of the session.

(*d*) Economic and Social Council

On 21 July 2015, the Economic and Social Council adopted, on the recommendation of the Commission on Crime Prevention and Criminal Justice, resolution 2015/23 entitled "Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons"; and resolution 2015/24 entitled "Improving the quality and availability of statistics on crime and criminal justice for policy development".

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 2015/19 entitled "Thirteenth United Nations Congress on Crime Prevention and Criminal Justice"; resolution 2015/20 entitled "United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)"; resolution 2015/21 entitled "Taking action against gender-related killing of women and girls"; and resolution 2015/22 entitled "Technical assistance for implementing the international conventions and protocols related to counter-terrorism".

[399] *Official records of the Economic and Social Council 2015, Supplement No. 10* (E/2015/30–E/CN.15/2015/19).

[400] *Ibid.*, p. 17.

(*e*) General Assembly

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee[401] and without a vote, the following resolutions under the agenda item 106 entitled "Crime prevention and criminal justice": resolution 70/174 entitled "Thirteenth United Nations Congress on Crime Prevention and Criminal Justice"; resolution 70/175 entitled "United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)"; resolution 70/176 entitled "Taking action against gender-related killing of women and girls"; resolution 70/177 entitled "Technical assistance for implementing the international conventions and protocols related to counter-terrorism"; resolution 70/178 entitled "Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity"; resolution 70/179 entitled "Improving the coordination of efforts against trafficking in persons"; and resolution 70/ 180 entitled "United Nations African Institute for the Prevention of Crime and the Treatment of Offenders".

11. International drug control

(*a*) Commission on Narcotic Drugs

The Commission on Narcotic Drugs (CND) was established by the Economic and Social Council in its resolution 9 (I) of 16 February 1946 as a functional commission and 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.

The regular and reconvened fifty-eighth session of the Commission was held in Vienna from 9 to 17 March and from 9 to 11 December 2015. The session featured a special segment on the preparations for the special session of the General Assembly on the world drug problem to be held in 2016. The Commission adopted one draft resolution to be recommended by the Economic and Social Council for adoption by the General Assembly, entitled "Special session of the General Assembly on the world drug problem to be held in 2016". It also recommended three draft decisions for adoption by the Economic and Social Council, entitled "Improving the governance and financial situation of the United Nations Office on Drugs and Crime: extension of the mandate of the standing open-ended intergovernmental working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime", "Report of the Commission on Narcotic Drugs on its fifty-eighth session and provisional agenda for its fifty-ninth session" and "Report of the International Narcotics Control Board". It further brought another 11 resolutions and 15 decisions to the attention of the Economic and Social Council, the text of which is available in the report of the Commission.[402]

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[401] For the report of the Third Committee, see A/70/490.

[402] *Official records of the Economic and Social Council 2015, Supplement No. 8* (E/2015/28–E/CN.7/2015/15).

(*b*) Economic and Social Council

On 21 July 2015, the Economic and Social Council recommended to the General Assembly the adoption of draft resolution 2015/25, entitled "Special session of the General Assembly on the world drug problem to be held in 2016", on the recommendation of the Commission on Narcotic and Drugs.

(*c*) General Assembly

On 17 December 2015, the General Assembly adopted, on the recommendation of the Third Committee, resolution 70/181 entitled "Special session of the General Assembly on the world drug problem to be held in 2016", without a vote. By the resolution, the Assembly decided to convene a special session on the world drug problem from 19 to 21 April 2016, at United Nations Headquarters in New York. It also decided on organizational arrangements.

On the same day, the Assembly also adopted, on the recommendation of the Third Committee, resolution 70/182 entitled "International cooperation against the world drug problem" without a vote.

12. Refugees and displaced persons

(*a*) Executive Committee of the Programme of the United Nations High Commissioner for Refugees[403]

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-sixth plenary session of the Executive Committee was held in Geneva from 5 to 9 October 2015.[404]

(*b*) General Assembly

On 3 June 2015, the General Assembly adopted, without reference to a Main Committee, resolution 69/286 entitled "Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia", by a recorded vote of 75 to 16, with 78 abstentions.

On 9 December 2015, the Assembly adopted, on the recommendation of the Fourth Committee, resolution 70/83 entitled "Assistance to Palestine refugees", by a recorded vote of 167 to 1, with 11 abstentions; resolution 70/84 entitled "Persons displaced as a result of

[403] For detailed information and documents regarding this topic generally, see the website of the UNHCR at http://www.unhcr.org.

[404] For the report of the United Nations High Commissioner for Refugees on the activities of his Office, see *Official Records of the General Assembly, Seventieth Session*, *Supplement No. 12* (A/70/12). For the report of the sixty-sixth session of the Executive Committee of the High Commissioner's Programme, see *Official Records of the General Assembly, Seventieth Session*, *Supplement No. 12A* (A/70/12/Add.1).

the June 1967 and subsequent hostilities", by a recorded vote of 164 to 7, with 7 abstentions; resolution 70/85 entitled "Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East", by a recorded vote of 169 to 6, with 5 abstentions; resolution 70/86 entitled "Palestine refugees' properties and their revenues", by a recorded vote of 167 to 7 with 4 abstentions.

On 17 December 2015, the Assembly also adopted, on the recommendation of the Third Committee, resolution 70/134 entitled "Assistance to refugees, returnees and displaced persons in Africa", without a vote; resolution 70/135 entitled "Office of the United Nations High Commissioner for Refugees", without a vote; resolution 70/165 entitled "Protection of and assistance to internally displaced persons", without a vote.

13. International Court of Justice[405]

(*a*) Organization of the Court

At the end of 2015, the composition of the Court was as follows:

President: Ronny Abraham (France);

Vice-President: Abdulqawi Ahmed Yusuf (Somalia);

Judges: Hisashi Owada (Japan), Peter Tomaka (Slovakia), Mohamed Bennouna (Morocco), Antônio Augusto Cançado Trindade (Brazil), Christopher Greenwood (United Kingdom), Xue Hanqin (China), Joan E. Donoghue (United States of America), Giorgio Gaja (Italy), Julia Sebutinde (Uganda), Dalveer Bhandari (India), Patrick Lipton Robinson (Jamaica), James Richard Crawford (Australia) and Kirill Gevorgian (Russian Federation),

The Registrar of the Court was Mr. Philippe Couvreur (Belgium); the Deputy-Registrar was Mr. Jean-Pelé Fomété (Cameroon).

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: Ronny Abraham;

Vice-President: Abdulqawi Ahmed Yusuf;

Judges: Xue Hanqin, Joan E. Donoghue, and Giorgio Gaja.

Substitute members:

Judges: Antônio Augusto Cançado Trindade and Kirill Gevorgian.

[405] 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, Seventieth Session, Supplement No. 4* (A/70/4) (for the period 1 August 2014 to 31 July 2015) and *ibid.*, *Seventy-first Session, Supplement No. 4* (A/71/4) (for the period 1 August 2015 to 31 July 2016). See also the website of the Court at http://www.icj-cij.org.

(*b*) Jurisdiction of the Court[406]

As of 31 December 2015, 72 States had recognized the compulsory jurisdiction of the Court, as contemplated by Article 36, paragraph 2, of the Statute. No new declarations recognizing compulsory jurisdiction were made in 2015.

(*c*) General Assembly

On 5 November 2015, the General Assembly adopted decision 70/510 in which it took note of the report of the International Court of Justice for the period from 1 August 2014 to 31 July 2015.

On 7 December 2015, the General Assembly adopted, on the recommendation of the First Committee, resolution 70/56 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 137 to 24, with 25 abstentions.

14. International Law Commission[407]

(*a*) Membership of the Commission[408]

The membership of the International Law Commission at its sixty-seventh session consisted of Mr. Mohammed Bello Adoke (Nigeria), Mr. Ali Mohsen Fetais Al-Marri (Qatar), Mr. Lucius Caflisch (Switzerland), Mr. Enrique J. A. Candioti (Argentina), Mr. Pedro Comissário Afonso (Mozambique), Mr. Abdelrazeg El-Murtadi Suleiman Gouider (Libya), Ms. Concepción Escobar Hernández (Spain), Mr. Mathias Forteau (France), 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. Roman A. Kolodkin (Russian Federation),[409] 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

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[406] For further information regarding the acceptance of the compulsory jurisdiction of the International Court of Justice, see chapter I.4 of *Multilateral Treaties Deposited with the Secretary-General,* available on the website http://treaties.un.org/Pages/ParticipationStatus.aspx.

[407] 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/.

[408] 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.

[409] On 8 May 2015 the Commission elected Mr. Roman A Kolodkin to fill the casual vacancy occasioned by the resignation of Mr. Kirill Gevorgian (Russian Federation), who had been elected to the International Court of Justice.

(Colombia), Mr. Marcelo Vázquez-Bermúdez (Ecuador), Mr. Amos S. Wako (Kenya), Mr. Nugroho Wisnumurti (Indonesia) and Mr. Michael Wood (United Kingdom).

(*b*) Sixty-seventh session of the International Law Commission

The International Law Commission held the first part of its sixty-seventh session from 4 May to 5 June 2015, and the second part of the session from 6 July to 7 August 2015, at its seat at the United Nations Office at Geneva.[410] During its sixty-seventh session, the Commission continued its consideration of the following topics: "The Most-Favoured-Nation clause", "Protection of the atmosphere", "Identification of customary international law", "Crimes against humanity", "Subsequent agreements and subsequent practice in relation to the interpretation of treaties", "Protection of the environment in relation to armed conflicts", "Immunity of State officials from foreign criminal jurisdiction", and "Provisional application of treaties".

In relation to the topic "The Most-Favoured-Nation clause", the Commission had before it the final report on the work of the Study Group, which was divided into five parts.[411] Part I provided the background of the topic; Part II addressed the contemporary relevance of the most-favoured-nation (MFN) clauses and issues concerning their interpretation; Part III analysed both the policy considerations in investment relating to the interpretation of investment agreements and the implications of investment dispute settlement arbitration as "mixed arbitration", as well as the contemporary relevance of the 1978 draft articles to the interpretation of MFN provisions; Part IV sought to provide some guidance on the interpretation of MFN clauses; and Part V contained the conclusions reached by the Study Group. The Commission endorsed the summary conclusions of the Study Group, commended the final report to the attention of the General Assembly and encouraged its widest possible dissemination. The Commission thus concluded its consideration of the topic.

With regard to the topic "Protection of the atmosphere", the Commission had before it the second report of the Special Rapporteur.[412] In the second report, the Special Rapporteur provided a further analysis of the draft guidelines submitted in the first report, offering a set of revised guidelines relating to the Use of terms, the Scope of the draft guidelines, and the Common concern of humankind, as well as offered an analysis of, and presented two new draft guidelines for, the general obligation of States to protect the atmosphere and international cooperation for the protection of the atmosphere. The Special Rapporteur also presented a detailed future plan or work, in light of comments made in the Commission in the seventy-sixth session requesting such a plan. Following the debate of the report and a dialogue with scientists, organized by the Special Rapporteur, the Commission referred draft guidelines 1, 2, 3, and 5 to the Drafting Committee, with the understanding that draft guideline 3 be considered as part of a preamble. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted draft guidelines 1, 2 and 5 and four preambular paragraphs, together with commentaries.

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[410] For the report of the International Law Commission on the work at its sixty-seventh session, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 10* (A/70/10).

[411] *Ibid.,* annex.

[412] A/CN.4/681.

As regards the topic "Identification of customary international law", the Commission had before it the third report of the Special Rapporteur.[413] The report addressed, *inter alia*, relationship between the two constituent elements of customary international law, the role of inaction, the role of treaties and resolutions, judicial decisions and writings, the relevance of international organizations, as well as particular custom and the persistent objector. In the report, the Special Rapporteur also proposed additional paragraphs to three of the draft conclusions proposed in the second report, as well as five new draft conclusions. The Commission referred the draft conclusions contained in the third report to the Drafting Committee. In light of the recommendation by the Drafting Committee, the Commission took note of draft conclusions 1 to 16 provisionally adopted by the Drafting Committee at the sixty-sixth and sixty-seventh sessions.

With respect to the topic "Crimes against humanity", the Commission considered the first report of the Special Rapporteur, which contained, *inter alia*, two draft articles relating respectively to the prevention and punishment of crimes against humanity and to the definition of crimes against humanity. [414] The Commission referred the draft articles proposed by the Special Rapporteur to the Drafting Committee. Following the presentation of the report of the Drafting Committee, the Commission provisionally adopted draft articles 1 to 4, together with commentaries.

As regards the topic "Subsequent agreements and subsequent practice in relation to the interpretation of treaties", the Commission had before it the third report of the Special Rapporteur.[415] The third report offered an analysis of the role of subsequent agreements and subsequent practice in relation to treaties that are the constituent instruments of international organizations, addressed Article 5 of the Vienna Convention on the Law of Treaties, and then turned to questions related to the application of the rules of the Vienna Convention on treaty interpretation to constituent instruments of international organizations. It also dealt with several issues relating to subsequent agreements under article 31, paragraph 3 (*a*) and (*b*), as well as article 32, of the Vienna Convention on the Law of Treaties, as a means of interpretation of constituent instruments of international organizations. In the report, the Special Rapporteur proposed one new draft conclusion. The Commission referred the draft conclusion proposed by the Special Rapporteur to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted draft conclusion 11, together with commentaries thereto.

With respect to the topic "Protection of the environment in relation to armed conflicts", the Commission had before it the second report of the Special Rapporteur.[416] The purpose of the second report consisted in identifying existing rules of armed conflict and included an examination of such rules. In the report, the Special Rapporteur proposed three draft preambular paragraphs and five draft principles. The Commission referred the draft preambular paragraphs and the draft principles to the Drafting Committee. Following the presentation of the report of the Drafting Committee, the Commission took note of the draft introductory provisions and draft principles I-(x) to II-5, provisionally adopted by the Drafting Committee.

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[413] A/CN.4/682.

[414] A/CN.4/680.

[415] A/CN.4/683.

[416] A/CN.4/685.

In relation to the topic "Immunity of State officials from foreign criminal jurisdiction", the Commission had before it the fourth report of the Special Rapporteur.[417] The fourth report represented a continuation of the analysis, commenced in the third report,[418] of the normative elements of immunity *ratione materiae*. Since the subjective scope of such immunity (who are the beneficiaries of such immunity) was already addressed in the third report, the fourth report was devoted to consideration of the remaining material scope (an "act performed in an official capacity") and the temporal scope. In the report, the Special Rapporteur proposed draft article 2, subparagraph (*f*), and draft article 6. The Commission referred the two draft articles to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission took note of draft articles 3, subparagraph (*f*), and 6, provisionally adopted by the Drafting Committee.

As regards the topic "Provisional application of treaties", the Commission had before it the third report of the Special Rapporteur[419], as well as a memorandum, prepared by the Secretariat, on provisional application under the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, of 1986.[420] The third report focused on two major issues: first, the relationship with other provisions of the 1969 Vienna Convention, and second, the provisional application of treaties with regard to the practice of international organizations. In the report, the Special Rapporteur proposed 6 draft guidelines. The Commission referred the six draft guidelines to the Drafting Committee. The Commission subsequently received an interim oral report, presented by the Chairman of the Drafting Committee for information only, on draft guidelines 1 to 3, provisionally adopted by the Drafting Committee.

The Commission established a Planning Group to consider its programme, procedures and working methods. The Planning Group decided to reconstitute for the current session the Working Group on the Long-term Programme of Work, under the chairmanship of Mr. Donald M. McRae. The Chairman of the Working Group submitted an oral progress report on the work of the Working Group on 30 July 2015. The Commission decided to include the topic "*Jus cogens*" in its programme of work, and to appoint Mr. Dire Tladi as Special Rapporteur for the topic.

(*c*) Sixth Committee

The Sixth Committee of the General Assembly considered the agenda item "Report of the International Law Commission on the work of its sixty-seventh session" at its 17th to 25th and 29th meetings on 2–4, 6, 9–11 and 20 November 2015.[421] The Chair of the International Law Commission at its sixty-seventh session introduced the report of the Commission on the work of that session as follows: chapters I to V and XII at the 17th meeting, on 2 November; chapters VI to VII at the 19th meeting, on 4 November; and chapters IX to XI at the 23rd meeting, on 9 November.

[417] A/CN.4/686.

[418] A/CN.4/673.

[419] A/CN.4/687.

[420] A/CN.4/676.

[421] For the summary records, see A/C.6/70/SR.17–18, 21–23 and 25.

On 20 November 2015, the Committee adopted the draft resolution entitled "Report of the International Law Commission on the work of its sixty-seventh session".[422]

(*d*) General Assembly

On 23 December 2015, the General Assembly adopted, on the recommendation of the Sixth Committee[423] and the Fifth Committee,[424] resolution 70/236 entitled "Report of the International Law Commission on the work of its sixty-seventh session",[425] without a vote. The General Assembly, *inter alia*, took note of the final report on the topic "The Most-Favoured-Nation clause" and the decision of the Commission to include the topic "*Jus cogens*" in its programme of work.

15. United Nations Commission on International Trade Law[426]

(*a*) Forty-eighth session of the Commission

The United Nations Commission on International Trade Law (UNCITRAL) held its forty-eighth session in Vienna from 29 June to 16 July 2015 and adopted its report on 3, 10, 13 and 16 July 2015.[427]

At the session, the Commission approved the draft revised UNCITRAL Notes on Organizing Arbitral Proceedings[428] in principle and requested the Secretariat to revise the draft text in accordance with the deliberations and decisions at the session for adoption by the Commission at its forty-ninth session, in 2016.[429] It also approved the substance of article 26 of chapter IV (on the registry system) of the draft model law on secured transactions and articles 1 to 29 of the draft registry act annexed thereto.[430] It requested its Working Group VI (Security Interests) to expedite its work so as to submit the draft model law to the Commission for final consideration and adoption at its forty-ninth session in 2016.[431] Also at the session, the Commission commended the use of the Principles on Choice of Law in International Commercial Contracts ("Hague Principles") prepared by the Hague Conference on Private International Law,[432] as appropriate, by courts and by

[422] A/C.6/70/L.13.

[423] A/70/509.

[424] A/70/642.

[425] A/CN.4/689.

[426] For the membership of the United Nations Commission on International Trade Law, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 17* (A/70/17), para. 4.

[427] *Ibid.*, paras. 1 and 13.

[428] *Ibid.*, para. 15.

[429] *Ibid.*, para. 133.

[430] *Ibid.*, para. 214.

[431] *Ibid.*, para. 216.

[432] A/CN.9/847, and available from https://www.hcch.net/.

arbitral tribunals; as a model for national, regional, supranational or international instruments; and to interpret, supplement and develop rules of private international law.[433]

The Commission confirmed the mandate of its Working Group I (MSMEs)[434] and Working Group V (Insolvency Law)[435] related to their ongoing work, instructed Working Group III (ODR) to finalize its work on elaborating a non-binding descriptive document reflecting elements of an ODR process within one year or no more than two Working Group sessions[436] and encouraged Working Group IV (Electronic Commerce) to finalize the current work on a model law on electronic transferable records in order to submit results at the Commission's forty-ninth session.[437]

After discussion of its work programme, the Commission agreed that its Working Group II (Arbitration and Conciliation) should commence work on the topic of enforcement of settlement agreements.[438] It also agreed that a guide to enactment of what would become the UNCITRAL Model Law on Secured Transactions should be prepared and referred that task to Working Group VI (Security Interests).[439]

The Commission requested the Secretariat to explore further the topics of concurrent proceedings[440] and a code of ethics/conduct for arbitrators, [441] noting that work on those topics should be considered in the context of both commercial and investment arbitration.[442] The Commission also requested the Secretariat to conduct preparatory work on identity management and trust services, cloud computing and mobile commerce [443] and to share the result of that preparatory work with Working Group IV, with a view to seeking recommendations on the exact scope, possible methodology and priorities for the consideration of the Commission at its forty-ninth session.[444] If the current work of the Working Group on electronic transferable records was concluded prior to the next session of the Commission, the Working Group could take up the subjects mentioned above.[445] The Commission decided to retain on its future work programme the preparation of a contractual guide on secured transactions and a uniform law text on intellectual property licensing[446] as well as the topic of public-private partnerships.[447] The Secretariat was instructed

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[433] *Official Records of the General Assembly, Seventieth Session, Supplement No. 17* (A/70/17), para. 240.

[434] *Ibid.*, paras. 225 and 340.

[435] *Ibid.*, para. 359.

[436] *Ibid.*, para. 352.

[437] *Ibid.*, para. 231.

[438] *Ibid.*, para. 142.

[439] *Ibid.*, paras. 167 and 216.

[440] *Ibid.*, paras. 147 and 341.

[441] *Ibid.*, paras. 151 and 341.

[442] *Ibid.*, para. 341.

[443] *Ibid.*, para. 358.

[444] *Ibid.*

[445] *Ibid.*

[446] *Ibid.*, para. 217.

[447] *Ibid.*, para. 363.

to report to the Commission at its next session on the results of its exploratory work on the latter topic and the topic of suspension and debarment in public procurement.[448]

Also at the session, the Commission agreed to recommend to the General Assembly that it request the secretariat of the Commission to establish and operate the repository of published information under article 8 of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration[449], initially as a pilot project until the end of 2016, to be funded entirely by voluntary contributions.[450]

Among other items, the Commission considered its technical assistance to law reform activities,[451] including a draft guidance note on strengthening United Nations support to States to implement sound commercial law reforms,[452] promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts,[453] the status and promotion of UNCITRAL texts,[454] measures aimed at coordination and cooperation with other organizations active in the field of international trade law,[455] in particular in the areas of international arbitration and conciliation[456] and security interests,[457] its regional presence,[458] the role of UNCITRAL in promoting the rule of law at the national and international levels[459], the thirty-fifth anniversary of the United Nations Convention on Contracts for the International Sale of Goods[460], [461] and the work programme of the Commission, including preparations for a congress to commemorate the fiftieth anniversary of the establishment of UNCITRAL.[462] The Commission also took note of relevant General Assembly resolutions.[463]

(*b*) General Assembly

On 14 December 2015, the General Assembly adopted, on the recommendation of the Sixth Committee,[464] resolution 70/115 entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-eighth session", without a vote.

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[448] *Official Records of the General Assembly, Seventieth Session, Supplement No. 17* (A/70/17), paras. 362 and 363.

[449] *Ibid., Sixty-eighth Session, Supplement No. 17* (A/68/17), annex I.

[450] *Ibid., Seventieth Session, Supplement No. 17* (A/70/17), para. 161.

[451] *Ibid.,* paras. 241–247.

[452] *Ibid.,* paras. 248–252.

[453] *Ibid.,* paras. 253–260.

[454] *Ibid.,* paras. 261–264.

[455] *Ibid.*, paras. 265–281.

[456] *Ibid.*, paras. 268–274.

[457] *Ibid.*, paras. 218–219.

[458] *Ibid.*, paras. 282–293.

[459] *Ibid.*, paras. 294–324.

[460] United Nations, *Treaty Series*, vol. 1489, No. 25567.

[461] *Official Records of the General Assembly, Seventieth Session, Supplement No. 17* (A/70/17), paras. 325–334.

[462] *Ibid.*, paras. 335–366.

[463] *Ibid.*, para. 367.

[464] A/70/507.

16. Legal questions dealt with by the Sixth Committee and other related subsidiary bodies of the General Assembly

During the seventieth 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.[465] The resolutions and decisions of the General Assembly described in this section were all adopted, without a vote, during the seventieth session, on 14 December 2015, on the recommendation of the Sixth Committee.[466]

(*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.[467]

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,[468] submitted pursuant to General Assembly resolution 59/300.[469] 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".[470] The General Assembly considered this item at its sixty-second to sixty-ninth sessions.

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[465] 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/70/70_session.shtml.

[466] 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.

[467] General Assembly resolution 2006 (XIX) of 18 February 1965.

[468] A/60/980.

[469] General Assembly decision 61/503A of 13 September 2006.

[470] 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/.

(i) *Sixth Committee*

During the seventieth session of the General Assembly, the Sixth Committee considered the item at its 9th, 27th and 29th meetings, on 16 October and on 13 and 20 November 2015.[471] For its consideration of the item, the Committee had before it the report of the Secretary-General on this topic.[472]

At its 1st meeting, on 12 October 2015, the Committee established a Working Group, pursuant to General Assembly resolution 69/114, to continue the consideration of the report of the Group of Legal Experts,[473] in particular its legal aspects. 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. The Working Group held three meetings, on 16, 21 and 28 October. At its 27th meeting, on 13 November, the Committee heard and took note of the oral report of the Chair of the Working Group.[474]

At the 29th meeting, on 20 November 2015, the representative of Pakistan, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission", which the Committee adopted without a vote.[475]

(ii) *General Assembly*

By resolution 70/114 of 14 December 2015, the General Assembly, *inter alia*, took note of the report of the Secretary-General, as well as the report of the Secretary-General on special measures for protection from sexual exploitation and sexual abuse[476] and the findings of the Office of Internal Oversight Services of the Secretariat in its evaluation report of 15 May 2015,[477] including on the issue of underreporting. The General Assembly also emphasized that genuine accountability rests on the cooperation of Member States and emphasized the need to enhance international cooperation to ensure the criminal accountability of the United Nations officials and experts on mission. The General Assembly recalled its requests to Governments in resolution 69/114 to provide specific details on measures taken, as necessary, for the implementation of relevant resolutions and requested the Secretary-General, in this regard, to prepare a compilation, based on information to be received from all Member States, of national provisions regarding the establishment of jurisdiction over their nationals, whenever they serve as United Nations officials or experts on mission, in relation to crimes as known in their existing national criminal laws, particularly those of a serious nature. It also requested the Secretary-General to improve reporting methods and expand the scope of reporting.

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[471] For the report of the Sixth Committee, see A/70/506. For the summary records, see A/C.6/70/SR.9, 27 and 29.

[472] A/70/208.

[473] A/60/980.

[474] A/C.6/70/SR.27.

[475] A/C.6/70/L.17.

[476] A/69/779.

[477] Assignment No. IED-15-001, reissued on 12 June 2015.

(*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,[478] 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.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 15th, 16th, 22nd and 26th meetings, on 23 and 26 October and on 6 and 11 November 2015.[479] For its consideration of the item, the Committee had before it the report of the Secretary-General.[480]

At the 22nd meeting, on 6 November 2015, 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".[481] At its 26th meeting, on 11 November, the representative of Ghana orally revised footnote 3 of the draft resolution by adding the names of the States appointed members of the Advisory Committee on the Programme of Assistance.[482] At the same meeting, the Committee adopted the draft resolution, as orally revised, without a vote.

(ii) *General Assembly*

By resolution 70/116 of 14 December 2015, the General Assembly reaffirmed that the Programme constituted a core activity of the United Nations and recognized the importance of the Programme of Assistance effectively reaching its beneficiaries, while bearing in mind the limitations on available resources. The General Assembly, *inter alia*, approved the guidelines and recommendations contained in section III of the report of the Secretary-General and authorized the Secretary-General to carry out the activities specified in the resolution to be financed from provisions in the regular budget, as well as, when necessary from voluntary contributions.

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[478] General Assembly resolution 2099 (XX) of 20 December 1965. For further information on the Programme of Assistance, see http://legal.un.org/poa/.

[479] For the report of the Sixth Committee, see A/70/508. For the summary records, see A/C.6/69/SR.13, 14, 22 and 24.

[480] A/70/423.

[481] A/C.6/70/L.10.

[482] A/C.6/70/SR.26.

(*c*) 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*[483]

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.[484]

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.[485]

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.[486]

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.[487] 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 17 to 25 February 2015.[488] The Special Committee also considered the items "Maintenance of international peace and security", "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".

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[483] 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/.

[484] A/7659.

[485] General Assembly resolution 3349 (XXIX) of 17 December 1974.

[486] A/8792.

[487] General Assembly resolution 3499 (XXX) of 15 December 1975.

[488] For the report of the Special Committee, see *Official Records of the General Assembly, Seventieth Session, Supplement No. 33* (A/70/33).

(ii) *Sixth Committee*

The Sixth Committee considered the item at its 14th, 15th, 26th and 28th meetings, on 22 and 23 October and 11 and 16 November 2015.[489] 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, 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,[490] 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*.[491]

At the 26th meeting, on 11 November 2015, 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".[492] At the 28th meeting, on 16 November, the Committee adopted the draft resolution without a vote.

(iii) *General Assembly*

By resolution 70/117 of 14 December 2015, the General Assembly, *inter alia*, requested the Special Committee to continue its consideration of all proposals concerning the question of the maintenance of international peace and security and of the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions, to keep on its agenda the question of the peaceful settlement of disputes between States, and to continue to consider, on *a priori*ty basis, ways and means of improving the Committee's working methods and enhancing its efficiency.

(*d*) 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.[493] The General Assembly had previously considered the item from its sixty-first to its sixty-ninth sessions.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 5th, 6th, 7th, 8th and 29th meetings, on 14, 15 and 16 October and on 20 November 2015.[494] For its consideration of the item,

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[489] For the report of the Sixth Committee, see A/70/510. For the summary records, see A/C.6/70/SR.14, 15, 26 and 28.

[490] A/70/119.

[491] A/70/295.

[492] A/C.6/70/L.11.

[493] A/61/142.

[494] For the report of the Sixth Committee, see A/70/511. For the summary records, see A/C.6/70/SR.5, 6, 7, 8 and 29.

the Committee had before it the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities.[495]

At the 29th meeting, on 20 November 2015, the representative of Mexico, on behalf of the Bureau, introduced a draft resolution entitled "The rule of law at the national and international levels".[496] At the same meeting, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

By resolution 70/118 of 14 December 2015, the General Assembly, *inter alia*, reaffirmed the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law. The General Assembly also took note of the annual report of the Secretary-General on strengthening and coordinating United Nations rule of law activities. The General Assembly decided further to include this item in the provisional agenda of its seventy-first session and invited Member States to focus their comments in the upcoming Sixth Committee debate on the subtopics "Sharing national practices of States in the implementation of multilateral treaties" and "Practical measures to facilitate access to justice for all, including the poorest and most vulnerable".

(*e*) 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.[497] The General Assembly had previously considered the item at its sixty-fourth to sixty-ninth sessions.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 12th, 13th, 27th and 28th meetings, on 20 October and on 13 and 16 November 2015.[498] For its consideration of the item, the Committee had before it the reports of the Secretary-General, submitted to the General Assembly at its sixty-fifth, sixty-sixth, sixty-seventh, sixty-eight sixty-ninth and seventieth sessions.[499]

At its 1st meeting, on 12 October, the Committee established a working group pursuant to General Assembly resolution 69/124 to continue to undertake a thorough discussion of the scope and application of the principle of universal jurisdiction. In its resolution 69/124, the General Assembly decided that the Working Group should be open to all Member States and that relevant observers to the General Assembly would be invited to participate in its work. The Working Group held three meetings, on 21, 23 and 29 October.

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[495] A/70/206.

[496] A/C.6/70/L.16.

[497] A/63/237/Rev.1.

[498] For the report of the Sixth Committee, see A/70/512. For the summary records, see A/C.6/70/SR.12, 13, 27 and 28.

[499] A/65/181, A/66/93 and Add.1, A/67/116, A/68/113, A/69/174 and A/70/125.

At its 27th meeting, on 13 November, the Committee heard and took note of the oral report of the Chair of the Working Group.[500]

At the 27th meeting, on 13 November 2015, the representative of Kenya, on behalf of the Bureau, introduced a draft resolution entitled "The scope and application of the principle of universal jurisdiction".[501] At the 28th meeting, on 16 November, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

By resolution 70/119 of 14 December 2015, the General Assembly, *inter alia*, recognized the diversity of views expressed by States and the need for further consideration towards a better understanding of the scope and application of universal jurisdiction. The General Assembly also took note of the report of the Secretary-General prepared on the basis of comments and observations of Governments and relevant observers.

(*f*) 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.[502] At that session, the General Assembly decided to establish the *ad hoc* committee on International Terrorism, consisting of 35 members.[503]

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.[504] 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, 5th, 27th and 29th meetings, on 12, 13 and 14 October and on 13 and 20 November 2015.[505] For its consideration of the item, the Committee had before it the report of the Secretary-General on measures to eliminate international terrorism.[506]

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[500] A/C.6/70/SR.27.

[501] A/C.6/70/L.12.

[502] A/8791 and Add.1 and Add.1/Corr.1.

[503] General Assembly resolution 3034 (XXVII) of 18 December 1972.

[504] Resolution 50/53.

[505] For the report of the Sixth Committee, see A/70/513. For the summary records, see A/C.6/70/SR.1–5, 27 and 29.

[506] A/70/211.

At its 1st meeting, on 12 October 2015, the Committee established 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 General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations. 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. The Working Group held five meetings, on 26 and 30 October, and on 9, 11 and 13 November. At its 27th meeting, on 13 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.[507]

At the 29th meeting, on 20 November 2015, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled "Measures to eliminate international terrorism".[508] At the same meeting, the Committee adopted the draft resolution, without a vote.

(ii) *General Assembly*

By resolution 70/120, of 14 December 2015, the General Assembly, *inter alia*, called upon all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy,[509] as well as the resolutions relating to the first, second, third and fourth biennial review of the Strategy,[510] in all its aspects at the international, regional, subregional and national levels without delay, including mobilizing resources and expertise. The General Assembly decided to recommend that the Sixth Committee, at the seventy-first 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 General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations.

(*g*) 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.[511] The General Assembly had previously considered the question at its forty-sixth to forty-eighth, fifty-second to fifty-third and fifty-fifth to sixty-eighth sessions.

At its 2nd plenary meeting, on 18 September 2015, the General Assembly, on the recommendation of the General Committee, decided to allocate the item to all the Main

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[507] A/C.6/70/SR.27.

[508] A/C.6/70/L.15.

[509] General Assembly resolution 60/288 of 8 September 2006.

[510] General Assembly resolutions 62/272 of 5 September 2008, 64/297 of 8 September 2010, 66/282 of 29 June 2012 and 68/276 of 13 June 2014.

[511] General Assembly decision 45/461 of 16 December 1991.

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 28th and 29th meetings, on 16 and 20 November 2015.[512] At the 29th meeting, on 20 November 2015, the Chair introduced a draft decision containing the provisional programme of work of the Committee for the seventy-first session of the General Assembly, as proposed by the Bureau.[513] At the same meeting, the Committee adopted the draft decision.

(ii) *General Assembly*

By its decision 70/527, the General Assembly noted that the Sixth Committee decided to adopt the provisional programme of work for the seventy-first session of the General Assembly, as proposed by the Bureau.

(*h*) 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.[514]

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.[515]

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

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[512] For the report of the Sixth Committee, see A/70/526. For the summary records, see A/C.6/70/SR.28 and 29.

[513] A/C.6/70/L.18.

[514] General Assembly resolution 62/228 of 22 December 2007.

[515] General Assembly resolution 63/253 of 24 December 2008.

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 18th meetings, on 28 October and 3 November 2015,[516] as well as in informal consultations, held on 27, 28 and 30 October.

The Committee had before it the reports of the Secretary-General on the administration of justice at the United Nations,[517] as well as the report of the Secretary-General on the amendment to the rules of procedure of the United Nations Appeals Tribunal.[518] In addition, the Committee had before it the report of the Internal Justice Council,[519] which included annexes containing the memorandum submitted by the judges of the United Nations Appeals Tribunal, and the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services.[520]

The Sixth Committee decided that its Chair would address a letter to the President of the General Assembly, drawing his attention to certain specific issues relating to the legal aspects of the reports submitted under the item as discussed in the Sixth Committee. The letter would contain a request that it be brought to the attention of the Chair of the Fifth Committee and circulated as a document of the General Assembly.[521]

(ii) *General Assembly*

In resolution 70/112 of 14 December 2015, the General Assembly, *inter alia*, took note of the relevant reports, including the related report of the Advisory Committee on Administrative and Budgetary Questions.[522]

The General Assembly also, *inter alia*, requested the Secretary-General to publish the statutes of the Dispute and Appeals Tribunals, as amended since their initial adoption by the General Assembly, as soon as possible, but no later than at its seventy-first session. The General Assembly invited the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters.

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[516] For the report of the Sixth Committee, see A/70/593. For the summary records, see A/C.6/70/SR.16 and 18.

[517] A/70/187.

[518] A/70/189.

[519] A/70/188.

[520] A/70/151.

[521] A/C.5/70/9.

[522] A/70/420.

(*i*) Report of the Committee on Relations with the Host Country

(i) *Committee on Relations with the Host Country*

The Committee on Relations with the Host Country was established by the General Assembly at its twenty-sixth session, in 1971.[523] In 2015, 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 2015, the Committee held the following meetings: 270th meeting, on 11 February 2015; the 271st meeting, on 1 May 2015; the 272nd meeting, on 30 July 2015; the 273rd meeting, on 5 October 2015; and the 274th meeting, on 30 October 2015. During its meetings, the Committee considered a number of topics, namely (i) entry visas issued by the host country; (ii) host country activities: activities to assist members of the United Nations community; and (iii) other matters. At its 274th meeting, the Committee approved a number of recommendations and conclusions, which are contained in chapter IV of its report.[524]

(ii) *Sixth Committee*

The Sixth Committee considered the item at its 28th and 29th meetings, on 16 and 20 November 2015.[525] For its consideration of the item, the Committee had before it the report of the Committee on Relations with the Host Country. At the 29th meeting, on 20 November 2015, 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".[526] At the same meeting, the Committee adopted the draft resolution without a vote.

(iii) *General Assembly*

In resolution 70/121 of 14 December 2015, the General Assembly, *inter alia*, endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 28 of its report. The General Assembly also notes that a number of delegations have requested shortening the time frame applied by the host country for issuance of entry visas to representatives of Member States.

(*j*) Observer status in the General Assembly

(i) *Sixth Committee*

The Committee considered requests for observer status in the General Assembly for the Cooperation Council of Turkic-speaking States, the Eurasian Economic Union

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[523] General Assembly resolution 2819 (XXVI) of 15 December 1971.

[524] *Official Records of the General Assembly, Seventieth session, Supplement No. 26* (A/70/26).

[525] For the report of the Sixth Committee, see A/70/515. For the summary records, see A/C.6/70/SR.28 and 29.

[526] A/C.6/70/L.14.

in the General Assembly, the Community of Democracies in the General Assembly, the International Civil Defence Organization in the General Assembly, the Indian Ocean Rim Association in the General Assembly, the International Conference of Asian Political Parties in the General Assembly and the Union for the Mediterranean in the General Assembly.[527]

(ii) *General Assembly*

By its resolutions 70/122, 70/123 and 70/124, the General Assembly granted observer status to the International Civil Defence Organization in the General Assembly, the Indian Ocean Rim Association in the General Assembly and the Union for the Mediterranean in the General Assembly, respectively. By its decisions 70/523, 70/524, 70/525 and 70/526, the General Assembly decided to defer a decision on the request for observer status for the Cooperation Council of Turkic-speaking States, the Eurasian Economic Union in the General Assembly, the Community of Democracies in the General Assembly and the International Conference of Asian Political Parties in the General Assembly, respectively, to its seventy-first session.

17. *Ad hoc* international criminal tribunals[528]

(*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*[529]

For the first part of the reporting period, Judge Theodor Meron (United States of America) and Judge Carmel Agius (Malta) continued to act as President and Vice-President, respectively. At an extraordinary plenary session of judges held on 21 October 2015, Judge

[527] For the reports of the Sixth Committee, see A/70/530, A/70/531, A/70/532, A/70/533, A/70/534, A/70/535 and A/70/536, respectively. For the summary records, see A/C.6/70/SR.10, 11 and 29.

[528] 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.

[529] For more information, see, for the period 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); and for the period 1 August 2015 to 31 July 2016, the twenty-third annual report (A/71/263–S/2016/670). See also the assessment and report of Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004) covering the period from 16 May 2015 to 16 November 2015 (S/2015/874, annex I) and the Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council in accordance with paragraph 6 of Security Council resolution 1534 (2004) (S/2015/874, annex II).

Agius and Judge Liu Daqun (China) were elected as President and Vice-President of the Tribunal, respectively; they took office on 17 November 2015.

By Security Council resolution 2256 (2015) of 22 December 2015, acting under Chapter VII of the Charter of the United Nations, extended the term of office of the following permanent judge of the Tribunal, who was a member of the Appeals Chamber, until 30 June 2016 or until the completion of the cases to which he is assigned, if sooner: Koffi Kumelio A. Afande (Togo). The term of office of the following permanent and *ad litem* judges of the Tribunal, who are members of the Trial Chambers, was extended until 31 October 2016 or until the completion of the cases to which they were assigned, if sooner: Burton Hall (The Bahamas), Guy Delvoie (Belgium) and Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo). The term of office of the following permanent and *ad litem* judges at the Tribunal, who were members of the Trial Chambers and the Appeals Chamber, was extended until 31 December 2016 or until the completion of the cases to which they were assigned, if sooner: Carmel Agius (Malta), Liu Daqun (China), Christoph Flügge (Germany), Theodor Meron (United States of America), Bakone Justice Moloto (South Africa), Fausto Pocar (Italy) and Alphons Orie (The Netherlands). The term of office of the following permanent and *ad litem* judges at the Tribunal, who were members of the Trial Chambers and the Appeals Chamber, was also extended until 31 March 2016 or until the completion of the cases to which they were assigned, if sooner: Jean-Claude Antonetti (France), Melville Baird (Trinidad and Tobago), O-Gon Kwon (Republic of Korea), Flavia Lattanzi (Italy), Howard Morrison (United Kingdom) and Mandiaye Niang (Senegal).

In the same resolution, the Security Council decided to reappoint Mr. Serge Brammertz (Belgium) as Prosecutor of the 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 2016 until 31 December 2016, which is subject to an earlier termination by the Security Council upon the completion of the work of the Tribunal. Throughout the period, John Hocking (Australia) continued to serve as Registrar.

At the end of 2015, the Chambers were composed of 13 permanent judges and 3 *ad litem* judges. The permanent judges of the Tribunal were as follows: Carmel Agius (President, Malta), Liu Daqun (Vice-President, China), Koffi Kumelio A. Afande (Togo), Jean-Claude Antonetti (France), Guy Delvoie (Belgium), Christoph Flügge (Germany), O-Gon Kwon (Republic of Korea), Theodor Meron (United States of America), Bakone Justice Moloto (South Africa), Howard Morrison (United Kingdom), Mandiaye Niang (Senegal), Alphons Orie (Netherlands) and Fausto Pocar (Italy). Mehmet Güney (Turkey), Khalida Khan (Pakistan), Arlette Ramaroson (Madagascar), Patrick Robinson (Jamaica), William Hussein Sekule (United Republic of Tanzania) and Bakhtiyar Tuzmukhamedov (Russia) also served as permanent judges during the reporting period but left the Tribunal at the conclusion of their respective mandates.[530]

At the end of 2015, the *ad litem* judges of the Tribunal were as follows: Melville Baird (Trinidad and Tobago), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo) and Flavia Lattanzi (Italy).

[530] Patrick L. Robinson served as a permanent judge until 8 April 2015. Mehmet Güney and William Hussein Sekule served as a permanent judge until 30 April 2015. Khalida Khan, Arlette Ramaroson and Bakhtiyar Tuzmukhamedov served as permanent judges until 21 December 2015.

(ii) *Organization of the International Criminal Tribunal for Rwanda*[531]

The International Criminal Tribunal for Rwanda delivered its last judgement on 14 December 2015 and closed on 31 December 2015.

Throughout 2015, Judge Vagn Joensen (Denmark) continued to act as President of the Tribunal. The Prosecutor, Hassan Bubacar Jallow (the Gambia) and the Registrar, Bongani Majola (South Africa) also remained the same since the previous reporting period.

At the closure of the Tribunal, the permanent judges were as follows: Koffi Afande (Togo), Carmel Agius (Malta), Liu Daqun (China), Khalida Rachid Khan (Pakistan), Theodor Meron (United States of America), Mandiaye Niang (Senegal), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar) and Bakhtiyar Tuzmukhamedov (Russian Federation). During the reporting period, two permanent judges of the Appeals Chamber who were from the International Criminal Tribunal for Rwanda left office upon completion of their work: Judges Mehmet Güney (Turkey) and William H. Sekule (United Republic of Tanzania).

At the closure of the Tribunal, President Vagn Joensen was the only *ad litem* judge.

(iii) *Composition of the Appeals Chamber*[532]

At the end of 2015, the composition of the Appeals Chamber was as follows: Theodor Meron (presiding, United States of America), Carmel Agius (Malta), Khalida Rachid Khan (Pakistan), Liu Daqun (China), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar), Bakhtiyar Tuzmukhamedov (Russian Federation), Mandiaye Niang (Senegal) and Koffi Kumelio A. Afande (Togo).[533]

(iv) *Organization of the International Residual Mechanism for Criminal Tribunals*[534]

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

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[531] For more information about the Tribunal's activities during the period of 1 July 2014 to 30 June 2015, see 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). See also the report on the completion of the mandate of the International Criminal Tribunal for Rwanda as at 15 November 2015 (S/2015/884).

[532] The Appeals Chamber consists of nine permanent judges, five of whom are permanent judges of the ICTY and four of whom are permanent judges of the ICTR. These nine judges constitute the Appeals Chamber of the ICTR and the ICTY.

[533] William Hussein Sekule (United Republic of Tanzania) and Mehmet Güney (Turkey), permanent judges of the Tribunal, also served in the Appeals Chamber of the Tribunal during the reporting period but left the Tribunal on 30 April 2015, upon the conclusion of their mandates.

[534] For more information on the Mechanism, see, for the period 1 July 2014 to 30 June 2015, the third annual report of the International Residual Mechanism for Criminal Tribunals (A/70/255–S/2015/586); and for the period 1 July 2015 to 30 June 2016, the fourth annual report (A/71/262–S/2016/669).

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.

(*b*) General Assembly

On 23 December 2015, the General Assembly adopted, without reference to a Main Committee and without a vote, resolution 70/227 on the International Criminal Tribunal for Rwanda, the Former Yugoslavia and the Mechanism, by which it welcomed the completion of the judicial work of the International Criminal Tribunal for Rwanda, and reiterated its request for the International Tribunal for the former Yugoslavia to complete its work as well.

On the same day, the General Assembly adopted, on the recommendation of the Fifth Committee and without a vote, resolution 70/242, 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 70/243, entitled "Financing of the International Residual Mechanism for Criminal Tribunals".

On 13 October 2015, the General Assembly adopted decision 70/505 entitled "Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994"; decision 70/508 entitled "Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991"; and decision 70/507 entitled "Report of the International Residual Mechanism for Criminal Tribunals".

(*c*) Security Council

On 22 December 2015, the Security Council adopted resolution 2256 (2015) concerning international criminal tribunals. Acting under Chapter VII of the Charter of the United Nations, the Council, *inter alia*, welcomed the completion of the judicial work of the International Criminal Tribunal for Rwanda following delivery of its last judgment on 14 December 2015, and the impending closure of the ICTR set for 31 December 2015. The Security Council also acknowledged the substantial contribution of the ICTR to the process of national reconciliation and the restoration of peace and security, and to the fight against impunity and the development of international criminal justice, especially in relation to the crime of genocide. The Security Council further reiterated its request to the International Tribunal for the former Yugoslavia 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, and expressed its continued concern over delays in the conclusion of the Tribunal's work, in light of resolution 1966 (2010), which had requested the Tribunal to complete its trial and appeals proceedings by 31 December 2014.

B. General review of the legal activities of intergovernmental organizations related to the United Nations

1. International Labour Organization[535]

(*a*) Entry into force of the 1997 amendment to the ILO Constitution

On 8 October 2015, the 1997 amendment of the ILO Constitution, which permits the abrogation of obsolete labour conventions, entered into force.[536] This would enable the ILO and its members to strengthen the relevance, impact and coherence of the ILO's body of international labour standards by enabling the annual Conference to abrogate—by a two-thirds majority vote—conventions which had manifestly lost their purpose and no longer made any useful contribution to the objectives of the Organization.

Until that moment, the ILO did not have a means of terminating the legal effects of outdated conventions; it could only adopt new revised standards on subjects covered by existing conventions. The entry into force of the 1997 constitutional amendment filled the gap and marked an important institutional milestone as the ILO approached its 100th anniversary. Together with the launching of a standards review mechanism, the constitutional amendment reinforced the ILO's efforts to ensure that it had a clear, robust and up-to-date body of labour standards serving as a global reference.

To date, the ILO's Governing Body had identified 31 out of 189 ILO conventions as outdated. The conventions retained as candidates for possible abrogation include, for instance, Convention No. 15 of 1921 which regulated the minimum age of trimmers and stokers, long-disappeared occupations on board vessels, and Conventions Nos. 4 and 41 on women's night work which dated back to 1919 and 1934 respectively, and forbade night work for women in industry, widely seen today as contrary to fundamental principles of gender equality and non-discrimination.

(*b*) Resolution concerning the application by the Cook Islands for admission to membership of the International Labour Organization[537]

On 12 June 2015, the International Labour Conference adopted a resolution admitting the Cook Islands to the membership of the ILO. The Cook Islands became the 186th member of the ILO after communicating its formal acceptance of the obligations of the ILO Constitution.

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[535] For official documents and more information in the International Labour Organization, see http://ilo.org.

[536] The text of the 1997 amendment of the ILO Constitution is available in English, French and Spanish at http://www.ilo.org/public/english/bureau/leg/amend/1997.htm.

[537] Available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_380782.pdf.

(*c*) Recommendation and other resolutions adopted by the International Labour Conference during its 104th Session (Geneva, June 2015)[538]

The International Labour Conference adopted at its 104th session (2015) one recommendation and eleven resolutions, of which three are highlighted below.

(i) *Recommendation concerning the transition from the informal to the formal economy*

On 12 June 2015, the International Labour Conference adopted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).[539] The Recommendation was the first international labour standard to focus on the informal economy in its entirety and diversity. It pointed to the transition to the formal economy as the means for realizing decent work for all and achieving inclusive development. The Recommendation, of universal relevance, acknowledged the broad diversity of situations of informality, including specific national contexts and priorities for the transition to the formal economy, and provided practical guidance to address these priorities.

(ii) *Resolution concerning efforts to facilitate the transition from the informal to the formal economy*

The Conference adopted the resolution concerning efforts to facilitate the transition from the informal to the formal economy[540] that invited governments, employers and workers jointly to give full effect to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).

(iii) *Resolution concerning small and medium-sized enterprises and decent and productive employment creation*

The resolution, with accompanying conclusions,[541] reconfirmed that small and medium-sized enterprises (SMEs) were vital to achieving decent and productive work as, globally, they accounted for two-thirds of all jobs and also created the majority of new jobs.[542] Furthermore, it confirmed the relevance of the current portfolio of ILO interventions promoting decent and productive employment in SMEs, and called on the International Labour Office to scale up its interventions. In order to produce more evidence on what

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[538] The texts adopted at the 104th Session of the ILC are available in English, French and Spanish at: http://www.ilo.org/ilc/ILCSessions/104/texts-adopted/lang--en/index.htm.

[539] Available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_377774.pdf.

[540] Available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_380780.pdf.

[541] Available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_380779.pdf.

[542] For details see http://www.ilo.org/ilc/ILCSessions/104/reports/reports-to-the-conference/WCMS_358294/lang--en/index.htm.

worked in SME development, the resolution called for more emphasis on results measurement, in particular regarding the sustainability of enterprises and the improvement of working conditions.

(iv) *Resolution concerning the recurrent discussion on social protection (labour protection)*

The Conference adopted a resolution, with accompanying conclusions,[543] after conducting a recurrent discussion on the strategic objective of social protection (labour protection), under the ILO Declaration on Social Justice for a Fair Globalization. This was the first time that the Conference examined the labour protection dimension of the social protection objective, giving ILO constituents the opportunity to discuss experiences and challenges regarding wages, working time, occupational safety and health (OSH) and maternity protection.

The conclusions of the recurrent discussion highlighted the centrality of labour protection for achieving decent work, social justice and peace. They also point to ongoing changes in employment patterns, contractual arrangements and work organization and the ensuing challenges for making labour protection a reality for all workers. This was especially the case for workers in non-standard forms of employment, workers in small and medium-sized enterprises (SMEs), and workers who had traditionally been left out, totally or partly, from the coverage of certain protections. The conclusions further stressed that the issue for some workers was not the exclusion from legal protection, but an inadequate level of protection. In yet other cases, the problem could be an insufficient enforcement of the law. Overall, women as well as migrant workers, youth, or people living with HIV and AIDS, were more exposed to labour protection deficits.

National legislation, policies and institutions needed to keep pace with the transformations in the world of work, extend coverage to all workers and establish an adequate level of protection to also prevent informality. Compliance with the applicable laws and regulations was to be ensured by effective enforcement mechanisms, primarily labour inspection, in the interest of both workers and employers by precluding anti-competitive business practices that had detrimental impact on responsible businesses.

(v) *Other resolutions adopted by the International Labour Conference*

The following resolutions were also adopted by the International Labour Conference: (*a*) resolution concerning the adoption of the Programme and Budget for 2016–17 and the allocation of the budget of income among member States; (*b*) resolution concerning the financial report and audited consolidated financial statements for the year ended 31 December 2014; (*c*) resolution concerning the scale of assessments of contributions to the budget for 2016; (*d*) resolution concerning financing of the renovation of the ILO headquarters building; (*e*) resolution concerning the composition of the Administrative Tribunal of the International Labour Organization; (*f*) resolution concerning appointments to the ILO

[543] Available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_380781.pdf.

Staff Pension Committee (United Nations Joint Staff Pension Board); and (*g*) resolution concerning the arrears of contributions of Uzbekistan.

(*d*) Approval of the terms of reference of the Standard Review Mechanism Tripartite Working Group

At its 325th Session (October-November 2015), the Governing Body approved the terms of reference of the Standards Review Mechanism (SRM) Tripartite Working Group.[544] This decision followed the establishment of the SRM by the Governing Body in November 2011 in order to contribute to the implementation of ILO standards policy as set forth in the ILO Declaration on Social Justice for a Fair Globalization (2008)[545] and to consolidate tripartite consensus on the role of international labour standards in achieving the ILO's objectives.

The SRM Tripartite Working Group was given the mandate of reviewing the international labour standards with a view to making recommendations to the Governing Body on the status of the standards examined, including up-to-date standards, standards in need of revision, outdated standards, and possible other classifications, to the identification of gaps in coverage, including those requiring new standards and to practical and time-bound follow-up action, as appropriate.

(*e*) Guidance documents submitted to the Governing Body of the International Labour Office

In March 2015, the Governing Body took note of the Guidelines for implementing the occupational safety and health provisions of the Maritime Labour Convention, 2006[546] and approved their publication.[547] The guidelines had been adopted by a Meeting of Experts held from 13 to 17 October 2014. They had been developed to provide supplementary practical information to flag States to be reflected in their national laws and other measures to implement Regulation 4.3 and the related Code of the Maritime Labour Convention, 2006, as well as other relevant provisions under Regulations 3.1 and 1.1.

(*f*) Legal advisory services and training

With respect to international labour standards, in 2015, 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 47 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

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[544] The terms of reference are available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_420260.pdf.

[545] Available at http://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/genericdocument/wcms_371208.pdf.

[546] United Nations, *Treaty Series*, Registration No. 51299.

[547] GB.322/PV para 294.

elements that would 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.[548] The ILO also organized approximately 38 legal training courses at the interregional, regional, sub regional and national levels in collaboration with its International Training Centre in Turin.

The ILO Programme on HIV/AIDS and the World of Work (ILOAIDS) provided training to approximately 80 judges. A training workshop held in Jamaica reached all of the country's resident magistrates. A separate three-day event held at the Centre for Judicial Studies in Lisbon, Portugal targeted judges from the Community of Portuguese Language Speaking Countries (CPLP), including Angola, Brazil, Cabo Verde, East Timor, Guinea-Bissau, Mozambique and São Tomé and Principe. The trainings were carried out utilizing the updated reference and training publication, "HIV and AIDS and Labour Rights: A Handbook for Judges and Legal Professionals" (2nd ed., 2015).[549]

ILOAIDS further developed, in collaboration with the Labour Administration, Labour Inspection and Occupational Safety and Health Branch, the "Handbook on HIV and AIDS for Labour Inspectors" (2015), which is designed to strengthen labour inspectors' capacity to address HIV-related issues—including discrimination, gender inequalities, privacy and confidentiality of HIV status, HIV prevention and protection from harassment and violence at work.[550]

(*g*) Committee on Freedom of Association

In 2015, the Committee on Freedom of Association had before it more than 203 cases concerning 60 countries from all parts of the world, for which it presented interim or final conclusions, or for which the examination was adjourned pending the arrival of information from governments (374th, 375th and 376th reports). Many of these cases had been before the Committee on Freedom of Association on more than one occasion. Moreover, seven new cases have been submitted to it since the last meeting of the Committee of Experts. The Committee on Freedom of Association has drawn the attention of the Committee of Experts to the legislative aspects of cases Nos. 2786 (Dominican Republic), 2970 (Ecuador), 3004 (Chad), 3025 (Egypt), 3029 (Plurinational State of Bolivia), 3044 (Croatia) and 3113 (Somalia).[551]

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[548] International Labour Conference, Report of the Committee of Experts on the Application of Conventions and Recommendations: Report III, 2015—105th Session (Part 2)—*Information document on ratifications and standards related activities* available at http://www.ilo.org/ilc/ILCSessions/103/reports/reports-to-the-conference/lang--en/index.htm.

[549] The updated Handbook is available in English, French and Spanish at: http://www.ilo.org/aids/Publications/WCMS_228498/lang--en/index.htm.

[550] The Handbook is available in English and French at http://www.ilo.org/aids/Publications/WCMS_344638/lang--en/index.htm.

[551] Information document on ratifications and standards-related activities. International Labour Conference, 105th Session (2016), Report III (Part 2), available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_474912.pdf.

(*h*) Representations submitted under article 24 of the ILO Constitution and complaints made under article 26 of the ILO Constitution

In 2015, the Governing Body considered the developments in 22 representations submitted under article 24 of the ILO Constitution 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.

The Governing Body also considered the developments in four complaints made under article 26 of the Constitution alleging that a member State that has ratified a Convention is not securing its effective observance.[552]

2. Food and Agriculture Organization of the United Nations[553]

(*a*) Membership

As of 31 December 2015, the membership of the Food and Agricultural Organization of the United Nations (FAO) remained unchanged at 194 members, two associate members and one member organization.

(*b*) Constitutional and general legal matters

(i) *Independent review of FAO governance reforms*

In 2005, FAO started an Independent Internal Evaluation (IEE) of its institutional framework and operational modalities.[554] As a result of this evaluation, in 2008, the FAO Conference adopted the Immediate Plan of Action for FAO Renewal (IPA), envisaging *inter alia* a number of amendments to FAO's institutional organization and legal framework.[555] Action 2.74 of the IPA provided for the Conference to assess progress in implementation of the IPA in 2015.[556]

In 2013, an Independent Review Team was established by the Council to conduct, with the support of FAO's Office of Evaluation, an assessment of the level of implementation of the IPA.[557] In 2015, at its 39th session, the Conference reviewed the results of the Independent Review of FAO Governance Reforms, and decided that the actions recommended therein

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[552] Information document on ratifications and standards-related activities. International Labour Conference, 105th Session (2016), Report III (Part 2), available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_474912.pdf.

[553] For official documents and more information on the Food and Agriculture Organization of the United Nations, see http://www.fao.org.

[554] At its 33rd Session of the Conference (17–24 November 2007), resolution 6/2005.

[555] Report of the 35th (Special) Session of the Conference (18 0 21 November 2008), resolution 1/2008. *See* also the *United Nations Juridical Yearbook* 2009, United Nations Publications, Sales No. E.10.V.8, pages 236–237.

[556] Report of the 35th (Special) Session of the Conference (18—21 November 2008), Appendix E, section B.29).

[557] Report of the 148th Session (2—6 December 2013), paragraphs 21—24.

be implemented by the competent governing bodies of the organization.[558] These actions include a number of amendments to FAO's operational modalities and regulatory framework, concerning *inter alia* the role and authority of the bureaus and steering committees of FAO technical committees and the qualifications of the Independent Chairperson of the Council. These actions will be implemented in the forthcoming years.

(ii) *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).

At its 39th session in 2015, the Conference amended the voting procedures for the election of the Independent Chairperson of the Council (ICC), in situations where there is only one candidate for the office (rule XII, subparagraph 10(*a*) of the General Rules of the Organization).[559] At the same session, the Council amended the procedures for the election of Council members, with a view to streamlining the procedures by allowing more than one elected position to be filled simultaneously (rule XII, paragraphs 3, 4, 12 and 13 of the General Rules of the Organization).[560]

During 2015, the 100th and 101st sessions of the Committee on Constitutional and Legal Matters (CCLM) were held. During the two sessions, the CCLM reviewed a number of substantive constitutional matters arising from the implementation of the recommendations of the Independent Review of FAO Governance Reforms (see section (i) on Independent Review of FAO Governance above). Some of its recommendations, including possible amendments to FAO's legal framework, were still under review by the relevant governing and statutory bodies.

As regards matters considered by the CCLM that were the subject of final decisions by the Council in 2015, the CCLM reviewed proposed amendments to the Constitution of the European Commission for the Control of Foot-And-Mouth-Disease (EuFMD) and the Statutes of the Committee for Inland Fisheries and Aquaculture of Africa (CIFAA). These amendments were subsequently approved by the Council, at its 153rd session in 2015.[561] At the same session, the CCLM also reviewed the proposal to abolish the FAO/ECE/CES

[558] Report of the 39th Session of the Conference (6—13 June 2015), resolution 7/2015, and documents C2015/26 Rev.1 on *Assessment of the Independent Review of FAO Governance Reforms* and C2015/25 on *Independent Review of FAO Governance Reforms*.

[559] Report of the 39th Session of the Conference (Rome, 6—13 June 2015), resolution 8/2015.

[560] At its 39th Session (Rome, 6—13 June 2015), by resolution 8/2015, the Conference approved the amendments to Rule XII, paragraphs 3, 4, 12 and 13 of the General Rules of the Organization (Report of the 39th Session of the Conference, paragraph 75).

[561] At its 153rd Session (Rome, 30 November—4 December 2015), by resolution 2/153, the Council approved the amendments to the *Constitution of the European Commission for the Control of Foot-and-Mouth Disease* (Report of the 153rd Session of the Council, paragraph 18(*b*) and Appendix D). At the same Session, the Council approved the amendments to the *Statutes of the Committee for Inland Fisheries and Aquaculture of Africa* (Report of the 153rd Session of the Council, paragraph 18(*c*) and Appendix E).

Study Group on Food and Agriculture Statistics in Europe, which was subsequently adopted by the 153rd session of the Council.[562]

(iii) *Committee on World Food Security*

In 2015, by resolution 10/2015, the Conference amended article XXXIII of the General Rules of the Organization on Committee on World Food Security, introducing the possibility of convening special sessions of the Committee on World Food Security (CFS) at the request of at least a majority of its members.[563]

A legal opinion on the right to water in the context of food security and nutrition was discussed at the 42nd Session of the CFS.[564]

(iv) *Review of FAO statutory bodies*

Statutory bodies may be established under article VI and article XIV of the Constitution of FAO.

In 2015, the 39th Session of the Conference adopted resolution 11/2015 on Review of FAO statutory bodies.[565] Recalling and reaffirming the validity and relevance of its previous resolution 13/97 on the same subject,[566] the Conference recognized "the continuing need to enhance the efficiency of the Organization and its governance in a time of financial challenge, to eliminate Statutory Bodies that are obsolete, to ensure more flexible task-oriented and time-bound working arrangements for those that remain and to limit the creation of new Bodies to those that are strictly necessary". The Conference requested the Secretariat to identify statutory bodies that the Council or Conference might wish to abolish because they were inactive or their functions could be undertaken through more flexible task-oriented and time-bound working arrangements. The Conference also decided that any proposal to establish a new statutory body would be subject to a prior assessment of the mandate, functions, impact and financial implications of the new body, with a view to avoiding duplication or overlapping with the functions of other bodies, and guaranteeing the long-term sustainability of the new body.

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[562] At its 153rd Session (Rome, 30 November—4 December 2015), the Council approved resolution 1/153 abolishing the FAO/ECE/CES Study Group on Food and Agriculture Statistics in Europe (Report of the 153rd Session of the Council, paragraph 18(*a*) and Appendix C).

[563] At its 39th Session (Rome, 6–13 June 2015), by resolution 10/2015, the Conference adopted amendments to Rule XXXIII, paragraph 7, of the *General Rules of the Organization* (Report of the 39th Session of the Conference, paragraph 77).

[564] Report of the 42nd Session of the Committee on World Food Security (Rome, 12–15 October 2015), paragraphs 14–16 and documents CFS 2015/42/2 on *Summary and Recommendations of the High-Level Panel of Experts (HLPE) Report on Water for Food Security and Nutrition*, and CFS 2015/42/3 on *High-Level Panel of Experts Report on Water for Food Security and Nutrition (FSN)*.

[565] Report of the 39th Session of the Conference (Rome, 6—13 June 2015), resolution 11/2015.

[566] Report of the 29th Session of the Conference (7—18 November 1997), resolution 13/97.

(v) *General Fisheries Commission*

At its 39th session in May 2015, the General Fisheries Commission for the Mediterranean amended its Rules of Procedure and its Financial Regulations.[567]

(vi) *The participation of the United Nations system in Expo Milano 2015*

The exhibition Expo Milano 2015 was held in Milan, Italy, from 1 May to 31 October 2015, with the theme of "Feeding the Planet Energy for Life". As in the case of past universal exhibitions, and pursuant to revised guidelines for the joint participation of the United Nations system in international exhibitions,[568] the United Nations system participated in Expo Milano 2015 as one. As chairperson of the Chief Executives Board, the United Nations Secretary-General designated the Rome-based agencies (FAO, the International Fund for Agricultural Development (IFAD) and the World Food Programme (WFP)), as the lead agencies to coordinate the participation of the United Nations system under the leadership of the Director-General of FAO.

FAO led the negotiation of the Participation Contract of Expo Milano 2015, Italy, concluded between the United Nations, including its Funds, Programmes and Specialized Agencies, and Expo 2015 S.p.A.. The Participation Contract defined the modalities of participation of the United Nations system in Expo Milano 2015 and responsibilities arising therefrom, including, *inter alia*, arrangements for the creation and maintenance of the United Nations pavilion, the organization of the United Nations system's events and activities, the creation of communication channels (*e.g.* a dedicated website) and promotional materials. A United Nations-Expo 2015 Steering Group was also established to decide on strategic policy issues, to provide guidance and direction on operational matters, monitor the use of funds and review progress.

A number of other legal arrangements were required for collaboration with partners and the organization exhibits and events, addressing a number of legal issues such as liabilities potentially arising from such exhibits and events, the use of the official United Nations Expo logo and name, and privacy issues, with a view to safeguarding the status, neutrality, independence and reputation of the United Nations system.

FAO also provided technical assistance in developing the Milan Urban Food Policy Pact, which was promulgated at Expo Milano 2015. By signing the Pact, the mayors and representatives of local governments drawn from all parts of the world pledged to promote sustainability in the food system, educate the public about healthy eating, and reduce food waste. FAO offered its support in the implementation of the Pact and agreed to host the annual gathering of the mayors that are signatories to the Pact at FAO Headquarters in 2016.

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[567] Report of the 39th session of the General Fisheries Commission for the Mediterranean (25—29 May 2015), paragraph 25 and appendices 5(1) and 5(2).

[568] ACC/1999/11, Annex IV.

(vii) *Information provided by FAO to, and collaboration with, other United Nations system entities*

In the context of collaborations with the United Nations system entities, or in response to requests for information, the FAO Legal Office provided information on various issues relevant to the mandate of FAO.

During 2015, FAO contributed to the implementation of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement[569] through several technical cooperation activities and projects in target countries. Within this framework, a course for Resolving Agricultural Trade Issues through International and Regional Trade-related Agreements was held in the Commonwealth of Independent States (CIS) region. Two FAO projects were also implemented on seed sector development in countries of the Economic Cooperation Organization, which included the revision and update of seeds management and Plant Variety Protection (PVP) legislation; and for the development of the National Programme for Rehabilitation of Seed Production System in Georgia, which included the revision and update of national legislation. A project had also been initiated to provide support to seed sector development in Azerbaijan, which includes the drafting of new legislation on seeds management, and PVP.

Legal assistance was provided in the context of a number of international meetings. In particular, the FAO participated in the Workshop on Linking Global and Regional Levels in the Management of Marine Areas Beyond National Jurisdictions (ABNJ).

Legal support in respect of the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels continued. Collaboration with the IMO in the FAO/IMO *ad hoc* Joint Working Group on IUU Fishing and Related Matters (JWG) also continued, and in 2015, its recommendations identified specific areas of collaboration including in capacity building activities for the implementation of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009 (PSMA),[570] the use of the International Maritime Organization (IMO) ship identification number scheme in the context of the Global Record, and the implementation of IMO instruments applicable to fishing vessels.

FAO also supported the FAO/WHO Joint Meeting on Pesticides Management in the development of "Guidelines for Pesticide Legislation", which includes recommendations to countries to revise and update their national legislation on pesticide management.

Work continued on the FAO/UNIDROIT/IFAD collaboration on developing a legal guide on contract farming initiated in 2011. The final text of the "UNIDROIT/FAO/IFAD Legal Guide on Contract Farming Operations" (the Guide) was adopted by the UNIDROIT Governing Council at its 94th session in May 2015. The Guide provides guidance on the negotiation and performance of contracts between buyers and producers of agricultural products, including on the clauses that may be included in such contracts.

FAO also contributed to the report of the Secretary-General on oceans and the law of the sea to the 70th session of the United Nations General Assembly. In the report, reference was made to both the new legislation put in place, including for improving the

[569] United Nations, *Treaty Series*, vol. 1869, p. 229.

[570] United Nations, *Treaty Series*, registration No. 54133.

sustainability of marine aquaculture, as well as the soft law instruments, such as the Voluntary Guidelines for Securing Small-scale Fisheries in the context of Food Security and Poverty Eradication (SSF Guidelines),[571] focusing on specific components of the fisheries sector. Moreover, in relation to Blue Growth Initiative (BGI), it was emphasized that it built on the existing strong international legislative and policy framework centred on the FAO Code of Conduct for Responsible Fisheries and its related international agreements, guidelines and plans of action. FAO has also reported the on-going development of a guide on the implementation of international instruments and best legal practices at national level, in support of reinforcing national legal frameworks that provided an appropriate basis for the application of the Ecosystem Approach to Fisheries (EAF).

FAO provided its contribution to the United Nations Environment Programme (UNEP) coordinated response to the Secretary-General's Policy Committee's decision 2015/1 on Illicit Trade in Wildlife and Forest Products for an effective and coherent United Nations response to the security, political, economic, environmental and social aspects of the issue. In this regard, FAO has provided inputs to the on-going and planned interventions of the United Nations system in relation to the illicit trade in wildlife and forest products with specific reference to FAO mandate in this matter.

During 2015, FAO collaborated with the Human Rights Council on three occasions. It contributed to the presentation of the report of the intergovernmental working group on the rights of peasants and other people living in rural areas in the 30th regular session of the Human Rights Council on 22 September 2015. The contribution highlighted pertinent standards and best practices based on FAO instruments on the right to food, the governance of tenure, responsible agricultural investment and plant genetic resources.

FAO also provided information in relation to the Human Rights Council resolution 27/25 on Equal participation in political and public affairs. In this regard, FAO advised on FAO's instruments promoting the equitable and effective participation of stakeholders, including non-governmental organizations, farmers and producers' organization in decision-making. Some of these instruments are the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (RTFG), the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), and the SSF Guidelines.

FAO also contributed its views and inputs to the Human Rights Council on the standards to implement the right to development, providing information *inter alia* on the RTFG, the CFS Principles for Responsible Investment in Agriculture and Food Systems (CFS RAI), the Framework for Action for Food Security and Nutrition in Protracted Crises (CFS-FFA) and the Rome Declaration on Nutrition and the Framework for Action.

Finally, as in previous years, FAO continued to contribute to the report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia.[572]

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[571] Available at http://www.fao.org/3/a-i4356en.pdf.

[572] S/2015/776.

(*c*) Activities in respect of multilateral treaties[573]

In 2015, no new treaties were adopted or entered into force.

During 2015, a number of depositary actions concerning treaties deposited with the Director-General by States and a regional economic integration organization were recorded.

(*d*) Legislative matters

(i) *Legislative assistance and advice*

The Development Law Branch (LEGN) of the FAO Legal Office continued to provide legislative assistance to FAO member states. In 2015, LEGN directly provided legislative assistance to 25 countries on fisheries, forestry, pesticide and seeds through individual country projects and provided support to over 150 countries through 25 regional and global projects. LEGN also supported four countries to establish the Micronesian Association for Sustainable Aquaculture, a regional intergovernmental organization for aquaculture.

Legal support was provided to 12 countries on decent rural employment, cooperatives and gender-equitable access to natural resources, and to four countries to revise their regulatory frameworks for contract farming operations.

Legislative processes related to food security and nutrition, school food, and tenure were supported in 12 countries and three regional organizations, namely the Latin American Parliament (PARLATINO), the *Forum des parlements d'Amérique centrale et des Caraïbes* (FOPREL), and the Organization of Eastern Caribbean States (OESC).

In the fields of food safety, animal health and plant health, assistance was provided to 34 countries and two regional organizations (the *Communité* Économique *et montétaire de l'Afrique Centrale* and the South Pacific commission), while two countries were provided support in increasing the resilience of livelihoods to threats and crises. Ten countries were supported in the revision of their feed legislation, and two countries on animal identification and traceability legislation.

Five countries in Central Asia were assisted in setting up legal frameworks for organic production and other voluntary standards certification. Six countries in the South Pacific and fifteen countries in Africa were supported in the revision of their pesticide legislation.

FAO continued to support the implementation and application of the Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security (VGGT). In particular, it undertook a multi-sectoral assessment of the legal and policy frameworks for land, fisheries and forests in Sierra Leone against key provisions of the VGGT, resulting in concrete recommendations to ongoing legal and policy processes, namely the National Land Policy (adopted in November 2015), a new Forestry Bill and a final version of a new Fisheries and Aquaculture Bill. The methodology and the analysis were published as FAO Legal Papers.

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[573] The status of 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/. The status of multilateral treaties adopted outside of FAO's framework and deposited with the Director-General of FAO is available at http://www.fao.org/legal/treaties/treaties-outside-fao-framework/en/.

In addition, capacity development regional workshops in the area of fisheries, aimed at raising awareness and implementing the Agreement on Port State Measures (PSMA), which had not entered into force, continued in 2015. Fifteen countries from north west Indian Ocean region and 16 countries of the Atlantic coast of Africa participated in two workshops, and national capacity building workshops on implementing the PSMA were held for two countries in the Asia Pacific region.

(ii) *Legislative research and publications*

In 2015, the FAO Legal Office published the following legal papers:[574]

- Climate change and forestry legislation in support of REDD+;
- Implementation of the Voluntary Guidelines on Responsible Governance of Tenure in the Land Legislation of Sierra Leone;
- Implementation of the Voluntary Guidelines on Responsible Governance of Tenure and on Sustainable Small-scale Fisheries in the Fisheries and Aquaculture Legislation in Sierra Leone;
- Implementation of the Voluntary Guidelines on Responsible Governance of Tenure in the Forestry Legislation in Sierra Leone;
- Analytical Assessment Report for the Implementation of the Voluntary Guidelines on Responsible Governance of Tenure in the Land, Fisheries and Forestry Sectors of Sierra Leone.

The FAO Legal Office contributed to the following publications by other FAO divisions in in 2015:[575]

- "Designing warehouse receipt legislation—Regulatory options and recent trends" (published by the Investment Centre Division of FAO).
- "Análisis de la legislación en materia de seguridad alimentaria y nutricional—El Salvador, Guatemala, Honduras y Nicaragua" (published by the Right to Food Team of the Economic and Social Development Department of FAO).
- "Legal Guide on Contract Farming" (joint publication with IFAD and UNIDROIT).

(iii) *Collection, Translation and Dissemination of Legislative Information*

The 20-year anniversary of FAOLEX[576], the FAO database of national legislation, policies and bilateral agreements on food, agriculture and natural resources management, was celebrated in 2015. Drawing inspiration from the Organization's Constitution and the legacy of the International Institute of Agriculture (IIA)[577], the Legal Office continued its

[574] Available at: http://www.fao.org/legal/publications/legal-papers/en/.

[575] Available at: http://www.fao.org/legal/publications/partner-publications/en/.

[576] Available at: http://faolex.fao.org.

[577] As the IIA closed its doors with the inception of FAO in 1952, its archives were transferred to the FAO David Lubin Memorial Library. The FAO Legal Office took stock of the IIA's legal information, legislation and collection practices in developing its activities.

long-standing commitment to the collection and dissemination of instruments relevant to FAO's mandate.[578]

In 2015, a decision was taken to broaden FAOLEX's scope to include national policy documents to provide users with a more complete governance context and a one-stop entry-point to national policy and legal frameworks. Similarly, the WATERLEX[579] collection was redesigned to include, alongside the already existing historical country profiles, more than 12,000 national texts (constitutional provisions, laws, subsidiary legislation and policies) and international agreements classified thematically.

In 2015, the Family Farming Knowledge Platform (FFKP)[580] was launched, providing a single access point for international, regional and national information related to family farming issues, including national laws, regulations and policies as part of the "FamilyFarmingLex" component of the FFKP. Similarly, the National Legislation Database[581] of the General Fisheries Commission for the Mediterranean (GFCM) was launched with the aim to provide fisheries managers and stakeholders, as well as the general public at large, with updated information on the principal legislation enacted by Mediterranean and Black Sea riparian countries in transposing at the national level binding recommendations adopted by the GFCM.

Work continued in expanding the National Aquaculture Legislative Overview (NALO) database,[582] which provides the profiles of the legal frameworks for aquaculture management of FAO members, including overviews of the top forty aquaculture producing countries.

3. United Nations Educational, Scientific and Cultural Organization[583]

(*a*) International regulations

(i) *Entry into force of instruments previously adopted*

In 2015, no multilateral conventions or agreements adopted under the auspices of UNESCO entered into force.

[578] The Food and Agricultural Legislation (FAL) publication series, issued from 1954 to 1994, was the precursor to FAOLEX and compiled relevant legislation from member States.

[579] See http://faolex.fao.org/faolex/waterlexc.html.

[580] See http://www.fao.org/family-farming/en/.

[581] See http://www.fao.org/faolex/associated-databases/en/.

[582] See http://www.fao.org/fishery/nalo/search/en.

[583] For official documents and more information on the United Nations Educational, Scientific and Cultural Organization, see https://en.unesco.org.

(ii) *Instruments adopted by the General Conference of UNESCO at its 38th session (3–18 November 2015)*[584]

As requested in its 37th session (2013), the 38th session of the General Conference adopted the following recommendations:

- Recommendation concerning the protection and promotion of museums and collections, their diversity and their role in society (38C/resolution 49); and
- Recommendation concerning the preservation of, and access to, documentary heritage including in digital form (38C/resolution 55).

At its 38th session, the General Conference also adopted the following revised UNESCO's instruments:

- Revised International Charter of Physical Education and Sport (38C/resolution 43);
- Recommendation on Adult Learning and Education, which supersedes the 1976 Recommendation on the Development of Adult Education (38C/resolution 13); and
- Recommendation concerning Technical and Vocational Education and Training (TVET), which supersedes the 2001 Revised Recommendation concerning Technical and Vocational Education (38C/resolution 14).

(iii) *Proposals concerning the preparation of new instruments*

The 38th session of the General Conference invited the Director-General, in consultation with Member States and main stakeholders, to continue the process of preparing a global convention on the recognition of higher education qualifications. The Director-General was expected to submit a progress report, accompanied by a preliminary draft, to the General Conference at its 39th session in 2017 (38 C/Resolution 12).

(iv) *Proposals concerning the preparation of revised instruments*

At its 38th session, the General Conference requested the Director-General to continue to prepare the revision of the 1974 Recommendation on the Status of Scientific Researchers. The Director-General was expected to submit a final draft of the revised Recommendation report to the General Conference at its 39th session (38 C/Resolution 45).

(*b*) Human rights

The Committee on Conventions and Recommendations met in private sessions at UNESCO Headquarters from 8 to 10 April 2015 and from 7 to 9 October 2015, in order to examine communications which had been transmitted to it in accordance with Decision 104 EX/3 3 of the Executive Board.

At its April 2015 session, the Committee examined 29 communications of which six were examined with a view to determining their admissibility or otherwise, 20 were examined as to their substance and three were examined for the first time. Three communications

[584] For the texts of all UNESCO standard-setting instruments, as well as the list of States parties to the conventions and agreements, see http://www.unesco.org/legalinstruments.

were struck from the list among which one was considered as having been settled. The examination of the other 26 communications was deferred. The Committee presented its report to the Executive Board at its 196th session.

At its October 2015 session, the Committee examined 31 communications of which six were examined with a view to determining their admissibility, 22 were examined as to their substance and three 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 other 28 communications was deferred. The Committee presented its report to the Executive Board at its 197th session.

4. World Health Organization[585]

(*a*) Constitutional developments

In 2015, no new amendments to the Constitution were proposed or adopted, and neither of the two pending amendments entered into force. The pending amendments were the amendment to article 7[586] and the amendment to article 74 of the Constitution[587]. Respectively, they have been accepted by 98 and 112 member States. 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 2015 the Director General convened, in accordance with articles 47ff. of the International Health Regulations (IHR) (2005), 2 meetings of an Emergency Committee concerning cases of human infection with Middle East respiratory syndrome coronavirus (MERS-CoV), 4 meetings of an Emergency Committee concerning ongoing events and context involving transmission and international spread of poliovirus, and 5 meetings of an Emergency Committee regarding the Ebola outbreak in West Africa. Based on the advice received from these Emergency Committees, declarations by the WHO Director-General that the 2014–2015 Ebola outbreak and events relating to poliovirus are Public Health Emergencies of International Concern were in force at the end of 2015, and corresponding Temporary Recommendations (see article 1; 15 ff. of the Regulations) were in place. As far as poliovirus was concerned, the World Health Assembly, through decision WHA68(9), had endorsed the continuation of the management of the public health emergency of international concern through temporary recommendations issued by the Director-General under the IHR (2005).

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[585] For official documents and more information on the World Health Organization, see http;//www.who.int.

[586] Resolution WHA18.48 of 20 May 1965.

[587] Resolution WHA31.18 of 18 May 1978.

Responding to the Ebola outbreak, the WHO Executive Board met in a Special Session on the Ebola Emergency on 25 January 2015 and mandated the commissioning of an interim assessment on all aspects of WHO's response to the Ebola outbreak, which was provided to the 68th session of the World Health Assembly (through document A/68/25), and which contains a relevant number of considerations regarding the IHR (2005). The Health Assembly, by decision WHA68(10), then requested the Director-General to establish a Review Committee under the IHR (2005) (see article 50 ff. of the Regulations) to examine the role of the IHR (2005) in the Ebola outbreak and response and detailed further objectives for the work of that Review Committee. Additionally, in that decision, the Health Assembly welcomed the Director-General's efforts to provide an initial conceptual plan for a global health emergency workforce to respond to outbreaks and emergencies with health consequences. In doing do, the WHA reiterated that the WHO's emergency response at all levels should be exercised according to international law in particular with article 2(*d*) of the Constitution of the World Health Organization and in a manner consistent with the principles and objectives of the Emergency Response Framework, and the IHR (2005).

Further at its 68th session, the World Health Assembly adopted a resolution on the recommendations of the Review Committee on Second Extensions for Establishing National Public Health Capacities and on IHR Implementation (resolution WHA68.5).

Finally, with regard to vaccination against yellow fever, the World Health Assembly, by resolution WHA68.4, recalled the adoption, in accordance with article 55.3 of the IHR (2005), of an updated Annex 7 to the IHR (2005), according to which the protection against infection by yellow fever and the validity of a certificate of vaccination extended for the life of the person vaccinated and are not limited anymore to ten years.

(ii) *Amendments to basic documents and staff rules*

The Executive Board, by resolution EB136.R13, confirmed amendments to the Staff Rules that had been made by the Director-General with effect from 1 February 2015 concerning the purpose of the Staff Rules; relationship between Staff Regulations and Staff Rules; amendments to the Staff Rules; application of the Staff Rules; effective date of the Staff Rules; exceptions to the Staff Rules; delegation of authority; post classification; payments and deductions; recruitment policies; appointment policies; medical certification and inoculations; appointment procedure; effective date of appointment; reinstatement upon re-employment; inter-organization transfers; obligation of staff members to provide information about themselves; staff member's beneficiaries; assignment to duty; training; performance management and development; within-grade increase; meritorious within-grade increase; reassignment; reduction in grade; notification and effective date of change in status; official holidays; overtime and compensatory leave; annual leave; home leave; leave for military training or service; approval, reporting and recording of leave; other forms of leave; United Nations Joint Staff Pension Fund; staff health insurance and accident and illness insurance; travel of staff members; right of association; staff member representatives; financing of staff association activities; resignation; termination of temporary appointments; abolition of post; unsatisfactory performance or unsuitability for international service; misconduct; disciplinary measures; misconduct resulting in financial loss; non-disciplinary reprimand; administrative leave pending determination of misconduct; and notification of charges and reply.

In addition, the Executive Board, by resolution EB136.R14, confirmed amendments to the Staff Rules had been made by the Director-General concerning salary determination; recruitment policies; mobility; and refusal of reassignment, with effect from the entry into force of the Organization's mobility policy.

The World Health Assembly, by resolution WHA68.17 of 26 May 2015, adopted amendments to the Staff Regulations 4.1, 4.2, 4.3, 4.4, and 9.2 upon entry into force of the Organization's mobility policy. These amendments emphasized that all appointments, transfers, reassignments and promotions should be made as required and without regard to race, sex or religion. They also clarified that, when the Organization's mobility policy entered into force, many posts would be filled by the reassignment of staff members instead of through an unrestricted competition and that a staff member's refusal or failure to take up a reassignment, including under the Organization's mobility policy, would be grounds for terminating the staff member's appointment.

(iii) *Supporting national law reform efforts on WHO mandated topics*

During 2015, Headquarters and Regional Offices of WHO provided technical cooperation to a number of Member States in connection with the development, assessment, or review of various areas of health legislation and WHO-mandated topics. Specific support was provided to countries for developing and/or revising national law and legislation on tobacco and alcohol related issues, mental health, international recruitment of health personnel, nutrition and marketing of foods and non-alcoholic beverages to children, injury and violence, drinking water and air quality, road safety, health financing and insurance; and access to and quality of essential medicines. Additionally, with regard to HIV, WHO promoted the review and reform of national laws to ensure equitable access to essential HIV and hepatitis services for key populations and the establishment of national laws and regulations that address discrimination against people living with HIV.

5. International Monetary Fund[588]

(*a*) Membership issues

(i) *Accession to membership*

No new countries became members of the IMF in 2015. As of December 31, 2015, the membership of the IMF consisted of 188 member countries.

(ii) *Status and obligations under article VIII or article XIV of the IMF's Articles of Agreement*

Under article VIII, sections 2, 3, and 4 of the IMF's Articles of Agreement, members of the IMF may not, without the IMF's approval, (*a*) impose restrictions on the making of payments and transfers for current international transactions; or (*b*) engage in any discriminatory currency arrangements or multiple currency practices. Notwithstanding these

[588] For documents and more information on the International Monetary Fund, see http://www.imf.org.

provisions, pursuant to article XIV, section 2 of the IMF's Articles of Agreement, when a member joins the IMF, it may notify the IMF that it intends to avail itself of the transitional arrangements under article XIV of the IMF's Articles of Agreement that allow the 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's Articles of Agreement does not, however, permit a member, after it joins the IMF, to introduce new restrictions on the making of payments and transfers for current international transactions without the IMF's approval.

The total number of countries that have accepted the obligations of article VIII, sections 2, 3, and 4, as of December 31, 2015, was 168. Twenty countries continued to avail themselves of the transitional arrangements under article XIV.

(iii) *Overdue financial obligations to the IMF*

As of 31 December 2015, 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 had arrears to the Poverty Reduction and Growth Trust (PRGT) administered by the IMF as Trustee. In addition, Somalia and Sudan had 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's Articles of Agreement provides that if "a member fails to fulfil any of its obligations under this Agreement, the [IMF] may declare the member ineligible to use the general resources of the [IMF]." Such declarations of ineligibility were in place at end of December 2015 with respect to Somalia and Sudan, whose arrears were subject to sanctions under article XXVI. In the case of Zimbabwe, its arrears to the PRGT were handled under a separate framework since such arrears did not involve the IMF's general resources and were therefore not subject to article XXVI.

(*b*) Key policy decisions of the IMF

In 2015, 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, as follows:

(ii) *IMF financing and financial assistance*

a. Catastrophe Containment and Relief Trust

In the context of the Ebola epidemic, on 4 February 2015, the Executive Board of the IMF approved the establishment of a new Catastrophe Containment and Relief (CCR) Trust to provide exceptional financial support to countries confronting major natural disasters, including life-threatening, fast-spreading epidemics and other types of catastrophic disasters, such as massive earthquakes. For eligible countries confronting epidemics that met specified criteria, the IMF might use the CCR Trust resources to provide grants as a supplement to its conventional loan support, which would be used to pay off future debt

service payments, thus reducing the country's debt burden and freeing up resources to tackle relief and recovery challenges.

The CCR Trust amended and replaced the Post Catastrophe Debt Relief (PCDR) Trust, which was established in 2010 to provide relief to the IMF's poorest and most vulnerable members in the wake of catastrophic disasters. The new CCR Trust had two windows: (*a*) the Post-Catastrophe Relief (PCR) window and (*b*) the Catastrophe Containment (CC) Window, and eligibility for access to both windows was limited to the poorest and most vulnerable countries. Qualification criteria for access to trust resources *via* the PCR window were as follows: a catastrophic disaster had (*a*) directly affected a large portion (normally, at least one third) of the member's population and (*b*) directly affected a large portion of the member's economy, evidenced by either the destruction of more than one quarter of the country's productive capacity or damage deemed to exceed 100 per cent of GDP. Members that met these criteria would receive grants to clear all debt service payable on qualifying outstanding credit to the Fund for a period of two years. In addition, if certain exacerbating circumstances were established, the member might receive debt relief on the total stock of outstanding debt owing to the Fund.

A member qualified under the CC Window if the Executive Board determined that the country was experiencing an exceptional balance of payments need arising from a qualifying public health disaster that occurred in the member's territory and the Executive Board determined that the macroeconomic policy framework put in place to address the balance of payments needs created by the public health disaster and the ensuing policy response of the authorities, was appropriate. Members that qualified for assistance *via* the CC window received the assistance in the form of up-front grants from the trust to immediately pay off upcoming debt service payments to the Fund on eligible debt. The amount of grant support was set at 20 per cent of the member's quota, subject to certain qualifications.

As of end-December 2015, the CCR trust had provided grants for debt-relief under the CC window of close to $100 million for the three countries affected by Ebola in West Africa: Guinea, Liberia, and Sierra Leone. Funding for the CCR trust had come from the transformation of the PCDR trust, the dissolution of the Multilateral Debt Relief Initiative (MDRI)-I Trust and donor contributions in the MDRI-II Trust (which were subsequently liquidated), as well as additional bilateral contributions.

b. Eligibility to use the Fund's facilities for concessional financing

The Executive Board, on 17 July 2015, reviewed the framework for eligibility to use the Fund's concessional resources under the Poverty Reduction and Growth Trust (PRGT) and the list of PRGT-eligible members. The Executive Board decided to enhance the framework by: (*a*) making use of additional data sources in assessing that a country had durable and substantial market access; and (*b*) limiting the application of the serious short-term vulnerabilities criterion so that it would not, in general, preclude the graduation of a country with income per capita exceeding the applicable graduation threshold by 50 per cent or more. In this context, domestic and/or private external debt would be included in the assessment of overall debt vulnerabilities to help align the PRGT framework with the latest debt sustainability framework.

The Executive Board also graduated Bolivia, Mongolia, Nigeria, and Vietnam from the PRGT eligibility list, and no new countries met the entry criteria. Staff would continue

to carefully monitor the graduating economies to minimize the risk of reverse graduation, especially in light of the global financial environment.

c. Financing for development: enhancing the financial safety net for developing countries

The Executive Board adopted, on 1 July 2015, changes to increase access to concessional Fund resources for all Poverty Reduction and Growth Trust (PRGT)-eligible countries and to fast-disbursing support under the Rapid Financing Instrument (RFI) for all members when faced with urgent balance of payments needs.

Accordingly, the Executive Board agreed to an increase in access norms, and annual and cumulative access limits, by 50 per cent for the Rapid Credit Facility (RCF), the Standby Credit Facility (SCF), and the Extended Credit Facility (ECF). They also increased the RFI annual and cumulative access limits by 50 per cent, in line with the increase in access limits for the RCF to enhance its usefulness in providing support to all members with urgent balance-of-payments needs. These access limits and norms (calculated as percentage of quota) were subsequently reduced by half upon the effectiveness of the 14th General Review of Quotas, which on average doubled members' quotas, in order to broadly preserve the higher access in Special Drawing Rights (SDR) terms. In addition, in order to better target concessional financing to the poorest and most vulnerable PRGT-eligible countries, the Executive Board rebalanced the funding mix of concessional and non-concessional resources provided to countries that receive Fund support in the form of a blend of concessional and non-concessional resources from 1:1 to 1:2.

The Executive Board also decided to make drawings under the RCF more concessional by setting the interest rate at zero per cent, while preserving the PRGT interest rate mechanism for the SCF and ECF.

d. Reform of the Fund's policy on poverty reduction strategies in Fund engagement with low-income countries

The Executive Board of the IMF, on 22 June 2015, adopted reforms to the Fund's policy on poverty reduction strategies (PRS) in Fund engagement with low-income countries. The PRS requirements had previously been centred around a document prepared by the member (the "Poverty Reduction Strategy Paper" (PRSP), which had been required under the HIPC Initiative, as well as under certain of the Fund's concessional financing arrangements and the Policy Support Instrument (PSI). The revisions to the IMF's policy with respect to PRS documentation were prompted by the near complete implementation of the HIPC initiative, recent practices among member countries in documenting their PRS, as well as the Bank's decision to delink its International Development Association (IDA) financial support from the PRS process and documentation. The reforms concerned the Fund's PRS policy in the context of Extended Credit Facility (ECF) arrangements and PSIs, and did not entail any modification to the HIPC Initiative Instrument.

The Fund's policy was amended such that in ECF arrangements and PSIs, member countries had to submit an Economic Development Document (EDD) that could comprise an existing national development plan or strategy document or a newly-prepared document on a member's PRS elaborated for Fund-supported programme purposes. The latter could take the form of an entirely new PRS document or a streamlined document based

on an existing national PRS document, along the lines proposed by staff. An EDD was required for completion of the first and every subsequent review under an ECF arrangement or a PSI. This requirement was designed to ensure close alignment, in terms of timing and substance, between Fund-supported programmes and the member's poverty reduction strategy. The PRS set out in an EDD should not normally be older than five years (exceptionally six years) to qualify for the completion of a review.

In addition, the Executive Board eliminated Joint Staff Advisory Notes outside the HIPC Initiative context. The Fund staff's assessment of the member country's poverty reduction strategy going forward would be provided in programme documentation. World Bank staff's views on the member country's poverty reduction strategies would be communicated through an assessment letter.

e. Review of the safeguards assessment policy

On 23 October 2015, the Executive Board of the IMF concluded a periodic review of the safeguards assessments policy. The safeguards assessments policy was an integral part of the IMF risk management framework and had been a permanent feature of IMF lending operations since 2002. Safeguards assessments were designed to provide reasonable assurance to the IMF that central banks of member countries using IMF resources had adequate governance and control frameworks to manage their resources and IMF purchases or disbursements. The policy's main objective was to minimize the possibility of misreporting of information under IMF lending arrangements and misuse of IMF resources.

In concluding the review of the policy, the Executive Board agreed the safeguards assessment policy should be expanded to include fiscal safeguards review under certain circumstances, and endorsed staff's proposals on the operational modalities for conducting such reviews. Going forward, fiscal safeguards reviews of state treasuries would be conducted for all arrangements where a member requested exceptional access to Fund resources, and at the time of programme approval the member expected that at least 25 per cent of the funds would be directed to financing the state budget. This approach would also apply when a member requested exceptional access during an arrangement, unless a fiscal safeguards review was completed within the previous 18 months.

The Executive Board also agreed to discontinue conducting update safeguards assessments for (*a*) augmentations of existing arrangements; (*b*) successor arrangements where a safeguards assessment was completed no more than 18 months prior to the approval of the successor arrangement; or (c) central banks with a strong track record, if the previous assessment was completed within the past four years and no substantial issues were identified in the prior assessment or subsequent monitoring. They also agreed that once a member's credit outstanding fell below the post-programme monitoring threshold, the safeguards monitoring procedures would be limited to a review of annual external audit results, unless a country continued to be subject to post-programme monitoring.

(ii) *Financial issues*

Review of the method of valuation of Special Drawing Rights (SDR)

On 30 November 2015, the Executive Board completed the 2015 SDR valuation review and decided that, effective 1 October 2016, the Chinese renminbi (RMB) would be included in the SDR basket as a fifth currency, along with the US dollar, euro, Japanese yen and pound sterling. China continued to be the world's third-largest exporter, thus meeting the first currency selection criterion for SDR basket inclusion. The Executive Board also agreed that, effective 1 October 2016, the RMB was determined by the IMF to be a freely usable currency, *i.e.* a currency that was determined to be widely used to make payments for international transactions and widely traded in the principal exchange markets, thus meeting the second criterion. The authorities had taken a broad set of measures to facilitate RMB operations. As a result of these measures, the IMF, its membership, and other SDR users had sufficient access to onshore bond and foreign exchange markets to perform Fund-related and reserve management transactions in RMB without substantial impediments. With the RMB's inclusion in the SDR basket, effective 1 October 2016, the three-month benchmark yield for China Treasury bonds, as published daily by the China Central Depository and Clearing Co., Ltd., would serve as the RMB-denominated instrument in the SDR interest rate basket.

The Executive Board also adopted a new formula for determining currency weights in the SDR basket to address long-recognized issues with the formula that had been in place since 1978. The adopted formula assigned equal shares to the currency issuer's exports and a composite financial indicator. The financial indicator comprised, in equal shares: (*a*) official reserves denominated in the relevant currency that were held by other monetary authorities that were not issuers of the currency (or in the case of a monetary union's currency, that were held by monetary authorities of members other than those forming part of the currency union), (*b*) foreign exchange turnover in the currency, and (*c*) the sum of outstanding international bank liabilities and international debt securities denominated in the currency. On the basis of this new formula, the relative share of the five currencies in the SDR basket from 1 October 2016 would be as follows: US dollar 41.73 per cent; euro 30.93 per cent; Chinese renminbi 10.92 per cent; Japanese yen 8.33 per cent; and pound sterling 8.09 per cent.

(iii) *Review of developments in sovereign debt restructuring*

Policy on non-toleration of arrears to official bilateral creditors

On 8 December 2015, the Executive Board of the IMF revised its policy on non-toleration of arrears owed to official bilateral creditors. The changes were designed to strengthen incentives for collective action among official bilateral creditors when official sector involvement in a debt restructuring is necessary, and ensure provision of Fund support was not held up by the unwillingness of hold-out creditors to join an effort that was supported by an adequately representative group of creditors.

Where no restructuring of claims was required under the Fund-supported programme, the Fund would continue to require clearance of arrears or non-objection from each creditor to the provision of Fund financing. Where a restructuring was required, if an

agreement was reached through the Paris Club that was adequately representative, arrears would be considered eliminated (for purposes of the application of this policy) for both participating and non-participating creditors when financing assurances were received from the Paris Club in anticipation of an Agreed Minute. Should another representative standing forum emerge, the Fund would be open to engaging with such a forum.

In circumstances where an adequately representative agreement had not been reached through the Paris Club, the Fund would consider lending into arrears owed to an official bilateral creditor only in circumstances where all the following criteria were satisfied:

- Prompt financial support from the Fund was considered essential, and the member was pursuing appropriate policies;
- The debtor was making good faith efforts to reach agreement with the creditor on a contribution consistent with the parameters of the Fund-supported programme—*i.e.*, that the absence of an agreement was due to the unwillingness of the creditor to provide such a contribution; and
- The decision to provide financing despite the arrears would not have had an undue negative effect on the Fund's ability to mobilize official financing packages in future cases.

An official bilateral creditor might choose to consent to Fund financing notwithstanding arrears owed to it. In such cases, the Board would not need to make a judgment as to whether the three criteria above were satisfied.

There might be emergency situations, such as in the aftermath of a natural disaster, where the extraordinary demands on the affected government were such that there was insufficient time for the debtor to undertake good faith efforts to reach agreement with its creditors. When a judgment had been made that such exceptional circumstances exist, the Fund might provide financing under the Rapid Credit Facility (RCF) or the Rapid Financing Instrument (RFI) despite arrears owed to official bilateral creditors and without assessing whether the three criteria above had been satisfied or obtaining the creditor's consent.

(iv) *Other*

Selected streamlining proposals

In April the Executive Board approved the Fund administrative and capital budgets for financial year 2016 and indicative triennial budget for FY2016–18. The Fund budget resources were kept unchanged in real terms for the fourth year in a row. To accommodate new and ongoing strategic priorities of the Fund within a flat envelope, the Fund adopted selected streamlining initiatives to redirect resources towards new priority needs and achieve efficiency gains both at the departmental level and across the institution. Savings measures were identified based on risk-based approach to resource allocation and included, *inter alia*, lengthening the periodicity for Fund policies review cycles, periodic reports and operational reviews, and abolishing the Ex-Post Assessment Policy (previously required for members with longer-term engagement with the IMF). The bulk of these savings was expected to be used to help meet the new priorities highlighted in the Global Policy Agenda and in Management's Key Goals.

6. International Civil Aviation Organization[589]

(*a*) Depositary actions in relation to multilateral air law instruments

A total of 55 depositary activities by States were recorded during 2015.[590]

(*b*) Activities of ICAO in the legal field

(i) *Work programme of the Legal Committee*

The Legal Committee, chaired by Mr. T. Olson (France), held its 36th session from 30 November to 3 December 2015 and established its work programme, including the prioritization of items, as follows: (*a*) study of legal issues relating to remotely piloted aircraft; (*b*) consideration of guidance on conflicts of interest; (*c*) acts or offences of concern to the international aviation community and not covered by existing air law instruments; (*d*) consideration, with regard to communication, 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; (*e*) determination of the status of an aircraft (civil/state); (*f*) promotion of the ratification of international air law instruments; and (*g*) safety aspects of economic liberalization and article 83 *bis*.

(ii) *Study of legal issues relating to remotely piloted aircraft*

On the basis of the action of the 38th session of the Assembly in response to working paper A38-WP/262, which was presented by the Republic of Korea and reasoned that there was a need for further legal research and examination of Remotely Piloted Aircraft (RPA) liability matters in light of the increasing use of remotely piloted aircraft (RPA), and in furtherance of the decisions taken by the Council during its 200th and 203rd sessions, the Legal and External Relations Bureau (LEB) undertook a study of the issue of liability as it related to RPA. The study examined the existing international legal liability regime to determine whether there were any issues that needed to be addressed with respect to RPA, and concluded that the regime in its current state was legally adequate to accommodate RPA technology. The study was presented to the 36th session of the Legal Committee. The Committee's overall satisfaction with the work of the Secretariat notwithstanding, it concluded that the study of legal issues relating to RPA should remain on its work programme, as an international framework relative to other aspects of RPAs operations of an international nature, such as operations over the high-seas, cross-border operations, and changes in possession/control of the RPA during international flight, might warrant future consideration. The Committee also called for a questionnaire to be sent out to States, both as a means of gathering information on national legislation for comparative purposes, and

[589] For official documents and more information on the International Civil Aviation Organization, see http://www.icao.int.

[590] A chronological record of States that signed, ratified, acceded, accepted or adhered to multilateral air law instruments during 2015 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.

as a means to identify the international issues that were in play (*e.g.*, what were the problems that national legislation could not solve).

(iii) *Consideration of guidance on conflicts of interest in civil aviation*

A study on the consideration of guidance on conflicts of interest (COI) was initiated on 11 June 2014, when States were requested in a State Letter LE 4/69-14/40 to complete, by 15 August 2014, a survey on the treatment of conflicts of interest in civil aviation in their respective jurisdictions. The Secretariat reported to the 36th session of the Legal Committee that most of the 43 States that responded to the survey had in place a framework dealing with conflicts of interest which they considered to be effective. States, in their deliberations at the Committee, indicated their ongoing interest in work on the subject. The following next steps were identified by the Committee in continuing work on the item: (*a*) interested States would prepare and present to the 39th session of the Assembly a resolution that urged States to develop a legal framework and cooperate in order to share their best practices in dealing with COI, and (*b*) States that had not already done so were encouraged to respond to the COI survey that remained open. At the same time, the Secretariat would collate information from States concerning their best practices as well as the rules and guidance material available within ICAO on this subject.

(iv) *Legal issues relating to unruly passengers*

Further to the Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, 2014 (Montreal Protocol of 2014),[591] adopted by the Diplomatic Conference on 4 April 2014, pursuant to the resolution adopted by the Conference, the Task Force on Legal Aspects of Unruly Passengers was established in 2015 to update ICAO Circular 288 (Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers) to include a more detailed list of offences and other acts, as well as to make consequential changes to the Circular arising from the adoption of the Protocol. The Task Force, chaired by Ms. M. Polkowska (Poland), held its first meeting in September 2015. It established three drafting groups respectively led by Singapore, Kenya and Finland for different chapters in the new guidance material.

(v) *Promotion of international air law instruments*

The President of the Council and the Secretary-General continued to promote international air law instruments during their visits to Member States and meetings with high-level government officials. The Republic of Korea hosted a legal seminar in May 2015 to promote, *inter alia*, these instruments. The ICAO also joined the United Nations Office of Drugs and Crime, in Nigeria and Bangladesh, to promote the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 2010 (Beijing Convention),[592] the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, 2010 (Beijing Protocol),[593] and the 2014 Montreal Protocol.

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[591] International Civil Aviation Organization, document 10034.

[592] *Ibid.*, document 9960.

[593] *Ibid.*, document 9959.

(vi) *Safety aspects of economic liberalization and article 83 bis*

The article 83 *bis* Task Force (83 *bis* TF) met twice in 2015, in Dublin from 23 to 27 March and in Bermuda from 8 to 11 September. In the intervening periods the 83 *bis* TF carried on its work remotely through email. Experts from 11 Member States, as well as three international organizations, participated in one or other of the 2015 meetings. Having opined that Circular 295 should not be replaced by another circular but updated in the form of a Manual, the 83 *bis* TF assisted the Secretariat in developing a draft manual on article 83 *bis*. The salient features of the draft Manual were presented to the 36th session of the Legal Committee. Five recommendations to the Legal Committee by the 83 *bis* TF, including with respect to the establishment of an interactive web-based registration and publication system for article 83 *bis* agreements, were approved, subject to two amendments, for recommendation by the Legal Committee to the Council.

(vii) *Special Group relating to conflict zones*

The Special Group to Review the Application of ICAO Treaties Relating to Conflict Zones, chaired by Ms. K. Staples (United Kingdom), held its meeting at Montreal from 13 to 14 July 2015. The task of the Group was to review the application of the provisions relating to conflict zones in the Convention on International Civil Aviation (Chicago Convention)[594] and other ICAO treaties, with a view to strengthening the awareness and observance of those provisions. Among its conclusions, the Group recognized that at this stage, it had not identified any need to amend the Convention on International Civil Aviation, in particular articles 1, 3 *bis*, 9 and 89, or other treaties, while not excluding that such revisions might be necessary in future.

(viii) *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 functioned efficiently in accordance with article 17 of the Convention on International Interests in Mobile Equipment (Cape Town Convention).[595] As the third three-year term of appointment of the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) came to an end during July 2015, the Council, pursuant to nominations/re-nominations received from Contracting and Signatory States to the Cape Town Convention and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (Cape Town Protocol),[596] appointed/re-appointed thirteen members to the Commission. The seventh meeting of CESAIR took place in December 2015 at ICAO Headquarters. The primary purpose of the meeting was to consider changes proposed by the Registrar to the Regulations and Procedures for the International Registry,[597] and to make recommendations thereon to the

[594] United Nations, *Treaty Series*, vol. 15, p. 295.

[595] *Ibid.*, vol. 2307, p. 285.

[596] *Ibid.*, vol. 2367, p. 615.

[597] International Civil Aviation Organization, document 9864.

Council. The Council would consider CESAIR's recommendations at its 207th Session in February/March 2016. As at 31 December 2015, there were 71 ratifications and accessions to the Cape Town Convention and 63 ratifications and accessions to the Cape Town Protocol.

7. International Maritime Organization[598]

(*a*) Membership

As at 31 December 2015, the membership of the International Maritime Organization (IMO) stood at 171.

(*b*) Review of the legal activities

(i) *Unsafe mixed migration by sea*

A High-level Meeting to Address Unsafe Mixed Migration by Sea was hosted by IMO on 4–5 March 2015 to discuss concerted ways to address the high numbers of lives being lost at sea in unsafe craft, particularly in the Mediterranean Sea, on dangerous and unregulated sea passages. The aim of the meeting was to facilitate dialogue and promote enhanced cooperation and harmonization between United Nations agencies, international organizations, non-governmental organizations, Governments and the shipping industry.

Following the High-level meeting, the Legal Committee, at its 102nd session in April 2015, considered the issue of unsafe mixed migration by sea. The Committee decided to continue an intersessional discussion on the study of the current legal regime and gaps that needed to be addressed in order to remedy the drastic situation concerning migrants at sea.

In June 2015 the Maritime Safety Committee (MSC) agreed to place "Unsafe mixed migration by sea" as an agenda item on the work programme of the Committee. The Committee recognised that urgent action was needed to prevent huge losses of life at sea given the forecast increase in unsafe mixed migration by sea, and stressed the need for the international community to make greater efforts to address unsafe migration through more safe and regular migration pathways, and taking action against criminal smugglers.

The MSC forwarded to the Facilitation Committee a proposal for a revised reporting format regarding the joint databases on migrant incidents and on suspected smugglers and vessels being developed by IMO, the International Organization for Migration (IOM) and the United Nations Office on Drugs and Crime (UNODC).

(ii) *Entry into force of the Nairobi Wreck Removal Convention*

The Nairobi International Convention on the Removal of Wrecks[599] entered into force on 14 April 2015. The Convention was adopted by a five-day International Conference at the United Nations Office at Nairobi (UNON), Kenya, in 2007. As at 26 May 2016, there were 29 States parties to the convention.

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[598] For official documents and more information on the International Maritime Organization, see http://www.imo.org.

[599] Nairobi International Convention on the Removal of Wrecks, UK *Treaty Series* No. 081 (1999) Cm 4524.

The Convention placed strict liability on owners for locating, marking and removing wrecks deemed to be a hazard and made State certification of insurance, or other form of financial security for such liability, compulsory for ships of 300 gross tonnage and above. It also provided States parties with a right of direct action against insurers.

The Convention filled a gap in the existing international legal framework by providing a set of uniform international rules for the prompt and effective removal of wrecks located in a country's exclusive economic zone or equivalent 200 nautical miles zone. The Convention also contained a clause that enabled States parties to "opt in" to apply certain provisions to their territory, including the territorial sea.

The Convention provided a legal basis for States parties to remove, or have removed, wrecks that posed a danger or impediment to navigation or that might be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States. The Convention also applied to a ship that was about, or might reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger were not already being taken.

(iii) *Entry into force of increased limits of liability for maritime claims of the 1996 LLMC Protocol*

Amendments to increase the limits of liability in the 1996 Protocol to amend the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC Protocol 1996) entered into force on 8 June 2015, raising the amount claimable for loss of life or personal injury on ships (not exceeding 2,000 gross tonnage) to 3.02 million Special Drawing Rights (SDR), up from 2 million SDR, while additional amounts were claimable on larger ships.

The Convention on Limitation of Liability for Maritime Claims, 1976,[600] set specified limits of liability for certain types of claims against ship-owners, including claims for loss of life or personal injury, and other claims, such as property claims (including damage to other ships, property or harbour works), delay, bunker spills, wreck removal, pollution damage, *etc*.

The Convention also allowed for ship-owners and salvors to limit their liability except if it was proved that the loss resulted from their personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

In the aftermath of the incident with the Pacific Adventurer, which occurred in the waters of southern Queensland in March 2009, it appeared that the limits of liability, as calculated under LLMC Protocol, 1996, for a bunker fuel oil spill, fell significantly short of the cost of responding to the incident.

Taking into account the experience of historic claims, as well as the impact of inflation rates, a proposal to increase the limits in the LLMC Protocol, 1996, was submitted to IMO by 20 States parties. Subsequently, IMO's Legal Committee adopted resolution LEG.5(99)[601] containing revised limits on 19 April 2012, when it met for its 99th session.

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[600] United Nations, *Treaty Series*, vol. 1456, p. 221.

[601] Document IMO LEG 99/14 Annex 2.

As at 12 May 2016, the LLMC Protocol had 52 contracting States, which represent 58.40 per cent of the world merchant shipping tonnage.

(iv) *Proposed draft International Convention on Foreign Judicial Sale of Ships and their Recognition*

The Legal Committee, at its 102nd session in April 2015,[602] took note of a draft convention developed by the *Comité Maritime International* (CMI), the purpose of which was to ensure international uniformity in relation to judicial ship sale procedures and to reinforce the principle that the purchaser of a ship in a judicial sale by a competent court should receive clean title to the ship, free of any pre-existing mortgages, liens or other encumbrances.

It was proposed that this would make the judicial sale of ships less disruptive to shipping and that the certainty brought by the draft convention would reduce the purchaser's risks, thereby ensuring a more realistic sale price. The Committee considered that this item might be included in its work programme, subject to it being co-sponsored by one or more Member States and agreed by the Committee. The CMI and interested States were invited to make submissions to its next session and the Secretariat was requested to liaise with other relevant United Nations agencies.

(v) *Promotion of the 2010 HNS Convention*

At the same session, the Legal Committee also encouraged Member States to ratify and bring into force, as soon as possible, the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Convention).[603] The HNS Correspondence Group was formally re-established, with a mandate to continue its work as a forum for exchange of information and to provide guidance and assistance on issues regarding the implementation and operation of the Convention.

(vi) *Transboundary pollution damage*

The Intersessional Consultative Group (ICG), established by the Legal Committee in 2014, continued developing guidance for bilateral and regional agreements on liability and compensation issues connected with transboundary pollution damage resulting from offshore exploration and exploitation activities. Member States were invited to send examples of existing bilateral and regional agreements to the Secretariat.

(vii) *Ballast water management status and technologies*

The Marine Environment Protection Committee (MEPC), at its sixty-eighth session in May 2015, reviewed the status of the International Convention for the Control and

[602] For the report of the 102nd session of the Legal Committee, see document LEG 102/12.

[603] For more information and the text of the HNS Convention, 2010, see http://www.hnsconvention.org.

Management of Ships' Ballast Water and Sediments, 2004,[604] (BWM Convention) which was close to receiving sufficient ratifications to meet the remaining entry into force criterion (tonnage). The number of contracting governments was 50, representing 34.81% of the world's merchant fleet tonnage. The BWM Convention would enter into force 12 months after the date on which not fewer than 30 States, the combined merchant fleets of which constituted not less than 35% of the world's gross tonnage, had ratified it.

The MEPC followed up on the resolution on measures to be taken to facilitate entry into force of the BWM Convention, adopted at the previous session, also including the agreed review of the Guidelines for approval of ballast water management systems (G8) (a Correspondence Group was re-established to continue working on the review).

A "Roadmap for the implementation of the BWM Convention" was agreed, which emphasises that early movers, *i.e.* ships which install ballast water management systems approved in accordance with the current Guidelines (G8), should not be penalized.

The MEPC also developed draft amendments to regulation B-3 of the BWM Convention to reflect Assembly resolution A.1088(28) on application of the Convention, with a view to approval at its next session (scheduled for April 2016) and consideration for adoption once the treaty entered into force. The draft amendments would provide an appropriate timeline for ships to comply with the ballast water performance standard set out in regulation D-2 of the Convention.

Further ballast water management systems that make use of active substances were granted Basic Approval (five systems) and Final Approval (one system), following consideration of the reports of the 30th and 31st meetings of the Joint Group of Experts on the Scientific Aspects of Marine Environment Protection (GESAMP) Ballast Water Working Group. In this regard, the Committee also noted that it had to date been officially notified of a total of 57 ballast water management systems that had received type approval from the respective Administrations.

(viii) *Goal-based standards*

The Maritime Safety Committee (MSC), at its ninety-fifth session in June 2015, approved a work plan for continued work on goal-based standards safety level approach (GBS-SLA), over the next three sessions. Progress was also made during the session on developing the draft interim guidelines for the application of the goal based standards safety-level approach.

The MSC approved the MSC.1/Circ.1394/Rev.1 on the generic guidelines for developing IMO goal-based standards. The revised generic guidelines specify structure and contents of functional requirements to be used in goal-based standards as well as examples thereof in the appendix. The guidelines also describe the process for the development, verification, and implementation and monitoring of goal-based standards (GBS) to support regulatory development within IMO. GBS are defined as high-level standards and procedures that are to be met through regulations, rules and standards for ships. GBS are comprised of at least one goal, functional requirement(s) associated with that goal, and verification of conformity that rules/regulations meet the functional requirements including goals.

[604] IMO document BWM/CONF/36.

(*c*) Adoption of amendments to conventions and protocols

(i) *Mandatory Polar Code*

The MEPC, at its sixty-eighth session in May 2015, adopted the environment-related provisions of the Polar Code[605] and related amendments to the International Convention for the Prevention of Pollution from Ships, 1973/78 (MARPOL)[606] to make the Code mandatory. The MSC, at its ninety-fourth session in November 2014, had already adopted the safety related provisions of the International Code for Ships Operating in Polar Waters (Polar Code)[607], and related amendments to the International Convention for the Safety of Life at Seam 1974 (SOLAS)[608] to make it mandatory.

The adoption of the Polar Code marked a historic milestone in IMO'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 Code, which was expected to be mandatory from 1 January 2017, covered the full range of design, construction, equipment, operational, training, and search and rescue requirements and also the prevention of pollution by oil, noxious liquid substances, sewage and garbage from ships.

(ii) *IGC Code revised*

The MSC, at its ninety-third session in May 2014, adopted the revised International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (the IGC Code).[609] The completely revised and updated Code had been developed following a comprehensive five-year review and was intended to take into account the latest advances in science and technology. It would enter into force on 1 January 2016, with an implementation/application date of 1 July 2016. The Code was adopted in 1983 and had been amended since; however, the new draft represented the first major revision of the IGC Code.

(iii) *IGF Code adopted*

The MSC, at its ninety-fifth session in June 2015, adopted the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels (IGF Code), along with amendments to make the Code mandatory under the International Convention for the Safety of Life at Sea (SOLAS), which was expected to enter into force on 1 January 2017.

As a fuel with lower sulphur and particulate emissions than fuel oil and marine diesel oil, the use of gas as fuel, particularly liquefied natural gas (LNG), had increased in recent years. However, gas and other low-flashpoint fuels posed their own set of safety challenges, which needed to be adequately managed. The IGF Code aimed to minimize the risk to the ship, its crew and the environment, having regard to the nature of the fuels involved. It also

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[605] Resolution MEPC.264(68).

[606] United Nations, *Treaty Series*, vol. 1340, p. 184. For the amendments, see resolution MEPC.265(68).

[607] Resolution MSC.385(94).

[608] United Nations, *Treaty Series*, vol. 1194, p. 277 and vol. 1185, p. 586. For the amendments, see resolution MSC.386(94).

[609] Resolution MSC.370(93).

provided mandatory provisions for the arrangement, installation, control and monitoring of machinery, equipment and systems using low-flashpoint fuels, focusing initially on LNG.

The MSC also adopted related amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), and STCW Code, to include new mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ships subject to the IGF Code. The amendments also had an entry into force date of 1 January 2017, in line with the SOLAS amendments related to the IGF Code.

(iv) *IMSBC Code amendments adopted*

Amendments to the International Maritime Solid Bulk Cargoes (IMSBC) Code, 2008,[610] were adopted by the MSC, at its ninety-fifth session in June 2015.[611] The amendments included those intended to improve the requirements relating to the provisions for concentrates or other cargoes which might liquefy; amendments to provisions for specially constructed cargo ships for confining cargo shift; and the addition of new individual schedules such as iron ore fines.

8. Universal Postal Union[612]

On 13 August 2015 the Universal Postal Union (UPU) concluded a Memorandum of Understanding with the ICAO, in which the two specialized agencies agreed to work jointly in a coordinated fashion on issues of common interest according to their respective missions.

On 17 September 2015 the UPU signed a Cooperation Agreement with the International Organization for Migration and *La Régie Nationale de Postes* for the implementation of a joint integrated Burundi migration and development project related to financial and postal services.

On 15 October 2015 the UPU concluded an agreement with the Secretariat of the United Nations Framework Convention on Climate Change and its Kyoto Protocol on the offsetting of greenhouse gas emissions associated with the operations and travel of the Universal Postal Union in the calendar year of 2014, particularly in order to achieve climate neutrality through the purchase of Certified Emission Reduction Credits from the International Bank for Reconstruction and Development as Trustee of these.

On 12 November 2015 the UPU signed an agreement with the Government of the Republic of Turkey regarding arrangements for the twenty-Sixth Universal Postal Congress which will be held from 19 September 2016 to 7 October 2016 in Istanbul, Turkey.

On 18 November 2015 the UPU signed a Memorandum of Understanding with the World Meteorological Organization in order to provide a framework for cooperation and

[610] Resolution MSC.268(85) of 4 December 2008.

[611] Resolution MSC.393(95) of 11 June 2015.

[612] For official documents and more information on the Universal Postal Union, see http://www.upu.int.

understanding and to facilitate the collaboration between the two specialized agencies to further their shared goals and objectives.

On 10 December 2015 the UPU signed a Cooperation Agreement with the United Nations Conference on Trade and Development in order to establish and facilitate the exchange of electronic customs information between designated postal operators and customs administrations, particularly through the development of a standardized information technology interface.

9. World Meteorological Organization[613]

(*a*) Membership

In 2015, the membership of the World Meteorological Organization (WMO) remained unchanged at 185 member States and 6 territories.

(*b*) Agreements and other arrangements concluded in 2015

(i) *Agreements with States*

a. Brazil

The Technical Cooperation Project between WMO and the Brazilian Government regarding the project of the Consolidation of Modelling and Numerical Weather Prediction in the National Institute of Meteorology (INMET) was signed on 21 December 2015.

b. Swiss Agency for Development and Cooperation (SDC)

On 21 December 2015, WMO and SDC signed the Agreement concerning cooperation in CLIMANDES Phase 2.

(ii) *Agreements with the United Nations, specialized agencies and related organizations*

a. International Organization for Migration (IOM)

On 14 January 2015, WMO and IOM signed a Memorandum of Understanding concerning cooperation in the fields of institutional, scientific and technical collaboration on Climate Information related to their mandates.

b. International Bank for Reconstruction and Development (IBRD)/International Development Association (IDA)

On 1 June 2015, WMO, IBRD and IDA signed a Memorandum of Understanding concerning Collaboration Framework to strengthen Climate and Disaster Resilience by

[613] For official documents and more information on the World Meteorological Organization, see https://public.wmo.int/en.

Enhancing Regional Meteorological and Hydrological Centres and National Meteorological and Hydrological Services in Sub-Saharan Africa.

c. Universal Postal Union (UPU)

On 18 November 2015, WMO and UPU signed a Memorandum of Understanding concerning the development of international collaboration in matters of mutual interest.

(iii) *Agreements with other intergovernmental organizations*

a. State Meteorological Agency of Spain (AEMET)

On 17 June 2015, WMO and AEMET signed Annexes I, II, III to the Memorandum of Understanding between concerning cooperation on matters of mutual interest.

b. International Hydrographic Organization (IHO)

On 7 October 2015, WMO and IHO signed a Memorandum of Understanding the concerning cooperation in matters of mutual interest.

(iv) *Agreements with non-governmental organizations*

a. International Space Environment Service (ISES)

On 19 June 2015, WMO and ISES signed a Working Arrangement concerning cooperation in matters of mutual interest.

b. Norwegian Refugee Council (NRC)

On 19 June 2015, WMO and NRC signed a Memorandum of understanding concerning cooperation in the area of Loan of Standby Personnel in support of the strengthening of climate services.

10. The World Intellectual Property Organization[614]

The mission of the World Intellectual Property Organization (WIPO) is to lead the development of a balanced and effective international intellectual property (IP) system that enables innovation and creativity for the benefit of all. In 2015, WIPO focused its efforts on four areas of operation: service, law, development, and reference.

(*a*) Service

WIPO's two basic services are protecting IP, and resolving disputes.

[614] For official documents and more information on the World Intellectual Property Organization, see http://www.wipo.int/.

(i) *Protecting IP*

In 2015, WIPO administered 26 treaties, including the Patent Cooperation Treaty, 1970 (PCT) (protecting patents),[615] the Madrid Agreement, 1967 (protecting trademarks),[616] the Hague Agreement, 1925 (protecting industrial designs),[617] and the Lisbon Agreement, 1979 (protecting appellations of origin).[618] In terms of legal activity, there were a combined 37 instances of ratifications, accessions and entries into force by 23 member States across nine treaties in 2015.[619] There was also one treaty termination by one member State.

Two of the treaties, which are not yet in force, *i.e.* the Beijing Treaty on Audiovisual Performances, 2012,[620] and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, 2013,[621] grew closer to entry into force with new ratifications or accessions in 2015. Four member States ratified or acceded to the Beijing Treaty, 2012, in 2015, bringing the total number of deposited instruments to 10 out of the required 30 for entry into force. Eight member States ratified or acceded to the Marrakesh Treaty, 2013, bringing the total number of deposited instruments to 13 out of the required 20 for entry into force.

(ii) *Resolving disputes*

WIPO provides an IP dispute resolution service through its non-profit WIPO Arbitration and Mediation Centre ("the Centre"). As the leading international service-provider for the resolution of internet domain name disputes, the Centre settled in excess of 2700 domain name disputes under the Uniform Domain Name Dispute Resolution Policy (UDRP) in 2015. By the end of 2015, some 400 cases related to patents, trademarks, software, research and development (R&D), and franchising, with values ranging from USD 20,000 to several hundred million USD, had been administered by the Centre.

The reach of the Centre's services also increased internationally in 2015 through partnerships with various IP offices and agencies around the world. As a result, the Centre had become available as a mediation option through the following offices and agencies: The Intellectual Property Office of the Philippines (IPOPHL); the Korea Copyright Commission (KCC); the Korea Creative Content Agency (KOCCA). The Centre had also entered into formal collaborations to promote the use of mediation with the following organizations: the International Trademark Association (INTA); the Korea Technology Finance Corporation (KOTEC); the Swiss Franchising Association (SFA); and the Arbeitsgemeinschaft Dokumentarfilm (AGDOK).

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[615] United Nations, *Treaty Series*, vol. 1160, p. 231.

[616] *Ibid.*, vol. 828, p. 389.

[617] WIPO Lex No.: TRT/HAGUE/001.

[618] United Nations, *Treaty Series*, vol. 923, p. 189.

[619] See Table 1 in the Appendix for treaty- and country-specific information.

[620] WIPO Lex No. TRT/BEIJING/001.

[621] *Ibid.*, No. TRT/MARRAKESH/001.

(*b*) Law

WIPO provides a global policy forum, where governments, intergovernmental organizations, industry groups and civil society come together to address evolving IP issues. WIPO member States and observers meet regularly in the various WIPO Committees and decision-making bodies, where they negotiate treaty amendments and propose new rules to ensure that the international IP system keeps pace with the changing world, and continues to serve its fundamental purpose of encouraging innovation and creativity.

(i) *Substantive legal developments in WIPO-administered treaties*

a. Patent Cooperation Treaty (PCT): The international patent system

On 1 July 2015, the amendments to the Regulations under the PCT, as adopted by the Assembly of the International Patent Cooperation Union (PCT Union) at its forty-sixth (27th extraordinary) session, held in Geneva from September 22 to 30, 2014,[622] entered into force.

Key changes included amendments to rule 49 *ter* 2, to provide for a one-month time limit for the restoration of right of priority; amendments to rule 76 to also include a reference to article 23(2) and its cross-reference, article 40(2); and amendments to the Schedule of Fees.

b. The Madrid System: The international trademark system

On 1 January 2015, the amendments to Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (the Common Regulations) adopted by the Assembly of the Madrid Union at its forty-eighth (28th extraordinary) session, held in Geneva from September 22 to 30, 2014,[623] entered into force.

Key changes include a new rule 5 *bis* and amendments to rules 20 *bis* (3) and 27(1) to provide for continued processing past certain deadlines; amendments to rule 30 concerning renewal of international registrations; and amendments to rule 31 concerning notification for failure to renew a registration.

c. The Hague System: The international design system

On 1 January 2015, the amendments to The Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement adopted by the Assembly of the Hague Union at its thirty-fourth (15th extraordinary) session, held in Geneva from September 22 to 30, 2014,[624] entered into force.

Key changes include amendments to rule 18 and 18 *bis* relating to indications of effective date of protection, affirmative communication for granted applications, and partial grant of protection; and amendments to the Schedule of Fees to authorize collection of fees for future services.

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[622] PCT Notification No. 206.

[623] WIPO information notice No. 23/2014.

[624] WIPO information notice No. 5/2014.

d. The Lisbon System: protection of appellations of origin and their international registration

On 20 May 2015, the Diplomatic Conference adopted the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications.[625]

Key provisions of the new Geneva Act include for the first time, protections for Geographical Indications (the Lisbon Agreement, amended in 1979, only protected Appellations of Origin); a new international register for Geographical Indications; and safeguards in respect of prior registered trademarks or trademarks acquired through use.

(ii) *WIPO Arbitration and Mediation Centre*

The updated Uniform Domain-Name Dispute-Resolution Policy (UDRP) Rules and WIPO Supplemental Rules took effect in July 2015. These updates impacted complaint filing modalities, model pleadings, registrar "locking" of domain names during pending UDRP proceedings, and party settlement practices, automatic response extension and new model pleadings.[626]

A new WIPO Fast-Track Intellectual Property Dispute Resolution Procedure for Palexpo Trade Fairs, was drafted in 2015 and used for the first time at the 2015 Geneva International Motor Show. This Palexpo Fast-Track Procedure aimed to protect exhibitors' and non-exhibitors' IP rights in a cost- and time-efficient manner against infringement of copyright, trademarks, design rights or breach of law on unfair competition under Swiss law at Palexpo trade fairs held in Geneva.[627]

In 2015, the Centre also published a (non-legally binding) Guide on Alternative Dispute Resolution Options for Intellectual Property Offices and Courts.[628]

(iii) *Permanent and Standing Committees*[629]

Standing Committee on the Law of Patents (SCP)

In 2015, the SCP completed the following studies: Report on the International Patent System: Certain Aspects of National/Regional Patent Laws[630]; Study on Inventive Step[631];

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[625] WIPO document LI/DC/19.

[626] For more information, see http://www.wipo.int/amc/en/domains/resources/updated_udrp_rules.html.

[627] WIPO document WO/GA/47/14.

[628] The text of the Guide is available at available at http://www.wipo.int/export/sites/www/amc/en/docs/adrguidejuly2015.pdf.

[629] The Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) did not meet in 2015, and therefore is not featured in this year's report.

[630] WIPO document SCP/22/2 REV.

[631] WIPO document SCP/22/3.

Study on the Sufficiency of Disclosure[632]; and Member States' Experiences and Case Studies on the Effectiveness of Exceptions and Limitations.[633]

At the twenty-second session (27 to 31 July 2015), the Group of Latin American and Caribbean Countries (GRULAC) submitted a proposal[634] to engage in discussions on the revision of the 1979 WIPO Model Law for Developing Countries on Inventions. The proposal was discussed at the twenty-second and twenty-third sessions, and remained open for further discussion.[635]

At the twenty-third session (30 November to 4 December 2015), the delegation of the United States submitted a proposal to conduct a study on worksharing between international patent offices. Leveraging the work carried out in other offices might result in more efficient searches and examinations, and higher quality patents.[636] The proposal was discussed at the twenty-third session, and remained open for further discussion.

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)

At the thirty-third session (March 16 to 20, 2015), the SCT revised the draft articles[637] and Regulations[638] of the proposed Design Law Treaty. At the thirty-fourth session (16 to 18 November 2015), the delegation of Nigeria presented a new proposal for article 3(1)(*a*)(ix) of the draft articles of the Design Law Treaty, and the Chair presented text for a new article 1 *bis* on General Principles. Both proposals would be considered at the thirty-fifth session of the SCT.

The SCT also adopted a Revised Draft Reference Document on the Protection of Country Names Against Registration and Use as Trademarks.[639] The SCT also issued a further Update on Trademark-Related Aspects of the Domain Name System.[640]

With regard to Geographical Indications, the delegation of the United States proposed discussions on several documents and draft treaties, including the Draft Treaty on the Protection of Geographical Indications.[641] Similarly, the delegation of France proposed discussions on the protection of Geographical Indications in National Systems and on the Internet.

[632] WIPO document SCP/22/4.
[633] WIPO document SCP/22/323/3.
[634] WIPO document SCP/22/5.
[635] WIPO document SCP/23/5, paragraph 19.
[636] WIPO document SCP/23/4/.
[637] WIPO document SCP/33/2.
[638] WIPO document SCP/33/3.
[639] WIPO document SCP/34/2.
[640] WIPO document SCP/34/3.
[641] WIPO document SCP/34/5.

Standing Committee on the Law of Copyright and Related Rights (SCCR)

No agreement on the recommendations to the WIPO General Assembly for the protection of broadcasting organizations[642] was reached at either the 30th (20 June to 3 July 2015) or 31st sessions (7 to 11 December 2015) of the SCCR. With the exception of one delegation, the Committee was of the view that effective legal international protection be granted to broadcasting organizations to prohibit the unauthorized use of broadcast signals in the course of a transmission over any technological platform.[643]

No agreement on the recommendations to the WIPO General Assembly for the limitations and exceptions for libraries and archives[644] was reached at the 30th or 31st session. For the 30th session of the SCCR, the Study on Copyright Limitations and Exceptions for Libraries and Archives was updated and revised, and was extended to cover all 188 WIPO member States. At the 31st session, the Study on Copyright Limitations and Exceptions for Museums was presented.

No agreement on the recommendations to the WIPO General Assembly for the limitations and exceptions for educational, teaching and research institutions and persons with other disabilities[645] was reached at the 30th or 31st session.

(*c*) Development

As a United Nations agency, WIPO is committed to working with developing and least-developed countries to enable them to reap benefits from the IP system and to enhance their participation in the global innovation economy. Two development agenda projects were reported as completed, and four as in-progress, at the fifteenth and sixteenth session of the Committee on Development and Intellectual Property (CDIP) held in Geneva from 20 to 24 April 2015 and from 9 to 13 November 2015, respectively. [646]

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[642] In 2007, the WIPO General Assembly mandated SCCR to develop an international treaty to update the protection of broadcasting and cablecasting organizations. The 2012 General Assembly set a 2014 target date for the production of a text that would enable a decision on whether to convene a diplomatic conference.

[643] WIPO, summary by the Chair of the thirtieth session of the Standing Committee on Copyright and Related Rights, 3 July 2015.

[644] At its Forty-First Session, held in 2012, the WIPO General Assembly approved the SCCR's work on limitations and exceptions for libraries and with the target to submit recommendations to the General Assembly by the 30th (29 June to 3 July 2015) session of the SCCR, GA/47/5.

[645] At its Forty-First Session, held in 2012, the WIPO General Assembly approved the SCCR's work on limitations and exceptions for educational, teaching and research institutions and persons with other disabilities, with the target to submit recommendations to the General Assembly by the 30th (29 June to 3 July 2015) session of the SCCR, GA/47/5.

[646] WIPO documents CDIP/15/2 and CDIP/16/2, respectively.

(i) *Completed development agenda projects*

a. Project on Intellectual Property and Technology Transfer: Common Challenges—Building Solutions

The WIPO Expert Forum on International Technology Transfer was held in Geneva from 16 to 18 February 2015, and featured presentations and discussions by experts on technology transfer in developed and developing countries. A draft version of the Web Forum on "IP and Technology Transfer: Common Challenges—Building Solutions" had been completed and was expected to be operational in 2016.

b. Extension of the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and Least-Developed Countries

The extended project created a user-friendly, dedicated South-South webpage on the WIPO website,[647] and provided a one stop facility for information about South-South IP cooperation activities. New functionalities were added in 2015 to the IP Technical Assistance Database (IP-TAD),[648] the IP Development Matchmaking Database (IP-DMD)[649] and the WIPO Roster of Consultants (ROC).[650] Also, a triangular cooperation initiative between WIPO, the African Regional Intellectual Property Organization (ARIPO), and the Korean Government was launched in 2015 to enhance the sharing and accessing of patent information through an online patent information sharing platform.

(ii) *Continuing Development Agenda Projects*

a. Strengthening and development of the audiovisual sector in Burkina Faso and certain African countries

WIPO participated in a Burkina Faso training programme on "Contracts and Production, Distribution in the Digital Era."[651] WIPO also organized training seminars for film professionals in Kenya and Senegal, and provided legal analysis and drafting amendments for the draft statutes and internal regulations of Senegal's new multidisciplinary collective management organization concerning private copying and audiovisual rights. Two practical workshops for lawyers on copyright and contracts in the audio-visual sector were held in Kenya in March 2015 and June 2015.[652] Finally, a distance learning kit/programme, developed in cooperation with the WIPO Academy, was released in December 2015.[653]

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[647] Available at http://www.wipo.int/cooperation/en/south_south/.

[648] IP-TAD was updated to highlight technical assistance activities where both beneficiary and host countries were a developing or least developed country.

[649] IP-DMD was updated to enable searches by country group.

[650] Roster was updated to highlight existing resource persons from developing countries and LDCs to foster an increase in the use of these resource persons.

[651] The training programme was part of the official programme of the 24th edition of the Pan African Film and Television Festival (FESPACO), held on March 2015; see WIPO document CDIP/16/2, Annex I, page 3.

[652] *Ibid.*

[653] *Ibid.*, annex I, page 4.

b. Pilot project on IP and design management for business development in developing and least-developed Countries

The project aimed to help participating member States increase their innovation success by fostering a design culture. Argentina and Morocco were selected for initial participation, and capacity building workshops were held in those countries in 2015. Additionally, a Constitutive Act was signed in the presence of the Argentinian Minister of Industry in Buenos Aires, while in Morocco, the process for the signing of the Charter of the "Namadij Network" began. Further, a set of training, guidelines and tools had been developed and improved. A manual of good practices was being prepared for 2016.

c. Capacity-Building in the use of appropriate technology specific technical and scientific information as a solution for identified development challenges—phase II

Memoranda of Understanding (MoUs) were signed between four beneficiary countries (Ethiopia, Rwanda, Tanzania and Uganda) and WIPO in 2015.[654] The signing of the MoUs defined a framework of cooperation geared towards the implementation of the CDIP project in such a way as to ensure successful execution and better coordination and the clarification of the responsibilities and obligations of both the beneficiary countries and WIPO.

d. IP and socio-economic development—phase II

The WIPO Secretariat launched new studies in Colombia and Poland. The Colombia study entailed the creation of a unit-record IP database for economic analysis, analysis of IP use in Colombia, and an empirical evaluation of recent IP policy initiatives. The Poland study explored the role of the IP system on innovation in the health sector.

(*d*) Reference

WIPO is the world's most comprehensive source of data on the IP system, as well as of empirical studies, reports and factual information on IP.

(i) *Global Dissemination of IP Data Initiative*

In May 2015, WIPO launched a new Global Dissemination of IP Data Initiative to encourage and support the exchange of IP data among national/regional IP offices and WIPO.[655] The data was made available to the public through national IP databases and through WIPO's global IP databases (PATENTSCOPE, Global Brand Database, Global Design Database, *etc.*). In addition, as of February 2016, a new high-tech facility for bulk data exchange would enhance IP data sharing among IP offices.

[654] WIPO document CDIP/16/2, Annex III, pp. 4–5.

[655] For more information, see http://www.wipo.int/global_ip/en/ip_data_initiative/index.html.

(ii) *Global Design Database*

The Global Design Database was launched in January 2015 offering innovators the ability to search industrial designs registered in countries around the world.[656] The new Global Design Database contained over 1.5 million searchable industrial design documents from seventy-four countries, was free of charge, and publicly available on the WIPO website.

11. International Fund for Agricultural Development[657]

(*a*) Membership

At its 38th session (16–17 February 2015), the Governing Council of the International Fund for Agricultural Development (IFAD) approved the non-original membership in the Fund of the Federated States of Micronesia, the Republic of Palau and Montenegro.[658]

(*b*) Tenth replenishment of IFAD's resources

On 16 February 2015, the Governing Council by resolution 186/XXXVIII, taking into account the conclusions and recommendations contained in the report of the Consultation on the tenth replenishment of IFAD's resources (2016–2018)[659] regarding the need and desirability of additional resources for the operations of the Fund, invited members to make additional contributions to the resources of the Fund. The target level for additional contributions was set at the amount of US$1.44 billion in order to support a target programme of loans and grants of at least US$3 billion. Paragraph I(*e*) of resolution 186/XXXVIII specified that the structural gap between total pledges and the target level should not exceed 15 per cent. Given that pledges received as at 16 August 2015 amounted to US dollar 1,149,778,066, corresponding to 79.8 per cent of the US dollar 1.44 billion target, in accordance with resolution 186/XXXVIII, the target level was adjusted to US dollar 1,352,680,077 so that the total amount of the pledges received as of that date (*i.e.* 16 August 2015) would represent 85 per cent of the adjusted target.[660] IFAD 10 attained effectiveness on 2 December 2015, when an equivalent of 50.79 per cent of total pledges had been received.[661]

(*c*) Establishment of an *Ad hoc* Working Group on governance issues

In its report to the Governing Council, the Consultation on the tenth replenishment of IFAD's resources also recommended the establishment of an Ad hoc Working Group on governance issues to: (*a*) review and assess the governance-related recommendations

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[656] For more information, see http://www.wipo.int/reference/en/designdb/news/2015/news_0001.html.

[657] For official documents and more information on the International Fund for Agricultural Development, see http://www.ifad.org.

[658] General Council resolutions 183/XXXVIII, 184/XXXVIII and 185/XXXVIII.

[659] GC 38/L.4/Rev.1.

[660] EB 2015/115/18/Rev.1.

[661] Minutes of the 116th session of the Executive Board (see EB 2015/116).

arising from the corporate level evaluation on IFAD replenishments (CLER),[662] particularly with regard to the structure, appropriateness and relevance of the IFAD List system; (*b*) review and assess the implications and potential impact on all IFAD governing bodies with regard to any changes to the list system as well as member State representation; (*c*) review and assess the composition and representation of the replenishment consultation and the length of replenishment cycles in IFAD11 and beyond; and (*d*) make proposals on the above for consideration by the Executive Board for submission to the Governing Council, as appropriate.

The Working Group was established and was tasked to submit a report on the results of its deliberations and any recommendations thereon to the Executive Board in December 2016 for submission to the fortieth session of the Governing Council in February 2017 for endorsement.[663]

(*d*) Policy for grant financing

In order to address perceived shortcomings in the 2009 IFAD policy for grant financing and weakness in its implementation, IFAD management undertook an internal review from December 2013 to April 2014. The review concluded that a new grant policy and revised procedures were necessary. In addition, the corporate-level evaluation on the IFAD policy for grant financing,[664] conducted by the Independent Office of Evaluation of IFAD (IOE) in 2014, revealed significant gaps between the potential and achievements of the grant policy. Accordingly, a new policy for grant financing was prepared and approved by the Executive Board at its 114th session (22–23 April 2015).[665] New procedures for IFAD grants had also been formulated to ensure that the new policy was effectively and immediately implemented.[666]

(*e*) Sovereign borrowing framework

At its 114th session, the Board considered and approved the Sovereign Borrowing Framework.[667] The Framework sets out the parameters within which IFAD may borrow from sovereign States and State-supported institutions.

(*f*) Supplementary fund contribution from the Bill & Melinda Gates Foundation

At its 114th session, the Board considered and approved to accept a supplementary fund contribution from the Bill & Melinda Gates Foundation in support of a project for the Goat Enterprise and Market Development Initiative in India as outlined in document EB 2015/114/R.23.

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[662] EB 2014/111/R.3/Rev.1.

[663] Annex IV of document GC 38/L.4/Rev.1.

[664] EB 2014/113/R.7.

[665] EB 2015/114/R.2/Rev.1.

[666] EB 2015/114/INF.5.

[667] EB 2015/114/R.17/Rev.1.

(*g*) Republic of Zimbabwe: proposal for debt rescheduling and arrears settlement

At its 116th session (16–17 December 2015), the Board considered and approved a proposal for rescheduling the debt of the Republic of Zimbabwe, as contained in document EB 2015/116/R.26. This was the first fundamental step in enabling IFAD to recover a significant amount of unpaid loan repayment funds, as well as allowing IFAD to identify opportunities to re-engage in lending programmes with the country.

(*h*) Partnership agreements and memoranda of understanding

(i) *Memorandum of understanding between the International Fund for Agricultural Development and the European Investment Bank*

With a view to facilitating collaboration between the European Investment Bank and IFAD, the Executive Board, at its 115th session (15–16 September 2015), authorized the President to negotiate and finalize a memorandum of understanding establishing a partnership with the European Investment Bank, in accordance with the provisions presented in the annex to the document EB 2015/115/R.26. The cooperation agreement was signed on 16 April 2016.

(ii) *Memorandum of understanding between the International Organization of Supreme Audit Institutions (INTOSAI) and the donor community*

At its 115th session, the Executive Board approved IFAD's accession to the memorandum of understanding between the International Organization of Supreme Audit Institutions (INTOSAI) and the Donor Community, and authorized the President to finalize this accession for an initial period of five years. The accession letter to the memorandum of understanding was signed on 7 October 2015 and was submitted to the Board for information at its subsequent session.[668]

The memorandum of understanding, originally signed in Brussels on 20 October 2009, focused on augmenting and strengthening support to supreme audit institutions (SAIs) to enhance governance and accountability, thereby contributing to economic growth and poverty reduction.

(iii) *Cooperation agreement between the International Fund for Agricultural Development and the Andean Development Corporation*

At its 115th session, the Executive Board authorized the President to negotiate and finalize a framework cooperation agreement between IFAD and the Andean Development Corporation, substantially in accordance with the provisions presented in annex I to document EB 2015/115/R.28. The cooperation agreement, aimed at expanding co-financing

[668] EB 2015/116/INF.7.

between the two institutions, was signed on 28 September 2015 and was submitted to the Board for information at its 116th session.[669]

12. United Nations Industrial Development Organization[670]

(*a*) Constitutional matters

The General Conference decided to include the Marshall Islands in List A of Annex I to the Constitution, at its 4th plenary meeting on 1 December 2015.[671]

On 17 and 30 December 2015, the Governments of Denmark and Greece deposited with the Secretary-General of the United Nations instruments of denunciation of the above Constitution. In accordance with article 6(2) of the Constitution, the denunciations would take effect on the last day of the fiscal year following that during which such instruments were deposited, *i.e.* on 31 December 2016.

(*b*) Agreements and other arrangements concluded in 2015

Information on agreements and other arrangements concluded in 2015 is available in Appendix F to UNIDO's 2015 Annual Report.[672]

13. Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization[673]

(*a*) Membership

The Preparatory Commission for the CTBTO is composed of States Signatories to the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT). By the end of 2015, the CTBT had 183 States Signatories.

During 2015, Angola deposited its instrument 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 the United States of America.

(*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 hosting one or more of the 337 monitoring facilities comprising the International

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[669] EB 2015/116/INF.6.

[670] For official documents and more information on the United Nations Industrial Development Organization, see http://www.unido.org.

[671] GC.16/Dec.6: Inclusion of Marshall Islands in the Lists of States of Annex I to the Constitution.

[672] Available at http://www.unido.org/annualreport/2015.html.

[673] For official documents and more information on the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, see http://www.ctbto.org.

Monitoring System (IMS) foreseen to be established under the CTBT. In 2015, two facility agreements were concluded with Ecuador and Turkmenistan. As of 2015, a total of forty-eight facility agreements had been concluded out of which 39 had 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,[674] fourteen such agreements had been concluded, with Australia, France, Greece, Indonesia, Japan, Malaysia, Myanmar, Philippines, Republic of Korea, Russian Federation, Thailand, Turkey and two with the United States of America, based on the model approved by the Commission.

To provide for the necessary privileges and immunities and arrangements for the conduct of workshops or training courses outside of Austria, nine Exchanges of Letters were concluded with host States.

(*c*) Legislative Assistance Activities

Pursuant to paragraph 18 of the Annex to the 1996 Resolution Establishing the Preparatory Commission, the Provisional Technical Secretariat of the Preparatory Commission continued to provide advice and assistance upon request to States in three areas: (*a*) legal and technical information about the CTBT in order to facilitate signature or ratification of the Treaty; (*b*) legal and administrative measures necessary for the implementation of the Treaty; and (*c*) 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.

The Secretariat continued to provide comments and assistance in 2015 on legal assistance requests from States parties or from within the Secretariat. It also maintained a Legislation Database on its website to facilitate the exchange of information on national implementing legislation as well as other documentary assistance tools, including the Legislation Questionnaire.

14. International Atomic Energy Agency[675]

(*a*) Membership

In 2015, Djibouti, Guyana, Vanuatu, Antigua and Barbuda and Barbados became member States of the International Atomic Energy Agency (IAEA). By the end of the year, there were 167 member States.

[674] *United Nations Juridical Yearbook* 2006, p. 256.

[675] For official documents and more information on the International Atomic Energy Agency, see http://www.iaea.org.

(*b*) Multilateral treaties under IAEA auspices

(i) *Convention on the Physical Protection of Nuclear Material*[676]

In 2015, Kyrgyzstan and San Marino became parties to the Convention. By the end of the year, there were 153 parties.

(ii) *Amendment to the Convention on the Physical Protection of Nuclear Material*[677]

In 2015, Botswana, Iceland, Italy, Morocco, San Marino, Turkey, the United States of America and Euratom adhered to the Amendment. By the end of the year, there were 90 contracting States and one contracting organization.

(iii) *Convention on Early Notification of a Nuclear Accident*[678]

In 2015, the status of the Convention remained unchanged with 119 parties.

(iv) *Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency*[679]

In 2015, the status of the Convention remained unchanged with 112 parties.

(v) *Convention on Nuclear Safety*[680]

In 2015, Montenegro became party to the Convention. By the end of the year, there were 78 parties.

(vi) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*[681]

In 2015, Botswana became party to the Joint Convention. By the end of the year, there were 70 parties.

(vii) *Vienna Convention on Civil Liability for Nuclear Damage*[682]

In 2015, the status of the Convention remained unchanged with 40 parties.

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[676] United Nations, *Treaty Series*, vol. 1456, p. 101.

[677] *IAEA International Law Series*, No. 2, 2006.

[678] United Nations, *Treaty Series*, vol. 1439, p. 275.

[679] *Ibid.*, vol. 1457, p. 133.

[680] *Ibid.*, vol. 1963, p. 293.

[681] *Ibid.*, vol. 2153, p. 303.

[682] *Ibid.*, vol. 1063, p. 265.

(viii) *Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage*[683]

In 2015, Niger acceded to the Protocol. By the end of the year, there were 12 parties and one Contracting State.

(ix) *Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention*[684]

In 2015, the status of the Convention remained unchanged with 28 parties.

(x) *Convention on Supplementary Compensation for Nuclear Damage*[685]

In 2015, Japan signed and accepted the Convention. With this acceptance, the conditions for the entry into force of the Convention under article XX thereof were met. The Convention entered into force on 15 April 2015. Montenegro also acceded to the Convention. By the end of the year, there were 7 parties.

(xi) *Optional Protocol Concerning the Compulsory Settlement of Disputes*[686]

In 2015, the status of the Protocol remained unchanged with 2 parties.

(xii) *Fifth Agreement to Extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (RCA)*[687]

In 2015, the Lao People's Democratic Republic became party to the Agreement. By the end of the year, there were 17 parties.

(xiii) *African Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA)—(Fifth Extension)*[688]

The Fifth Extension of AFRA entered into force on 4 April 2015, upon expiration of the fourth extension of the Agreement. In 2015, Algeria, Angola, Botswana, Chad, Democratic Republic of the Congo, Egypt, Ghana, Lesotho, Mauritius, Morocco, Niger, Senegal, South Africa, Sudan, Tunisia and Zambia became parties to the Fifth Extension of the Agreement. By the end of the year, there were 16 parties.

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683 United Nations, *Treaty Series*, vol. 2241, p. 270.

684 *Ibid.*, vol. 1672, p. 293.

685 https://www.iaea.org/topics/nuclear-liability-conventions/convention-supplementary-compensation-nuclear-damage.

686 United Nations, *Treaty Series*, vol. 2086, p. 94.

687 IAEA document INFCIRC/167/Add.23.

688 IAEA documents INFCIRC/377 and INFCIRC/377/Add.20 (fifth extension).

(xiv) *First Agreement to Extend the Co-operation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL)*[689]

An Agreement to Extend ARCAL entered into force on 5 September 2015. In 2015, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela became parties to the Agreement. By the end of the year, there were 17 parties.

(xv) *Co-operative Agreement for Arab States in Asia for Research, Development and Training Related to Nuclear Science and Technology (ARASIA)—(Second Extension)*[690]

In 2015, the status of the Agreement remained unchanged with 8 parties.

(xvi) *Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*[691]

In 2015, the status of the Agreement remained unchanged with 7 parties.

(xvii) *Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*[692]

In 2015, the status of the Agreement remained unchanged with 6 parties.

(*c*) Safeguards agreements

In 2015, a Safeguards Agreement pursuant to the NPT between the IAEA and Djibouti[693] entered into force and the Federated States of Micronesia signed a Safeguards Agreement pursuant to the NPT but had not entered into force as of 31 December 2015.

During 2015, Protocols Additional to the Safeguards Agreements pursuant to the NPT between the IAEA and Cambodia,[694] Djibouti,[695] and Liechtenstein[696] entered into force.

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689 IAEA, document INFCIRC/582 and INFCIRC/582/Add.4 (extension of the agreement).

690 IAEA document INFCIRC/613 and INFCIRC/613/Add.3 (second extension).

691 IAEA document INFCIRC/702.

692 IAEA document INFCIRC/702.

693 IAEA document INFCIRC/884.

694 IAEA document INFCIRC/586/Add.1.

695 IAEA document INFCIRC/884/Add.1.

696 IAEA document INFCIRC/275/Add.1.

(*d*) Revised supplementary agreements (RSA) concerning the provision of technical assistance by the IAEA

In 2015, Djibouti, Fiji, Marshall Islands, and Togo signed an RSA agreement with the IAEA. By the end of the year, there were 125 member States party to an RSA agreement with the Agency and three signatory member States.

(*e*) Other treaties to which IAEA is a party

On 27 August 2015, the IAEA and the Republic of Kazakhstan signed the Agreement between the International Atomic Energy Agency and the Government of the Republic of Kazakhstan regarding the Establishment of the Low Enriched Uranium Bank of the International Atomic Energy Agency in the Republic of Kazakhstan.[697]

On 18 June 2015, the IAEA and the Russian Federation signed the Agreement between the International Atomic Energy Agency and the Government of the Russian Federation regarding the transit of low enriched uranium to the Low Enriched Uranium Bank of the International Atomic Energy Agency in the Republic of Kazakhstan and from the Low Enriched Uranium Bank of the International Atomic Energy Agency in the Republic of Kazakhstan, through the territory of the Russian Federation.[698]

(*f*) IAEA legislative assistance activities

In 2015, the Agency continued to provide legislative assistance to member States through its technical cooperation programme. Country specific bilateral legislative assistance was provided to 20 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 fifth session of the Nuclear Law Institute in Baden, Austria, from 28 September to 9 October 2015. The comprehensive two-week course, which used modern teaching methods based on interaction and practice, was 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-three 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.

The fifth IAEA Treaty Event took place during the 59th 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

[697] IAEA document INFCIRC/916.

[698] For more information, see
https://www.iaea.org/newscenter/news/iaea-and-russia-sign-transit-agreement-for-iaea-fuel-bank.

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).[699] Representatives from several member States were also briefed on the conventions adopted under IAEA auspices.

(*g*) Conventions

(i) *Convention on Nuclear Safety*

The Organisational Meeting to prepare for the Seventh Review Meeting of Contracting Parties to the Convention on Nuclear Safety took place on 15 October 2015 at IAEA Headquarters in Vienna. Sixty five contracting parties attended the Meeting, as well as the OECD/NEA as observer. The contracting parties, *inter alia*, elected the officers for the Seventh Review Meeting and established country groups.

(ii) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Joint Convention)*

The Fifth Review Meeting of the Contracting Parties to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (JC) was held in May 2015. Sixty one out of the 69 contracting parties participated in the Review Meeting. The contracting parties discussed in particular the progress made since the Fourth Review Meeting with regard to the management of disused sealed sources, the safety implications of very long storage periods and delayed disposal of spent fuel and radioactive waste, and international cooperation in finding solutions for the long term management and disposal of different types of radioactive waste and/or spent fuel.

A Topical Session on "Progress on Lessons Learnt from the Fukushima Daiichi Accident" was also organised during the Review Meeting. Finally, the contracting parties decided on a number of actions with a view to, *inter alia*, encourage adherence to the Joint Convention and active participation in the review process, and also to increase the effectiveness of the review process for contracting parties without a nuclear power programme. An Extraordinary Meeting would be held in 2017 prior to the Organisational Meeting for the Sixth Review Meeting to address some of these issues.

(iii) *The Convention on the Physical Protection of Nuclear Material (CPPNM)*

The first Technical Meeting of the Points of Contact and Central Authorities of States parties to the CPPNM was held at the IAEA headquarters in Vienna, from 14 to 16 December 2015. It gathered over one hundred participants from more than 70 member States. The meeting provided the first important opportunity for an exchange of national experiences regarding the implementation of the CPPNM, among others.

[699] IAEA document INFCIRC/274/Rev.1/Mod.1.

(iv) *The Convention on Supplementary Compensation for Nuclear Damage*

The Convention on Supplementary Compensation for Nuclear Damage, which was adopted on 12 September 1997 at the same time as the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage, entered into force on 15 April 2015.

(*h*) Civil liability for nuclear damage

The International Expert Group on Nuclear Liability (INLEX) continued to serve as the Agency's main forum for questions related to nuclear liability. At its 15th regular meeting held in April 2015, INLEX discussed, *inter alia*, the issue of liability and insurance provisions covering radioactive sources; the implications of the entry into force of the Convention on Supplementary Compensation for Nuclear Damage; a proposal to revise a paper issued by INLEX in 2013 on the benefits of joining the international nuclear liability regime and corresponding key messages; the revision of the model provisions on nuclear liability in the *Handbook on Nuclear Law: Implementing Legislation*; and outreach activities. As regards liability and insurance provisions covering radioactive sources, the Group recommended that licensees for at least Categories 1 and 2 sources include a requirement that the licensee take out insurance coverage or other financial security. However, in view of questions raised regarding the availability of such insurance in developing countries, the Group decided, at the same time, to keep the matter under review.

The Fourth Workshop on Civil Liability for Nuclear Damage was held in Vienna on 27 April 2015 and was attended by 65 participants from 38 member States. The purpose of the workshop was to provide 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 Mexico and to raise awareness of the international legal instruments relevant for achieving a global nuclear liability regime. In addition, a Sub-regional Workshop for Caribbean Countries on Civil Liability for Nuclear Damage was held in Panama City, Panama, in June 2015 to provide 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 31 participants from 14 member States.

15. Organization for the Prohibition of Chemical Weapons[700]

(*a*) Membership

In 2015, the number of States parties to the Chemical Weapons Convention (CWC) increased by two to 192. Myanmar deposited its instrument of ratification to the CWC with the Secretary-General of the United Nations on 8 July 2015, and Angola deposited its instrument of accession to the CWC on 16 September 2015. The CWC entered into force for Myanmar and Angola on 7 August 2015 and 16 October 2015, respectively, in accordance with article XXI of

[700] For official documents and more information on the Organisation for the Prohibition of Chemical Weapons, see http://www.opcw.org.

the CWC. Upon entry into force of the CWC for Myanmar and Angola, both States became members of the OPCW pursuant to paragraph 2 of article VIII of the CWC.

(*b*) Legal status, privileges and immunities and international agreements

During 2015, the OPCW continued to negotiate privileges and immunities agreements with member States in accordance with paragraph 50 of article VIII of the Convention. As a result, the Executive Council of the OPCW approved a privileges and immunities agreement with Hungary. This agreement entered into force on 25 May 2016.[701]

During 2015, the OPCW also concluded a number of international agreements, including, *inter alia*, facility agreements, voluntary contribution agreements, exchange of letters, agreements regarding the conduct of workshops, exercises, seminars and trainings, and memoranda 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.

Furthermore, the OPCW and the United Nations concluded a Memorandum of Understanding on Procedures for Safeguarding and Handling of the Certified True Copy of Physical and Electronic Records of the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic; and a Supplementary Arrangement Concerning the Implementation of United Nations Security Council resolution 2235 (2015).

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 Medical Services and Emergency Medical Evacuation Services.

(*c*) Legislative assistance activities

Throughout 2015, 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 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 at its Fourteenth Session;[702] 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 CWC.[703]

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.[704] These decisions focused on, amongst other things, the obligations of

[701] OPCW, document EC-79/DEC.5 of 9 July 2015.

[702] OPCW, document C-14/DEC.12 of 4 December 2009.

[703] OPCW, document RC 3/3* of 19 April 2013.

[704] OPCW, documents C-8/DEC.16 of 24 October 2003; C-10/DEC.16 of 11 November 2005; C-11/DEC.4 of 6 December 2006; C12/DEC.9 of 9 November 2007; C-13/DEC.7 of 5 December 2008;

States parties to designate or establish a National Authority to serve as national focal point for effective liaison with the OPCW and other States parties, as required by paragraph 4 of article VII of the Convention, and the steps necessary to enact national implementing legislation, including penal legislation and administrative measures to implement the Convention, as required by paragraph 1 of article VII of the Convention.

In the course of 2015, the number of National Authorities increased to 189, meaning only three States parties had not yet fulfilled the requirement under article VII(4) of the CWC to designate or establish a National Authority. Additionally, with regard to the adoption of the necessary legislative and/or administrative measures, 137 States parties (71 per cent) had submitted the text of their implementing legislation. Furthermore, regarding legislation covering all the initial measures required under the CWC, as at the end of 2015, 116 States parties (61 per cent) had informed the Technical Secretariat of having adopted such legislative or administrative measures.

The Technical Secretariat continued to maintain formal and informal working contacts with States parties with which it had built a relationship through technical assistance programmes and consultations. A number of draft laws as well as existing legislation were reviewed by the Technical Secretariat upon request by States parties in the process of developing or updating their legal framework.

In addition to the assistance provided 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, and the Internship Programme for Legal Drafters and National Authorities' Representatives in which experts from eight States parties participated during the year. In 2015, the Secretariat also piloted a new initiative called the Influential Visitors Programme aimed at ensuring national-level political support for the adoption of implementing legislation.

16. World Trade Organization[705]

(*a*) Membership

Two new members formally joined the World Trade Organization (WTO) in 2015: Seychelles (26 April 2015) and Kazakhstan (30 November 2015). As of 31 December 2015, the WTO membership counted 162 members.

In December 2015, the Tenth Ministerial Conference adopted the Decisions on the Accession of Liberia and the Islamic Republic of Afghanistan. Formal membership would occur following ratification of their Accession Protocol by their respective parliaments and the subsequent notification and deposit with the WTO Director-General of the Instruments of Acceptance of their Protocols.

Applications for WTO membership are examined in individual Accession Working Parties, which are established by the Ministerial Conference/General Council. The legal

and C-14/DEC.12 of 4 December 2009.

[705] For official documents and more information on the World Trade Organization, see http://www.wto.org.

framework of WTO accessions is set out in article XII of the Marrakesh Agreement Establishing the World Trade Organization.[706] As a result of bilateral and multilateral negotiations with WTO members, acceding States/separate customs territories undertake trade liberalizing commitments on market access; specific commitments on WTO rules; and agree to comply with the WTO Agreement.

(i) *On-going accessions in 2015*

In 2015, the following States/separate customs territories were in the process of acceding to the WTO (in alphabetical order):

1. Afghanistan[*°]
2. Algeria
3. Andorra
4. Azerbaijan
5. Belarus
6. Bhutan[*]
7. Bosnia and Herzegovina
8. Comoros, Union of the[*]
9. Equatorial Guinea[*]
10. Ethiopia[*]
11. Islamic Republic of Iran
12. Iraq
13. Kazakhstan[°°]
14. Lebanese Republic
15. Liberia, Republic of[*°°°]
16. Libya
17. Sao Tomé and Principe[*]
18. Serbia
19. Sudan[*]
20. Syrian Arab Republic
21. The Bahamas
22. Uzbekistan

[*] Least developed countries (LDCs) (8)

[°] The accession Working Party completed its mandate on 11 November 2015. The Decision on the Accession of the Islamic Republic of Afghanistan was adopted by the Tenth Ministerial Conference on 17 December 2015. The Islamic Republic of Afghanistan would become a WTO member 30 days after notifying the WTO Director General of the domestic ratification of its Protocol of Accession.

[°°] The accession Working Party completed its mandate on 22 June 2015. The Decision on the Accession of Kazakhstan was adopted by the General Council on 27 July 2015. Kazakhstan became a WTO member on 30 November 2015.

[°°°] The accession Working Party completed its mandate on 6 October 2015. The Decision on the Accession of Liberia was adopted by the Tenth Ministerial Conference on 16 December 2015. Liberia 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); Azerbaijan (one revision); Kazakhstan (two revisions); and Liberia (three revisions);

[706] United Nations, *Treaty Series*, vol. 1867, p. 3.

– three draft Accession Packages were prepared by the Secretariat and circulated on the Accessions of Kazakhstan, Liberia and Afghanistan[707]; and
– three Accession Working Parties (Kazakhstan, Liberia and Afghanistan) completed their mandates. The Decisions on their Accessions were adopted on: 27 July 2015[708] (Kazakhstan) by the General Council; on 16 December 2015[709] (Liberia) and on 17 December 2015[710] (Afghanistan) by the Tenth Ministerial Conference in Nairobi, Kenya.

(*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.[711]

(i) *Requests for consultations received and panels established*

During 2015, the DSB received 13 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 16 new panels to adjudicate 18 new cases. The DSB established panels in the following disputes:

– European Union and its member States—Certain Measures Relating to the Energy Sector (DS476), complaint by Russia;
– Indonesia—Importation of Horticultural Products, Animals and Animal Products (DS477), complaint by Indonesia;
– Indonesia—Importation of Horticultural Products, Animals and Animal Products (DS478), complaint by the United States;
– European Union—Anti-Dumping Measures on Biodiesel from Indonesia (DS480), complaint by Indonesia;
– Canada—Anti-Dumping Measures on Imports of Certain Carbon Steel Welded Pipe from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (DS482), complaint by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu;

[707] The Draft Accession Package of the Islamic Republic of Afghanistan, initially circulated on 3 March 2014, was updated and re-circulated to all members of the Working Party on 19 October 2015.

[708] WT/ACC/KAZ/93 and Add.1–2; WT/L/957.

[709] WT/ACC/LBR/23 and Add.1–2; WT/L/973.

[710] WT/ACC/AFG/36 and Add.1–2; WT/L/974.

[711] Further information on WTO dispute settlement in 2015 can be found in the WTO Annual Report 2015.

- China—Anti-Dumping Measures on Imports of Cellulose Pulp from Canada (DS483), complaint by Canada;
- Indonesia—Measures Concerning the Importation of Chicken Meat and Chicken Products (DS484), complaint by Brazil;
- Russia—Tariff Treatment of Certain Agricultural and Manufacturing Products (DS485), complaint by the European Union;
- European Union—Countervailing Measures on Certain Polyethylene Terephthalate from Pakistan (DS486), complaint by Pakistan;
- United States—Conditional Tax Incentives for Large Civil Aircraft (DS487), complaint by the European Union;
- United States—Anti-Dumping Measures on Certain Oil Country Tubular Goods from Korea (DS488), complaint by Korea;
- China—Measures Related to Demonstration Bases and Common Service Platforms Programmes (DS489), complaint by United States;
- Indonesia—Safeguard on Certain Iron or Steel Products (DS490), complaint by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu;
- United States—Anti-Dumping and Countervailing Measures on Certain Coated Paper from Indonesia (DS491), complaint by Indonesia;
- European Union—Measures Affecting Tariff Concessions on Certain Poultry Meat Products (DS492), complaint by China;
- Korea—Import Bans, and Testing and Certification Requirements for radionuclides (DS495), complaint by Japan;
- Indonesia—Safeguard on Certain Iron or Steel Products (DS496), complaint by Viet Nam;
- Brazil—Certain Measures Concerning Taxation and Charges (DS497), complaint By Japan.

(ii) *Appellate Body and Panel reports adopted by the DSB*

In 2015, the DSB adopted the following nine panel reports covering 11 disputes and seven Appellate Body reports covering nine disputes:

- United States—Anti-Dumping Measures on Certain Frozen Warmwater Shrimp from Viet Nam (WT/DS429) (Panel and Appellate Body reports);
- India—Measures Concerning the Importation of Certain Agricultural Products (DS430) (Panel and Appellate Body reports);
- United States—Countervailing Duty Measures on Certain Products from China (WT/DS437);
- Argentina—Measures Affecting the Importation of Goods (DS438, DS444, DS445) (Panel and Appellate Body reports);
- United States—Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina (DS447) (Panel report);

- China—Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from Japan (DS454) (Panel and Appellate Body reports);
- Peru—Additional Duty on Imports of Certain Agricultural Products (DS457) (Panel and Appellate Body reports);
- China—Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from the European Union (DS460) (Panel and Appellate Body reports);
- Ukraine—Definitive Safeguard Measures on Certain Passenger Cars (DS468) (Panel report);

(*c*) Acceptances of the protocols amending the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Government Procurement Agreement (GPA)

The amended TRIPS Agreement incorporating a decision on patents and public health would enter into force when two thirds of the WTO members had accepted the change. During 2015, Brunei Darussalam, Grenada, Iceland, Kenya, Lao People's Democratic Republic, Malaysia, Moldova, Myanmar, Saint Kitts and Nevis, and Sri Lanka accepted the amended agreement.

The amended GPA, which streamlines and modernizes the 1994 WTO Agreement on Government Procurement, entered into force on 6 April 2014. During 2015, the following members deposited instruments of acceptance of the amended agreement: Armenia, Montenegro, and New Zealand.

(*d*) Protocol Amending the Marrakesh Agreement establishing the World Trade Organization

On 27 November 2014, WTO members adopted a Protocol of Amendment to insert the Trade Facilitation Agreement into the WTO Agreement Establishing the World Trade Organization (document WT/L/940) and opened it for acceptance by members. As stipulated in the Protocol, it should enter into force in accordance with article X:3 of the WTO Agreement. Specifically, the Protocol should take effect upon acceptance by two thirds of the members for those members that had accepted the Protocol; thereafter, the Protocol should take effect for each other member upon acceptance by that member. During 2015, 35 instruments of acceptance were deposited for this Protocol, bringing to the number of acceptances to 36.

(*e*) Tenth WTO Ministerial Conference, Nairobi, 2015

The "Nairobi Package" was adopted at the WTO's Tenth Ministerial Conference, held in Nairobi, Kenya, from 15 to 19 December 2015. It contained a series of six Ministerial Decisions on agriculture, cotton and issues related to least-developed countries (LDCs). These included a commitment to eliminate export subsidies for farm exports, an undertaking

to find a permanent solution regarding public stockholding for food security purposes, an agreement to continue negotiations on a special safeguard mechanism that would allow developing countries to temporarily increase tariffs on agriculture products in cases of import surges or price declines, and measures related to duty free and quota free market access for cotton produced by LDCs, export subsidies and domestic support for cotton. Decisions were also made regarding preferential treatment for LDCs in the area of services and the criteria for determining whether exports from LDCs may benefit from trade preferences.

17. International Criminal Court[712]

(*a*) Rome Statute

On 2 January 2015, Palestine acceded to the Rome Statute of the International Criminal Court.

(*b*) Amendment to the Rome Statute

The Assembly of States Parties, by resolution ICC-ASP/14/Res.2 of 26 November 2015, decided to amend the Rome Statute by deleting article 124.

(*c*) Ratification/acceptance of the 2010 amendments to the Rome Statute

In 2015, Costa Rica, Finland, Georgia, Lithuania, Malta and Switzerland ratified and the Czech Republic accepted the amendments to article 8 of the Rome Statute.

In the same year, Costa Rica, Finland, Lithuania, Malta and Switzerland ratified and the Czech Republic accepted the amendments on the crime of aggression to the Rome Statute.

(*d*) Relationship Agreement between the ICC and the United Nations

The Relationship Agreement between the ICC and the United Nations, 2004, outlines the relationship between the two institutions.

In 2015, the Assembly of States Parties (ASP) to the Rome Statute issued the following resolutions regarding the Court's relationship with the United Nations:

In resolution ICC-ASP/14/Res.3,[713] entitled resolution on cooperation, the ASP: emphasized the importance of timely and effective cooperation and assistance from States parties and other States under an obligation or encouraged to cooperate fully with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affected the efficiency of the Court and stressed that the non-execution of cooperation requests had a negative impact on the ability of the Court to execute its mandate, in particular when

[712] For official documents and more information on the International Criminal Court, see http://www.icc-cpi.int.

[713] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court*, Fourteenth session, The Hague, 18—26 November 2015 (ICC-ASP/14/20), vol. I, part III, ICC-ASP/14/Res.3.

it concerned the arrest and surrender of individuals subject to arrest warrants (para. 1); and urged States parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council referred situations to the Court, ensuring diplomatic and financial support; cooperation by all United Nations member States and follow–up of such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions (para. 23).

In resolution ICC-ASP/14/Res.4,[714] entitled strengthening the International Criminal Court and the Assembly of States Parties, the ASP stated that it was "deeply concerned by the ongoing lack of effective follow up by the Security Council to its resolutions referring situations to the Court and its consequences, despite efforts by States Parties" (p. 32); welcomed the memorandum of understanding between the Court and the United Nations Office on Drugs and Crime to strengthen the capacity of States in the area of witness protection" (para. 14); and recalled the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, welcomed the efforts of States parties to strengthen the relationship between the Court and the Council, called upon States parties to continue their efforts to ensure that the Security Council address the communications received from the Court on non-cooperation pursuant to the Rome Statute, encouraged the President of the Assembly and the Bureau to continue consulting with the Security Council and also encouraged both the Assembly and the Security Council to strengthen their mutual engagement on this matter (para. 16).

In resolution ICC-ASP/14/Res.4, section E, entitled relationship with the United Nations, the ASP recognized the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals (para. 19). It also recognized the Security Council's call regarding the importance of State cooperation with the Court and encouraged further strengthening of the Security Council's relationship with the Court by a series of measures set out in subparagraphs (*a*) to (*e*) (para. 20); encouraged all United Nations Offices, funds and programmes to strengthen their cooperation with the Court, and to collaborate effectively with the Office of Legal Affairs as Focal Point for cooperation between the United Nations system and the Court (para. 22); noted with concern that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council had been borne exclusively by States parties, and urged States parties to begin discussions on a possible way forward on this issue, including the implementation of article 115, paragraph (*b*), of the Rome Statute also taking into account that article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations stated that the conditions under which any funds might be provided to the Court by a decision of the General Assembly of the United Nations should be subject to separate arrangements (para. 26); and encouraged the Court to further engage with the relevant Sanctions Committees of the United Nations Security Council with a view to improving their cooperation and achieving better coordination on matters pertaining to areas of mutual concern (para. 27).

[714] *Ibid*., ICC-ASP/14/Res.4.

Chapter IV

TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Treaties concerning international law concluded under the auspices of the United Nations

In 2015, the following instruments were concluded under the auspices of the United Nations:

– International Agreement on Olive Oil and Table Olives, 2015, Geneva, 9 October 2015[1]

– Paris Agreement, Paris, 12 December 2015.[2]

B. Treaties concerning international law concluded under the auspices of intergovernmental organizations related to the United Nations

1. World International Property Organization

On 20 May 2015, the Diplomatic Conference for the Adoption of a New Act of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration adopted the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications.[3]

2. International Criminal Court

On 26 November 2015, the Assembly of States Parties to the Rome Statute adopted, by resolution ICC-ASP/14/Res.2, an amendment to article 124 of the Rome Statute of the International Criminal Court.[4]

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[1] Not reproduced herein. For the text of the Agreement, see *Multilateral Treaties Deposited with the Secretary-General*, chapter XIX.49.

[2] Not reproduced herein. For the text of the Agreement, see *ibid.*, chapter XXVII.7.*d*.

[3] Not reproduced herein. For the text of the Act, see WIPO Lex No. TRT/LISBON/009, available from http://www.wipo.int/wipolex/en/details.jsp?id=15625.

[4] Not reproduced herein. For the text of the amendment, see *Multilateral Treaties Deposited with the Secretary-General*, chapter XVIII.10.*c*.

Chapter V

DECISIONS OF THE ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS[1]

A. United Nations Dispute Tribunal

By resolution 70/112 of 14 December 2015, entitled "Administration of justice at the United Nations", the General Assembly took note of the relevant reports of the Secretary-General and other bodies[2] and endorsed the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions.[3] The General Assembly decided to extend the three ad litem judge positions for one year, from 1 January to 31 December 2016. It also welcomed the establishment of the panel of experts on the administration of justice and the United Nations and trusted that its recommendations and related comments of the Secretary-General would cover all major aspects of the system. Furthermore, it welcomed the recommendations to address systemic and cross-cutting issues contained in the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services.[4] Moreover, the General Assembly approved amendments to the statutes of the United Nations Dispute and Appeal Tribunal, proposed by the Secretary-General, and decided to adopt a mechanism for addressing complaints regarding alleged misconduct or incapacity of the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, which was annexed to the resolution.

In 2015, the United Nations Dispute Tribunal in New York, Geneva and Nairobi issued a total of 126 judgments. Summaries of eight selected judgments as well as one order are reproduced below.[5]

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[1] In view of the large number of judgments which were rendered in 2015 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.

[2] See the reports of the Secretary-General on the administration of justice at the United Nations (A/70/187); on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/70/151); and on amendment to the rules of procedure of the United Nations Appeals Tribunal (A/70/189), as well as the report of the Internal Justice Council on the administration of justice at the United Nations (A/70/188).

[3] A/70/420.

[4] A/70/151.

[5] The summaries provided are for illustrative purposes only and are not authoritative, representative or exhaustive. Some UNDT judgments summarized may have been overturned on appeal by UNAT.

1. *Judgment No. UNDT/2015/048 (11 June 2015): Maiga* v. *Secretary-General of the United Nations*[6]

Non-promotion—Retaliation against a whistle-blower—Interview panel materially tainted—Duties of counsel—Counsel as officer of the court—Counsel to contribute to the fair administration of justice and the promotion of the Rule of Law

The Applicant became the Country Programme Manager (CPM) at the P-4 level in Côte d'Ivoire on 1 April 2010. In 2012, the CPM post was upgraded to the P-5 level and advertised. The Applicant applied and was not selected, resulting in her separation. She contested the decision not to select her for the P-5 job opening and contended that the selection decision was tainted by bias, improper consideration of performance appraisals and procedural error.

Beginning in May 2010, the Applicant reported orally and in writing to the Director and Deputy Director of the West Africa Regional Office (WARO) that another staff member seemed to have been involved in inappropriate transactions with non-governmental organizations (NGOs) that were recipients of United Nations Women funds and had actually recovered such funds from the said NGOs. The Applicant made similar reports to United Nations Women in New York and to the UNDP Office of Audit and Investigations (OAI) which commenced a joint investigation with the United Nations Populations Fund (UNFPA).

The Tribunal considered whether the Applicant was given full and fair consideration and whether there was bias or retaliation against the Applicant in the selection process. The Tribunal found that the interview panel for the reclassified post was materially tainted with regard to the Applicant's application and that there were procedural irregularities in the selection process. Having heard oral testimony, ordered production of the investigation report and considered the parties' written submissions, the Tribunal found that the Applicant's superiors at WARO had tried to cover up WARO's involvement in the irregular handling of project funds. The Tribunal also found that the Applicant had acted properly and ethically in blowing the whistle on the misuse of project funding.

The Tribunal concluded that the Applicant had discharged her burden of proof to show that her non-selection for the upgraded post and subsequent separation from the Organization were motivated by bias, procedural breaches and retaliation for whistleblowing. The Tribunal referred the WARO Director to the Secretary-General for accountability under article 10.8 of its Statute.

The Tribunal also stated that counsel for the Respondent had sought deliberately to mislead the Tribunal by presenting the case as if the OAI investigation report did not exist and, when ordered to produce the report, providing an incomplete report. The Tribunal observed that in prosecuting a case, counsel were first and foremost officers of the court. They had at all times to be beyond reproach and should not place themselves in a position where they stood or fell with their clients. The Tribunal cited judgment 2015-UNAT-531 wherein UNAT stated that it was the self-evident duty of all counsel appearing before the Tribunals to contribute to the fair administration of justice and the promotion of the rule of law.[7]

For the full list of judgments by the UNDT and the latest developments, consult the website of the Office of the Administration of Justice at https://www.un.org/en/internaljustice/.

[6] Judge Nkemdilim Izuako (Nairobi).

[7] Judgment No. 2015-UNAT-531 (26 February 2015): *Rangel* v. *Registrar of the International Court of Justice.*

The Tribunal ordered rescission of the contested decision and ordered the Respondent to reinstate the Applicant and deploy her in the next P-5 country representative position available, or a similar post, together with payment of salary at the upgraded P-5 level since the time of her separation. In the alternative, the Applicant was awarded two years net base salary. The Applicant was also awarded a total of 6 months net base salary as compensation for the substantive and procedural irregularities occasioned by the failure of the Administration to follow its own guidelines, rules and procedures.

2. *Judgment No. UNDT/2015/066 (24 July 2015): Laca Diaz* v. *Secretary-General of the United Nations*[8]

Compensation for permanent loss of function as a result of service-incurred injury—Compensation to be based on pensionable remuneration scales in effect on the date of maximum medical improvement, rather than date of injury—Duty of counsel to file precise pleadings and annexes.

The Applicant contested the decision, based on a recommendation of the Advisory Board on Compensation Claims, to award him compensation for permanent loss of function based on pensionable remuneration scales in effect at the date of a service-incurred injury in October 1991. He submitted that compensation should be computed based on pensionable remuneration scales in effect at the date of payment and no later than the date of maximum medical improvement (MMI) in July 2012, rather than the date of the injury.

After the Applicant and the Respondent filed a joint statement of facts in the early stages of the proceedings, the Applicant filed a motion for summary judgment, which the Tribunal denied. While claims normally had to be filed within four months from an injury, the Tribunal considered that the Applicant's case was exceptional and was accepted by the Secretary-General over two decades after the injury.

The Tribunal examined Appendix D (Rules governing compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations) to the Staff Rules. It considered that article 11.3(*c*), which sets out a schedule of awards for lump sum compensation for service-incurred injury or illness, is ambiguous in its reference to "twice the annual amount of the pensionable remuneration at grade P-4, step V". The Tribunal noted that pensionable remuneration scales are adjusted regularly and there is no explicit statement or guidance in Appendix D to indicate the relevant or operative date for assessing the pensionable remuneration at grade P-4, step V in any given case.

The Tribunal further noted that article 11.3 of Appendix D required an assessment of the permanent loss of function as a percentage of the function of the whole individual. The parties agreed that these determinations—*i.e.* whether the loss of function was permanent and, if so, what percentage of the whole individual was affected—could only be carried out when the staff member had reached MMI. MMI was the point at which an injured worker's medical condition had stabilized and further improvement was unlikely, even with continued medical treatment or rehabilitation. Assessment of the date of MMI was a medical determination.

[8] Judge Ebrahim-Carstens, New York.

Having considered the legislative history of Appendix D, principles of statutory interpretation, and other legal and policy issues, the Tribunal found that, given the facts of the case, the logical and reasonable conclusion was that compensation should be calculated based on the pensionable remuneration scales in effect at the date of MMI, at which point the Applicant's claim had crystallized and he was entitled to payment.

The Tribunal ordered the Respondent to pay to the Applicant the difference between the compensation already paid and the amount to which he was entitled under pensionable remuneration scales in effect at the date of MMI, plus interest on this amount at the US prime rate from the date of MMI to the date the difference amount was paid, and interest on an amount of USD 1,494.80 already paid on the difference between the 1 July and 1 November 1990 pay scales for staff at the P-4 step V level.

The Tribunal also stated that it was the professional and ethical duty of counsel to assist the Tribunal by filing precise pleadings and annexes.

3. *Judgment No. UNDT/2015/089 (24 September 2015): Al Abani* v. *Secretary-General of the United Nations*[9]

Determination of personal status by reference to the laws of the country in which the status was established—Non-retroactivity of dependency benefits—Right to enter into marriage to be distinguished from its recognition by the Organization

The Applicant contested the decision to deny him dependency benefits for his wife and stepdaughter retroactively to the date of his marriage. The Applicant was a Lebanese national and had married a Malaysian national in a religious ceremony in Vienna on 22 June 2007. The Islamic Association of Vienna had issued the marriage certificate, which did not refer to any domestic law. Malaysian authorities registered and recognized the certificate. In line with ST/SGB/2004/13, which provided that the personal status of staff members for the purpose of entitlements was determined by reference to the law of nationality of the concerned staff member, the Organization requested confirmation from the Lebanese Permanent Mission to the United Nations in Vienna whether Lebanon recognized the marriage. The Mission initially declined, since only civil marriages contracted elsewhere could be registered in Lebanon. Subsequently, the Mission advised that, to be registered in Lebanon, the marriage had to be confirmed by the competent Lebanese Islamic Authorities. The Lebanese Permanent Mission did not respond to the United Nations Office on Drugs and Crime's (UNODC) subsequent request for verification of whether confirmation had been sought from the Islamic Authorities. UNODC also asked the Office of Human Resources Management for an exception from ST/SGB/2014/13 by considering the Applicant's partner as a spouse under her domestic law, but this was not granted. The Applicant subsequently requested management evaluation of "the decision not to recognize his marital status for the purpose of United Nations entitlements."

In the Tribunal's view, the management evaluation request was appropriately rejected given the lack of response by the Lebanese authorities, since no final decision had been made by the Administration on the Applicant's personal status.

In June 2014, ST/SGB/2004/13 was revised to determine staff members' personal status by reference to the domestic law of the competent authority under which the personal

[9] Judge Rowan Downing (Geneva).

status had been established. As a result, the Applicant's personal status was changed by the Organization to "married and related" and he was granted dependency benefits for his wife and stepdaughter as of the date of the decision, based on the recognition of the marriage by Malaysia.

However, the Applicant was not granted dependency benefits retroactive to 22 June 2007, a decision which he contested. The Applicant asserted that the Organization had violated his human rights by using discriminatory national laws to deny him benefits. The Tribunal noted that it had no jurisdiction to deal with potential breaches of the Universal Declaration of Human Rights by the legislation of a sovereign Member State. Therefore, it could not verify whether a domestic law was in fact discriminatory. The Tribunal noted that the United Nations Appeals Tribunal had confirmed the validity of the Organization's choice to refer to the staff member's domestic law as a way to respect the various cultural and religious sensibilities. This did not violate any higher norms in the Organization's legislation. The Applicant could have contracted a civil marriage in Austria and have it recognized in Lebanon; it was his responsibility to be informed of the Organization's internal rules and organize his affairs accordingly. He had not been precluded from marrying his wife; the right to enter into a marriage had to be distinguished from its recognition by the Organization.

According to the general principle of law against retrospective application of laws, and since the Applicant's religious marriage as well as the failure by the Lebanese authorities to recognise it occurred before the revised bulletin was promulgated, it was legally correct not to apply the latter. In the result, the Tribunal rejected the application.

4. *Judgment No. UNDT/2015/110 (11 November 2015): Nguyen-Kropp and Postica* v. *Secretary-General of the United Nations*[10]

Decision of the Ethics Office on retaliation claims constitutes *de facto* final decision of the Organization—Independence of Ethics Office—Ethics Office decisions not final administrative decisions according to Appeals Tribunal—Binding force of Appeals Tribunal decisions—Reference to the Secretary-General for further consideration—Retaliation policy should clearly state that Ethics Office determinations are not subject to judicial review

Two investigators from the Office of Internal Oversight Services had filed applications contesting: (*a*) the Ethics' Office's determination that retaliation against them had not been established; (*b*) the expertise, selection process and terms of reference of an alternative investigating panel ("AIP") set up by the Ethics Office to investigate their complaints of retaliation; and (*c*) the decision not to provide the Applicants with a copy of the full AIP report or reasonably specific information as to the AIP's findings on each of their allegations.

Both Applicants requested the redaction of their names from the published judgment. The Tribunal rejected this request.

The Applicants had not filed requests for management evaluation as the Management Evaluation Unit had informed them that the acts they wished to challenge were outside the scope of management evaluation and they could directly submit a request for review to the Tribunal. With regard to the decisions of the Ethics Office, the Respondent submitted that the Ethics Office was independent from the Secretary-General and, accordingly,

[10] Judge Goolam Meeran (New York).

its actions or omissions could not be attributed to the Organization and did not constitute administrative decisions. The Respondent relied in particular on the judgment of the United Nations Appeals Tribunal ("UNAT") majority in *Wasserstrom*,[11] in which the majority had held that acts of the Ethics Office were not subject to judicial review.

The Tribunal considered it difficult to reconcile the finding of UNAT in *Wasserstrom* that the Ethics Office was limited to making recommendations to the Administration with the nature of the independent assessment and conclusion reached by the Office in these cases. The Tribunal also considered the Ethics Office's decision-making powers accorded under sections 5.2(*c*) and 5.8 of ST/SGB/2005/21, and the Organization's own reference to the Ethics Office making "final determination[s]" on the website of the Ethics Office. It held that the Ethics Office was not limited to making recommendations to the Administration, but that it also had a decision-making role in that it made the final determination regarding the occurrence of retaliation. In such cases, in the view of the Tribunal, its determination amounted to making a final administrative decision affecting the rights of the Applicants under their terms of appointment and contract of employment, and which was binding on the Administration in that it was the Organization's final decision on the matter.

The Tribunal noted, however, that as a first instance tribunal it was bound by the decisions of UNAT. Given the UNAT jurisprudence in *Wasserstrom* and *Nartey,*[12] the Tribunal decided that the matters contested in the applications were not administrative decisions subject to judicial review. In the end, the Tribunal, after much hesitation, dismissed the applications as not receivable.

The Tribunal appended a section with observations to the judgment, in which the Tribunal referred the issues raised in its judgment to the Secretary-General for further consideration. The Tribunal reiterated that if a final decision by the Ethics Office determining that retaliation had not occurred in a particular case was to remain immune from judicial review and scrutiny, the United Nations' policy on retaliation should clearly state this. The Tribunal invited Member States and the Secretary-General to make their intentions clear in this regard in considering any amendments to ST/SGB/2005/21.

5. *Judgment No. UNDT/2015/116 (17 December 2015): Sutherland, Reid, Marcussen Goy, Jarvis, Baig, Edgerton and Nicholls* v. *Secretary-General of the United Nations*[13]

Non-conversion of fixed appointment into permanent appointments—Distinction between eligibility and suitability for permanent appointment—Interest of the Organization an ancillary consideration in suitability determination—Retroactive conversion decisions not to take into account new circumstances—No meaningful individual consideration—Limitation of service of fixed term appointment no obstacle to permanent appointments—Finite mandate cannot be the exclusive ground for non-conversion

[11] Judgment No. 2014-UNAT-457 (27 June 2014): *Wasserstrom* v. *Secretary-General of the United Nations.*

[12] Judgment No. 2015-UNAT-544 (2 July 2015): *Nartey* v. *Secretary-General of the United Nations.*

[13] Judge Thomas Laker (Geneva).

DECISIONS—AMENDMENTS TO TRIBUNAL STATUTES APPLY FROM THE MOMENT OF THEIR PUBLICATION, RATHER THAN THEIR ADOPTION BY THE GENERAL ASSEMBLY—MORAL DAMAGES

Eight staff members and former staff members of the International Criminal Tribunal for the former Yugoslavia ("ICTY") contested decisions made by the Assistant-Secretary-General for Human Resources Management ("ASG/OHRM") denying them conversion of their respective fixed-term appointments into permanent appointments. The Applicants requested that they receive retroactive permanent appointments or, in the alternative, compensation calculated on the basis of termination indemnity applicable to a permanent appointment in the Applicants' cases, and moral damages in the sum of EUR 27,000 each.

The contested decisions arose from a re-consideration exercise ordered by the United Nations Appeals Tribunal ("UNAT") in its judgment in *Baig et al.*.[14] In that judgment, UNAT rescinded the non-conversion decisions issued in an initial round of a one-time Secretariat-wide review for conversion to permanent appointment and gave specific directions for the re-considerations of the decisions. Following the judgment, the ASG/OHRM took fresh decisions with regard to all Applicants.

The Tribunal noted that its task was to ascertain whether the impugned decisions were made in conformity with the directions given by UNAT. It also found that OHRM was competent to review the Applicants' candidature for conversion, even though that office had not been specifically delegated the task.

The Tribunal analysed ST/SGB/2009/10 (Consideration for conversion to permanent appointment of staff members of the Secretariat eligible to be considered by 30 June 2009) and found that it distinguished between eligibility and suitability for a permanent appointment. To be eligible, a staff member had to have completed five years of continuous service on fixed term appointments before the age of 53. Suitability depended on the qualifications, performance and conduct of staff members, together with their demonstrated ability to meet the highest standards of efficiency, competence and integrity. The Tribunal further stated that in considering conversion, the interest of the Organization was a legitimate, but ancillary consideration, when assessing suitability.

It also opined that to meet UNAT's direction to afford the Applicants retroactive consideration, it was not sufficient to implement retrospectively the decisions resulting from the re-consideration exercise. The exercise should have appraised the circumstances as they stood at the time of the first impugned refusal to convert the appointments, and not take into account new circumstances that were only known when the new decisions had been reached.

The Tribunal held that the Administration, contrary to the instructions by UNAT had considered the eligibility of the Applicants for conversion to a permanent appointment, rather than their suitability. Moreover, the Tribunal found that the Applicants had not been afforded meaningful individual consideration in light of their proficiencies, qualifications, competencies, conduct and transferable skills.

Rather, the impugned decision had been based on the limitation of the Applicants' appointment to service with the ICTY and the finite nature of the ICTY mandate. With regard to the first issue, the Tribunal held that the limitation of a staff member's fixed term appointment

[14] See Judgment No. 2013-UNAT-357 (17 October 2013): *Baig, Malmström, Jarvis, Goy, Nicholls, Marcussen, Reid, Edgerton, Dygeus, Sutherland* v. *Secretary-General of the United Nations.*

to serve with the ICTY did not require the Administration to limit a permanent appointment in the same way. As a result, it did not see the limitation of service as an obstacle to conversion.

Second, the Tribunal agreed that the Administration had broad discretion in conversion decisions and could validly weigh the operational realities of the ICTY, including its finite mandate, in its consideration thereof. However, UNAT had explicitly indicated that the Administration could not rely exclusively on this circumstance. The Tribunal concluded that, against these instructions, the finite mandate of the ICTY had been the only reason for the contested decision.

For these reasons, the Tribunal ruled that the impugned decisions were unlawful. It rescinded the decisions and remanded them back to the ASG/OHRM for individualized consideration, ordering the Administration to notify the Applications of the final decision within 90 days of the issuance of the judgment.

The Tribunal noted that the applications had been filed after the General Assembly had amended the Tribunal's Statute to exclude moral damages, but before the resolution that promulgated the amendment had been published. In line with the principle of non-retroactivity, the Tribunal found the amendment not applicable to the Applicants. UNAT had already found that moral damages were merited. In considering the quantum, the Tribunal only considered compensation for the harm resulting directly from the decisions under review, not harm suffered prior thereto since the commencement of the conversion process. It awarded each Applicant moral damages in the amount of EUR 3,000.

6. *Judgment No. UNDT/2015/120 (22 December 2015): Nyekan* v. *Secretary-General of the United Nations*[15]

Disciplinary measures—Conduct of investigations—Second investigation of claims found to be unsubstantiated constitutes improper exercise of discretion—Egregious procedural irregularities tainting disciplinary process

The Applicant, a former United Nations High Commissioner for Refugees ("UNHCR") staff member at the D-1 level in Kigali, Rwanda, contested the decision by UNHCR to impose on her the disciplinary measures of a written censure as per staff rule 10.2(*a*)(i) and a fine of one-month net base salary as per staff rule 10.2(*a*)(v) for misconduct. The Applicant alleged that she had been subjected to "double jeopardy" during the investigation process because an Investigation Team was established to investigate the same allegations that an Inspection Mission had found to be unsubstantiated. She also alleged that her due process rights had not been respected during the investigation and subsequent disciplinary processes.

The primary issue was whether the Administration exercised its discretion properly by establishing two investigations to examine the same allegations. The Respondent submitted that the terms of reference and focus of the Inspection Mission and Investigation Team were different.

The Tribunal concluded that the *ad hoc* Inspection Mission, which was established by UNHCR's Inspector General's Office and focused on the overall management of the UNHCR operation in Rwanda and the internal management of the Kigali office, was an

[15] Judge Vinod Boolell (Nairobi).

investigation and a fact-finding exercise as set out in paragraph 1 of ST/AI/371/Amend.1. The Mission concluded that there was an absence of evidence to support any of the allegations made against the Applicant. The Tribunal held that the Respondent's next step should have been to follow the procedure set out in paragraph 2 of ST/AI/371/Amend.1 by forwarding the matter to the Director of Human Resources Management if he believed there was sufficient evidence indicating that the Applicant had engaged in wrongdoing that could amount to misconduct.

Shortly thereafter, UNHCR established an Investigation Team to investigate allegations of harassment and abuse of authority contained in two complaints received by UNHCR with regard to the Applicant. The Team concluded in its report that the Applicant had harassed a number of staff under her supervision and that she had abused her authority based on a number of factors. Subsequently, the Applicant was asked for comments on the allegations and the Investigation Team report and eight months later UNHCR imposed the aforesaid disciplinary measures.

The Tribunal found that it was an improper exercise of discretion by UNHCR to establish a Team to investigate basically the same complaints that had been investigated and reported on by the Inspection Mission. The Tribunal concluded however that to the extent that the Inspection Mission had investigated the same allegations as the Investigation Team and found nothing adverse against the Applicant, there was no "reason to believe" that the Applicant had engaged in unsatisfactory conduct as is required by ST/AI/371/Amend.1.

The Tribunal also concluded that the Investigation Team committed a number of procedural irregularities by failing to inform the Applicant of the precise allegations against her, by putting words in the mouth of witnesses, by asking highly leading questions, by coming to conclusions in the absence of evidence, by failing to provide her with all the documentary evidence, by ignoring the testimony and comments of the Applicant, and by sitting on appeal on the findings of the Inspection Mission to justify their conclusions based on the same set of facts.

The Tribunal held that since the investigation process was flawed, the disciplinary process was tainted. Due to the egregious nature of the procedural irregularities, the Tribunal did not examine whether the facts on which the disciplinary measures were based had been established and whether the established facts legally amounted to misconduct. The Tribunal concluded that the Applicant's due process rights had not been respected and ordered the Respondent to remove the written censure from the Applicant's official status file and to reimburse the fine.

7. Judgment No. UNDT/2015/124 (31 December 2015): Lemonnier v. *Secretary-General of the United Nations*[16]

Receivability—Deadlines for filing requests for management evaluation and applications to Tribunal—Multiple re-filings as manifest abuse of proceedings—Presumption that counsel acts on instruction of applicant—Costs

The Applicant, a former staff member of the United Nations Stabilization Mission in Haiti ("MINUSTAH"), filed five applications relating to two administrative decisions to

[16] Judge Goolam Meeran (New York).

separate him from service and not to select him for position of Chief, Integrated Support Service with MINUSTAH. The Tribunal addressed the applications in one judgment.

With respect to the applications concerning his separation, the Applicant failed to file them within the statutory period of 90 days from the date of expiration of time for a response to his management evaluation request. The Tribunal found, relying on *Neault*,[17] that receipt of a management evaluation response after the expiration of the 90-day period for the filing of an application with the Tribunal did not re-set the 90-day deadline.

With respect to the applications concerning his non-selection, the Tribunal found that the Applicant failed to file a timely management evaluation request of the contested decision and his claims were not receivable. The Tribunal considered alternative dates suggested by the Applicant for the purpose of calculation of the time limits, and found that even if it were to apply those dates his claims would still be time-barred.

The Tribunal concluded that the five applications were not receivable due to the Applicant's failure to comply with the relevant statutory requirements. All five applications were dismissed by the Tribunal.

Considering costs, the Tribunal found that the applications had fundamental procedural flaws which the Applicant attempted to cure by multiple re-filings of the same claims, making concurrent and inconsistent submissions regarding receivability and dates. The Tribunal found that this constituted a manifest abuse of proceedings. The Tribunal found that the Office of Staff Legal Assistance, as counsel of record, was presumed to have acted on the Applicant's instructions, in the absence of any indications to the contrary. The Tribunal further found that, in the absence of power to order costs against a representative, costs were properly ordered against the Applicant and awarded costs in the sum of USD 1,000.

The Tribunal included observations regarding what it considered to be a failure of the Management Evaluation Unit ("MEU") to have due regard to the deadlines for completion of management evaluation responses. The Tribunal observed that the MEU continued to engage in correspondence with staff members having filed management evaluation requests well beyond the prescribed time limits, blurring the lines between formal and informal procedures.

8. *Judgment No. UNDT/2015/125 (31 December 2015): Wilson* v. *Secretary-General of the United Nations*[18]

Staff selection—Exception to rules and policy—Exercise of discretion—Standard for consideration of request for exception—Request to be considered on case-by-case basis—Compensation for loss of chance of promotion

The Applicant, a Senior Investigator at the P-5 level wishing to apply for a D-2 post, contested a decision by the Assistant Secretary-General for Human Resources not to grant him an exception to section 6.1 of ST/AI/2010/3 (Staff selection system), which provides that staff members are "not eligible to apply for positions more than one level higher than their personal grade". The decision stated that making an exception would be prejudicial to the interests of other similarly situated staff members or groups of staff members with

[17] Judgment No. 2013-UNAT-345 (28 June 2013): *Neault* v. *Secretary-General of the United Nations.*

[18] Judge Ebrahim-Carstens (New York).

respect to positions in the same and other categories advertised across the Secretariat and who did not apply for the posts.

The Tribunal found that although staff rule 12.3(*b*) refers to exceptions to the Staff Rules, the same rule applies to legal instruments of subsidiary nature, including administrative instructions. The Tribunal examined the meaning of the phrase "prejudicial to the interests [of other staff]" in the context of staff rule 12.3(*b*). The Tribunal found that the word "prejudicial" is equivalent to "harmful". The Tribunal further found that the Staff Regulations and Rules use the terms "interest" and "interests" in a broader context as compared to "right" or "rights". The Tribunal concluded that the term "interests" of staff is broader than "rights" of staff, and that the choice of the term "interests" in staff rule 12.3(*b*) was not accidental.

The Tribunal also considered that an exception, by its nature, is a deviation from the rule, as it treats the staff member in whose favour it is being made differently from the rest of staff. To find that an exception is not possible due to the mere fact that it would result in differential treatment of a staff member, in comparison to other staff members, was considered to be a logical fallacy by the Tribunal because it faults the instrument of exception precisely for what it is. The Tribunal found that consideration of a request for an exception is, in and of itself, an administrative decision and every administrative decision entails a reasoned determination after consideration of relevant facts, since there is a duty on institutions to act fairly, transparently and justly in their dealings with staff. Each request for an exception has to be considered on its particular circumstances. To make a proper finding that the granting of an exception would be "prejudicial" (harmful) to the "interests" of other staff, the decision-maker must make a reasoned case-by-case assessment of the circumstances in each particular case, determine identifiable and sufficiently comparable interests of other staff that might be prejudiced by the exception, and make his or her decision bearing in mind the right of staff to have their requests for exception properly considered.

The Tribunal concluded that the Applicant's request was not properly considered in that some irrelevant factors were taken into consideration while some relevant factors were not. In particular, no proper consideration was given to the individual circumstances and attributes that may have warranted a legitimate exception. The Tribunal found that no reasonable explanation was provided to the Applicant as to why the granting of this exception would have been prejudicial to other staff. The Tribunal awarded the Applicant the sum of USD 3,000 as compensation for loss of chance of promotion.

9. Order No. 99 (GVA/2015) (5 May 2015): Kompass v. *Secretary-General of the United Nations*[19]

Request for suspension of action pending management evaluation—Valid delegation of authority—Relationship between OHCHR and UNOG—Standard for placing staff member on administrative leave pending investigation

The Applicant, a Director, Field Operations and Technical Cooperation Division (D-2), Office of the High Commissioner for Human Rights ("OHCHR"), requested suspension of action, pending management evaluation, of the decision taken by the Acting Director-General, United Nations Office at Geneva ("UNOG") to place him on administrative leave

[19] Judge Thomas Laker (Geneva).

with pay pending the outcome of an investigation into allegations of misconduct. The contested decision stated that "[i]n the context of the investigation, it [was] considered to be in the interest of the Organization to place [the Applicant] on administrative leave in order to preserve all evidence and to avoid any interference with the investigation. The reasons for your placement on administrative leave also include an assessment that your redeployment would not be feasible in the current circumstances".

The Tribunal held that there were serious and reasonable doubts that the Director-General, UNOG, had delegated authority to place the Applicant on administrative leave pursuant to staff rule 10.4. Having considered, *inter alia*, section 2 of ST/SGB/2000/4 (Organization of the United Nations Office at Geneva) and the Memorandum of Understanding between UNOG and OHCHR dated 1 June 2010, the Tribunal concluded that it appeared that OHCHR is a mere client of and is administered by UNOG, but is not part of its organizational structure. As such, Geneva-based staff members of OHCHR do not fall under the delegation of authority provided for under annex V of ST/SGB/234/Rev.1 (Administration of the staff regulations and staff rules) to UNOG "with respect of [its] staff". The fact that the Assistant Secretary-General for Human Resources was copied on the contested decision, and that she confirmed by e-mail that it was her understanding that the Director-General of UNOG had the delegated authority to take such decision did not correct the irregularity.

The Tribunal also found that the reasons set out in paragraph 4 of ST/AI/371/Amend.1 (Revised disciplinary measures and procedures) for placing a staff member on administrative leave pending investigation—namely that "the conduct in question might pose a danger to other staff members or to the Organization, or if there is a risk of evidence being destroyed or concealed"—are exhaustive and that there were serious and reasonable doubts that the contested decision was justified by any of these reasons. In particular, the Tribunal held that administrative leave did not serve the purpose of avoiding a risk of evidence being destroyed or concealed as the Applicant did not contest the main facts under investigation, would have had ample opportunity to destroy or conceal evidence prior to being placed on administrative leave given the one-month period taken to place him on leave, and there was no indication that he might have had any intention to do so.

The Tribunal concluded that the contested decision was *prima facie* unlawful and that the criteria of "urgency" and "irreparable damage" were satisfied, and ordered that the decision placing the Applicant on administrative leave be suspended pending management evaluation.

B. Decisions of the United Nations Appeals Tribunal

The United Nations Appeals Tribunal ("UNAT") held its first session in 2015 from 16 to 27 February in New York. It held its second session in Geneva from 22 June to 3 July. Its third session was held in New York from 19 to 30 October. The Appeals Tribunal issued a total of 114 judgments in 2015. The summaries of eleven of those judgments are reproduced below.

1. *Judgment No. 2015-UNAT-496 (26 February 2015): Asariotis* v. *Secretary-General of the United Nations*[20]

Promulgation of rules and procedures for staff selection—Administrative Instruction ST/AI/2010/3 on staff selection system—Legal force of the instruction manual for the hiring manager on the staff selection system—Employees' right to be informed of identity of interview panel in selection exercise

The Respondent was a P-5 level staff member and the Chief of the Policy and Legislation Section of the Trade and Logistics Branch, Division on Technology and Logistics (DTL), when she interviewed for a newly vacant position as the Head of the DTL. She continued to participate in a series of interviews and application procedures for the position, until another candidate was selected. When the Geneva Central Review Board declined to recommend the selected candidate because of flawed selection procedures, the position was re-advertised. The Respondent applied for the position again, and upon being selected for an interview, specifically requested not to be interviewed by the same panel of interviewers. The Human Resources Office declined to change the composition of the panel, which it said was properly constituted, and only responded by adding one Human Resources Officer to sit on the panel *ex officio*. The United Nations Dispute Tribunal ("UNDT") agreed that the Respondent was due the opportunity to contest the panel and awarded her alternative compensation of USD 8,000 for material damages and USD 6,000 for moral damages.

The Appeals Tribunal held that the Respondent's interview process was governed by Section 7.5 of the Administrative Instruction, which does not impose an obligation on the Administration to inform the staff member of the composition of the interview panel before the scheduled interview.[21] Section 7.5 provides only that "shortlisted candidates shall be assessed to determine whether they meet the technical requirements and competencies of the job opening."[22]

To address the UNDT holding that the "*Instruction Manual for the Hiring Manager on the Staff Selection System*" ("the Manual") required the Administration to inform interview candidates of the identities of persons on the interview panel, the Tribunal held that the UNDT was wrong to determine that the Administrative Instruction ST/AI/2010/3 (Staff Selection System) gave the Manual any binding legal force. Despite the recommendations in the Manual regarding hiring procedures, a candidate for an advertised post was not, based on the provisions of Section 9.5 of the Manual alone, entitled to be apprised of the composition of the interview panel prior to the interview. To this point, the Tribunal referenced a previous decision which clarified that "[r]ules, policies or procedures intended for general application may only be established by duly promulgated Secretary-General's bulletins and administrative issuances".[23]

The Appeals Tribunal concluded, however, that by pointing out that she had been previously interviewed for the post and that there were ongoing proceedings before the UNDT with regard to her challenge to a prior selection exercise, the Respondent had put

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[20] Judge Mary Faherty (Presiding), Judge Rosalyn Chapman, and Judge Deborah Thomas-Felix (Geneva).

[21] ST/AI/2010/3.

[22] Judgment No. 2015-UNAT-496, para. 23.

[23] *Charles* v. *Secretary-General of the United Nations*, Judgment No. 2013-UNAT-286, para. 23.

the Administration on notice of the importance she attached to the panel's composition. Under these specific circumstances, the UNDT did not err in concluding that had the Respondent been informed of the composition of the panel, she would have requested the replacement of the panel members and the Administration's failures with regard to the composition and notice of composition of the panel vitiated the entire process. The Appeals Tribunal therefore confirmed the UNDT's award of material damages of USD 8,000 for lack of full and fair consideration and moral damages of USD 6,000 for the distress the Respondent suffered due to the irregularities.

2. *Judgment No. 2015-UNAT-505 (26 February 2015): Benfield-Laporte* v. *Secretary of the United Nations*[24]

Abuse of authority—Procedures for responding to employee complaints—Refusal to conduct a fact-finding investigation—Scope of fact-finding investigation—Reasonable time to respond to employee complaints

The staff member[25] worked as a Personal Assistant/Administrative Assistant for the former Director-General, United Nations Office at Geneva ("UNOG") for many years. After the former Director-General left his post, the staff member continued in the same position for the new Director-General until he informed her on 3 November 2011 that she needed to immediately fill a position at the Staff Development and Learning Section (SDLS), effective 8 November 2011. On 6 June 2012, the staff member filed a complaint alleging abuse of authority on the basis of the manner in which her reassignment came about, but the Assistant Secretary-General for Human Resources Management ("ASG/OHRM") refused to initiate a formal fact-finding investigation. Before making this decision the ASG/OHRM contacted the Director-General responsible for the transfer to request his comments on the matter.

The Appeals Tribunal affirmed the UNDT judgment, which found that the ASG/OHRM did not err in deciding that the staff member's complaint against her former supervisor did not provide sufficient grounds to warrant a formal fact-finding investigation. Indeed, it found that "it is not legally possible to compel the Administration to take disciplinary action."[26] The Appeals Tribunal also emphasized that sections 5.14 and 5.15 of ST/SGB/2008/5 regarding complaints of abuse of authority allows the ASG/OHRM some discretion in how to conduct a review and assessment of a complaint, and that it is "good practice" to hear each party's version of events, as long as there is no risk of undermining the investigation.

The Appeals Tribunal concluded, however, that a period of six months to communicate the decision not to open a formal fact-finding investigation was far from prompt, and affirmed the UNDT's award of compensation in the amount of USD 3,000 for emotional distress and anxiety caused by the six-month delay in deciding the Applicant's complaint. While noting that not every violation of due process rights leads to monetary damages, the Appeals Tribunal found the damages award proper, highlighting the non-punitive nature of the compensation.

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[24] Judge Inés Weinberg de Roca (Presiding), Judge Luis María Simón, and Judge Deborah Thomas-Felix (Geneva).

[25] Designated Respondent/Appellant. The Secretary-General of the United Nations was designated Appellant/Respondent.

[26] *Abboud* v. *Secretary-General of the United Nations*, Judgment No. 2010-UNAT-100, para. 34.

3. *Judgment No. 2015-UNAT-518 (26 February 2015): Oummih* v. *Secretary-General of the United Nations*[27]

Director's discretion to conduct investigation and consult relevant parties—Right of parties to be informed of complaints against them—Establishment of investigation panel—Protocol to hire investigation panel members from within the Organization—Necessity of having properly trained investigation panel members

The Respondent was a P-3 Legal Officer at the Office for Staff Legal Assistance ("OSLA") who had received negative performance reviews and a reprimand by her Chief, which she had challenged with some success. She had filed a complaint with the Deputy Secretary-General against her Chief, as well as against one of her former colleagues at OSLA for, *inter alia*, discrimination and abuse of authority, retaliation through performance appraisals, defamation, and preferential treatment of another staff member.[28] After receiving comments from the persons against whom the Respondent had filed a complaint, the Executive Director of the Office of the Administration of Justice determined that a fact-finding investigation would only take place with regard to some of the allegations made against the Chief of OSLA.

The persons appointed to the fact-finding review panel were not on the relevant roster of the Office of Human Resources Management and had not received internal United Nations training on investigating complaints filed under ST/SGB/2008/5. Although the Respondent complained about this, the investigation went forward with the panel, as constituted. The Executive Director eventually decided, at the behest of the panel, that no further action should be taken regarding the complaint against the Chief. The Respondent filed a claim with the UNDT challenging the decision.

The Appeals Tribunal found that the UNDT erred in determining that the refusal by the Executive Director of the Office of Administration of Justice to open an investigation into all of the allegations of harassment and abuse of authority raised by the Respondent against her supervisor and another former colleague violated ST/SGB/2008/5 ("ST/SGB") (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority). The Appeals Tribunal held that there is a degree of discretion as to how to conduct a review and assessment of a complaint and decide whether to undertake a fact-finding investigation regarding some or all of the allegations. Moreover, the Appeals Tribunal held, contrary to the UNDT finding, that the Executive Director acted in accordance with sections 5.14 and 5.15 of ST/SGB when she asked for comments from the alleged offenders before making the assessment of the claims. This action by the Executive Director did not undermine any part of the investigation, but added transparency to the procedure. In this vein, the Appeals Tribunal emphasized that alleged offenders have to be notified of any complaint against him/her, at least by the beginning of the investigation, if not earlier.

The Appeals Tribunal affirmed the UNDT's conclusion that the Executive Director did not follow the ST/SGB protocol by hiring two consultants from outside the Organization to conduct the investigation. Under the ST/SGB, the responsible official must entrust the fact-finding investigation to a panel of two persons from the department who are trained

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[27] Judge Inés Weinberg de Roca (Presiding), Judge Richard Lussick, and Judge Sophia Adinyira (Geneva).

[28] ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority).

for that purpose or, if that is not possible, appoint two persons from the roster maintained for that purpose by OHRM. The Appeals Tribunal remanded the matter to the Executive Director to establish a new fact-finding panel in accordance with ST/SGB.

The Appeals Tribunal concluded that the Respondent had not experienced any inordinate delay with regard to the handling of her complaint which would merit the award of damages and therefore vacated the UNDT's award of CHF 8,000 in moral damages.

4. *Judgment No. 2015-UNAT-542 (2 July 2015): Nielsen* v. *Secretary-General of the United Nations*[29]

Suitability for summary Judgment—Receivability of premature complaints—Role of the Appeals Tribunal *vis a vis* other administrative processes and/or the UNDT

The Appellant had accepted a one-year temporary appointment to the Procurement Services Branch ("PSB") of the United Nations Population Fund ("UNFPA") in Copenhagen, Denmark. Due to tensions with her colleagues and supervisors, the Appellant was placed on Special Leave with Full Pay ("SLWFP"). During this time, the Appellant's personal e-mail account was also blocked in an effort to prevent her from continuously sending non-work-related e-mails to office colleagues. The Appellant's challenge to her placement on SLWFP was denied. She was later notified that her temporary appointment would not be renewed, and upon expiration of her contract she was separated from UNFPA.

The Appellant continued to apply for other appointments within the United Nations, including for a post with the World Health Organization ("WHO"), which required her to come to the United Nations City building ("UN City") to undergo a written assessment. Upon arrival for the assessment, the Appellant was denied access to the UN City building. She was subsequently assured by the Director of the Department of Human Resources, UNFPA, that if she was invited by another Agency, she would be granted access. However, the WHO told the Appellant that it had decided to deny her access so as to avoid "harbour[ing] unfriendly relations with any other UN agency […] housed in UN City".

The Appellant challenged the blocking of her e-mail account and denial of access to UN City Copenhagen, as well as to her rebuttal process and the UNFPA Rebuttal Policy as such. The Appeals Tribunal agreed with the UNDT that the complaint regarding the Appellant's rebuttal procedures was premature and not receivable. The Appeals Tribunal explained that an application can be considered not receivable when it "fail[s] to identify any appealable decision", meaning that there was no final decision rendered nor was there a reason not to proceed with the rebuttal process.[30] It also emphasized that administrative processes or UNDT proceedings must be allowed to run their proper course before being challenged before the UNDT or the Appeals Tribunal.[31]Moreover, the Appeals Tribunal also held not receivable the challenge to the UNFPA Rebuttal Policy, as it concerned a regulatory framework rather than an administrative decision.

With respect to the restriction of the Appellant's access to her emails and to the UN City Building in Copenhagen, the Appeals Tribunal determined that the contested

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[29] Judge Mary Faherty (Presiding), Judge Luis María Simón, and Judge Deborah Thomas-Felix (Geneva).

[30] *Gehr* v. *Secretary-General of the United Nations*, Judgment No. 2013-UNAT-313, paras. 18–19.

[31] See also *Staedtler* v. *Secretary-General of the United Nations*, Judgment No. 2015-UNAT-560, para. 27.

questions could not have been determined on summary judgment. It held that the UNDT erred when it determined a question of law without assessing the underlying factual matrix. The question of whether the contested decisions were not in compliance with the Appellant's terms of appointment required a factual enquiry, necessitating the Respondent's reply to her specific complaints. The Appeals Tribunal therefore remanded the matter back to the UNDT for a *de novo* consideration on these specific issues.

Overall, the Appeals Tribunal concluded that, except for the procedural issues regarding the UNDT's decision on the blocking issues, the Appellant's claims did not require an appellate judgment based on the criteria in Article 2(1) of the Appeals Tribunal Statute.

5. *Judgment No. 2015-UNAT-555 (2 July 2015): Pedicelli* v. *Secretary-General of the United Nations*[32]

Administrative Instruction ST/AI/1998/9 regarding the System for Classification of Posts—ICSC decisions regarding salary binding on the Organization—Receivability of a challenge to an administrative decision implementing a ICSC decision—Standing—Decision implementing an ICSC decision as an appealable decision as an administrative decision

The Appellant was a G-7 level staff member at the Secretariat of the Convention on Biological Diversity ("SCBD") in Montreal. In March 2010, the International Civil Service Commission ("ICSC") promulgated a new seven-level job classification standard for General Services ("GS") and related categories within the United Nations Common System ("UN Common System"). Subsequently, the SCBD had renumbered staff member posts to align the office with the new system. Due to the restructuring, G-7 level positions, including the Appellants, were renumbered as G-6 level positions, resulting in a reduction of the Appellant's salary. The Appellant challenged the decision and on the grounds that it amounted to a downgrade sought reinstatement to her G-7 level position.

The Appeals Tribunal agreed with the UNDT that the Secretary-General had no discretionary authority not to implement the ICSC's decisions with regard to salary. Indeed, by resolution 67/241 the General Assembly had affirmed that the ICSC decisions are binding on the Organization.[33] To this point, the Appeals Tribunal emphasized that it had upheld several ICSC decisions against challenges, which it determined were not receivable.

However, the Appeals Tribunal considered that certain decisions regarding appointments can be challenged as "administrative decisions" under Article 2(1) of the Statute of the Dispute Tribunal, if there is a "direct impact" on the staff member's contract or terms of appointment.[34] The Appeals Tribunal noted that this was not only a facet of its own jurisprudence, but is also an "undisputed principle of international labour law."[35] Here, because the Appellant's salary was reduced after the renumbering, the Appeals Tribunal found that, contrary to the UNDT ruling, the Appellant was adversely affected by the renumbering.

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[32] Judge Sophia Adinyira (Presiding), Judge Richard Lussick, and Judge Mary Faherty (Nairobi).

[33] A/RES/67/241.

[34] *Andati-Amwayi* v. *Secretary-General of the United Nations*, Judgment No. 2010-UNAT-58, paras. 17–19; see also *Lee* v. *Secretary-General of the United Nations*, Judgment No. 2014-UNAT-481, para. 49.

[35] Judgment No. 2015-UNAT-555, para. 29.

The Appeals Tribunal concluded that because the UNDT failed to consider the Appellant's salary reduction in determining that the Appellant's claims were not receivable, it erred as a matter of fact and as a matter of law. The Appeals Tribunal therefore remanded to the UNDT for *de novo* review.

6. *Judgment No. 2015-UNAT-574 (30 October 2015): Couquet* v. *Secretary-General of the United Nations*[36]

Series 100 employee eligibility for after-service health insurance—Date of recruitment for the purpose of determining eligibility for after-service health insurance—Relationship between Administrative Instruction ST/AI/2007/3 regarding after-service health insurance and staff rule 4.17 regarding staff re-employments versus staff reinstatements

The Respondent had worked as a series 100 staff member under the auspices of the United Nations, first as a Translator with the International Criminal Tribunal for the Former Yugoslavia ("ICTY") and later with the United Nations Assistance to the Khmer Rouge Trials ("UNAKRT"). Both positions were granted on the basis of fixed-term appointments, the first of which was extended a number of times until the Respondent had to resign for personal reasons. The second appointment was also extended a number of times until the Respondent's mandatory retirement from service at age 62. Before completing her post with the UNAKRT on 30 November 2013, the Respondent applied for the after-service health insurance ("ASHI") programme, but was deemed ineligible because she did not meet the programme's 5 or 10-year threshold. The administration agreed that the Respondent had worked a total of 7.2 years, but deemed that, for the purposes of determining eligibility for ASHI, her start date was the first day of her post with UNAKRT, namely 15 October 2009.

The Appeals Tribunal re-emphasized that section 2 of ST/AI/2007/3 sets out the eligibility criteria to receive ASHI which, in the case of a series 100 employee, requires either five[37] or ten[38] years' participation in a contributory health insurance plan in the case of staff members recruited before 1 July 2007. Contrary to the UNDT, the Appeals Tribunal denied that section 2.2 of the same administrative instruction[39] controls the legal question of when a would-be ASHI participants employment began for the purposes of program eligibility. In its view, section 2.2[40] "is limited to defining the meaning of 'participation in a contributory health insurance plan of the United Nations'".[41]

The Appeals Tribunal thus found that the UNDT erred in concluding that the Respondent's eligibility for ASHI should be determined based on the date of her recruitment to the ICTY in October 2006, instead of her appointment to the UNAKRT in October 2009. Under staff rule 4.17 the date of recruitment that is relevant for determining the

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[36] Judge Richard Lussick (Presiding), Judge Rosalyn Chapman, and Judge Luis María Simón (New York).

[37] ST/AI/2007/3, section 2.1(*b*)(ii).

[38] *Ibid*., section 2.1(*a*)(ii).

[39] ST/AI/2007/3.

[40] *Ibid*.

[41] Judgment No. 2015-UNAT-574, para. 38.

terms of appointment of a former staff member who receives a new appointment after separating from the Organization is the date of the new appointment. In the Respondent's case, her new appointment with UNAKRT was a re-employment under staff rule 4.17 and not a reinstatement. The Respondent's eligibility for ASHI was therefore properly determined by reference to the date of her recruitment to UNAKRT in October 2009.

The Appeals Tribunal concluded that the Respondent's arguments in support of the UNDT judgment were without merit. It refused to hear the Respondent's argument that she was entitled to ASHI as a matter of equitable right since the Respondent had not raised that issue before the UNDT. The Appeals Tribunal determined, for all of the foregoing reasons, that the appeal succeeded.

7. Judgment No. 2015-UNAT-575 (30 October 2015): Gomez v. *United Nations Joint Staff Pension Board*[42]

Base amount deductible for alimony payments—Net versus gross pension benefits—Compulsory and statutory deductions from pension benefits versus voluntary deductions for purposes of determining base for alimony

The Appellant had been a participant in the United Nations Joint Staff Pension Board ("UNJSPF") as a staff member of the International Atomic Energy Agency ("IAEA"). The Appellant and his former spouse had signed a divorce notary deed which stated that the Appellant would pay 50 per cent of his net base pension to his spouse after he retired.

The Appellant had requested UNJSPF to deduct his After Service Health Insurance ("ASHI") premium in the calculation of his net base pension. UNJSPF determined that the ASHI was unrelated to the Appellant's benefits under the Fund's Regulations and Administrative rules and could not be considered when determining the net base pension. The Appellant had requested a review by UNJSPF's Standing Committee, which had upheld the decision.

The Appeals Tribunal noted that gross pension was the full pension before deductions, while the net base pension, was the "sum which is left after compulsory/statutory deductions."[43] The Appeals Tribunal found that the ASHI premium did not constitute a compulsory or statutory deduction, but was a voluntary payment. It held that adjusting the base for the alimony payment on the basis of the ASHI premium would effectively make former spouse contribute to the ASHI. The Appeals Tribunal upheld the decision of the Standing Committee and dismissed the appeal.

[42] Judge Deborah Thomas-Felix (Presiding), Judge Mary Faherty, Judge Richard Lussick.

[43] Judgment No. 2015-UNAT-575, para. 22.

8. *Judgment No. 2015-UNAT-576 (30 October 2015): Harrich* v. *Secretary-General*[44]

Receivability *ratione materiae* and *ratione temporis*—Abuse of process—Impact of application for correction of judgment on time limit to appeal judgment on merits—Extension or waiver of time limit to appeal only in exceptional circumstances

The Appellant was a staff member of the Preparatory Commission for the Comprehensive Nuclear Test Ban Treaty Organization ("CTBTO") in Vienna, Austria. He had filed an application with the UNDT concerning an administrative decision not to grant him a repatriation grant and a lump sum shipping allowance upon his separation from the Executive Office, Office for the Coordination of Humanitarian Affairs ("OCHA"). The Appellant further requested compensation for moral damages. The UNDT determined that the application was receivable *ratione temporis*, but declared the Appellant's claims without merit and dismissed the application.

The Appellant had filed, among others, two motions for correction of judgment in an effort to re-litigate the same issues already adjudicated by the UNDT. Appellant then brought an appeal against the UNDT judgment, and later filed a motion to submit an amended appeal brief as well as an unsolicited reply to the Secretary-General's answer to his appeal, which additional pleading for which he did not request or receive permission. The Secretary-General objected to the filing of this additional pleading.

The Appeals Tribunal permitted the reply. It found that the Appellant satisfied the standard set by article 31(3) of the Rules, section II.A.3 of Practice Direction No. 1, as well as the Tribunal's jurisprudence. Since the Appellant's appeal brief only discussed the merits of his claim, while the Secretary-General's answer addressed receivability issues, the reply offered the only chance to the Appellant to address this key issue.

Nonetheless, The Appeals Tribunal rejected the appeal as not receivable *ratione temporis*. Per article 7(1)(*c*) of the Statute and General Assembly resolution 66/237, appeals must be filed within 60 days of receipt of the UNDT judgment. The Appeals Tribunal held that the language of article 7(1)(*c*) is unambiguous, and clearly does not provide for the Applicant's argument that the 60-day period began at the filing of his second motion for correction of judgment. The Appeals Tribunal did acknowledge the right to waive or extend the period in exceptional circumstances, but held that no such circumstances existed here; and, in any case, that a motion for such waiver or extension would have had to be made before the appeal was filed.[45] The Appellant had not followed this procedure.

The Appeals Tribunal further held that the appeal was not receivable *ratione materiae*. In Gehr, the Appeals Tribunal held that an appeal of a UNDT judgment denying a post-judgment application for interpretation of a UNDT judgment is not receivable[46] because an "interpretation of a judgment 'is not a fresh decision or judgment'".[47] The Appeals Tribunal considered that

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[44] Judge Rosalyn Chapman (Presiding), Judge Deborah Thomas-Felix, and Judge Luis María Simón (New York).

[45] *Thiam* v. *Secretary-General of the United Nations*, Judgment No. 2011-UNAT-144, para. 18. See also *Czaran* v. *Secretary-General of the United Nations*, Judgment No. 2013-UNAT-373, para. 26; *Cooke* v. *Secretary-General of the United Nations*, Judgment No. 2012-UNAT-275, paras. 29–30.

[46] Judgment No. 2015-UNAT-576, para. 30.

[47] *Gehr* v. *Secretary-General of the United Nations*, Judgment No. 2013-UNAT-333, paras. 13–14 and footnote 10 (quoting from *Tadonki* v. *Secretary-General of the United Nations*, Judgment No. 2010-UNAT-010).

the same reasoning applied in the case of an appeal regarding the denial of a post-judgment application for correction of a UNDT judgment. The Appeals Tribunal concluded that any issues with a UNDT judgment should be raised as a substantive appeal of the decision.[48]

9. Judgment No. 2015-UNAT-600 (30 October 2015): James v. *Secretary-General*[49]

Requirement to submit request for management evaluation as the first step to challenge an administrative decision—Effect of consideration by technical bodies on requirement to submit management evaluation requests

The Appellant had worked on a fixed-term appointment as a Civil Affairs Officer at the NO-B level in the United Nations Mission in Liberia ("UNMIL"). While in service, he was diagnosed with a mature cataract and he subsequently underwent surgery at a hospital in Ghana, followed by another procedure due to a complication after the first surgery. The Appellant sought early retirement from his position because he believed the continual computer work he completed for his job would exacerbate the condition. The Appellant requested compensation for loss of one eye and diminishing vision in the other by filing a claim under appendix D of the Staff Rules of the Advisory Board on Compensation Claims ("ABCC"). The ABCC forwarded the claim to the Director of the Medical Services Division ("MSD") for review, and the MSD convened a medical review board in Ghana to assess the Appellant's condition. The review board could not definitively link the damage to computer usage at work and did not make a finding regarding damages.

The Appellant requested special consideration from the Assistant Secretary-General ("ASG") of the Office of Human Resources Management ("OHRM") for compensation as well as separation from UNMIL for the reason of health disability. When this was denied, the Appellant brought a challenge at the UNDT and asserted negligence on part of the UNMIL for "referring him to a sub-standard medical facility for cataract surgery". The Appellant requested a statement that UNMIL was responsible for the failed surgery which caused his vision loss; a decision that he was entitled to full benefits for the loss of his eye, and a decision that he was entitled to compensation in the form of USD 2.25 million for his physical injuries, the loss of his career and emotional damages based on the injury as well as the refusal of the Organization to accept responsibility for such injury. The UNDT determined that none of the Appellant's claims were receivable.

The Appeals Tribunal affirmed the UNDT's finding that the Appellant's claims were not receivable. The Appellant was required to request management evaluation of these claims under article 8(1)(*c*) of the UNDT Statute and staff rule 11.2(*a*) as a first step in contesting the administrative decision, but had failed to do so. The Appeals Tribunal reiterated that the initial, timely request for a management evaluation was a mandatory step and, if not taken, an appeal to the UNDT was not possible.[50]

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[48] Judgment No. 2015-UNAT-576, para. 30.

[49] Judge Sophia Adinyira (Presiding), Judge Rosalyn Chapman, Judge Richard Lussick (Nairobi).

[50] *El-Shobaky* v. *Commissioner-General of the United Nations Relief and Works Agency for Palestine Refuges in the Near East*, Judgment No. 2015-UNAT-564, para. 23, citing *Amany* v. *Secretary-General of the United Nations*, Judgment No. 2015-UNAT-521; *Wamalala* v. *Secretary-General of the United Nations*, Judgment No. 2013-UNAT-300; and *Gehr* v. *Secretary-General of the United Nations*, Judgment No. 2013-UNAT-299.

The Appeals Tribunal similarly rejected the Appellant's contention that the impugned decisions were based on the advice of technical bodies, namely the ABCC, the MSD and the medical board, and that he was therefore not required to request management evaluation under staff rule 11.2(*b*). The Appeals Tribunal noted that a claim of gross negligence against the Administration is a separate action which cannot be included in a claim made by a staff member under Appendix D. The Appellant was therefore required to submit a request for management evaluation of these decisions before proceeding with an application to the UNDT. The Appeals Tribunal rejected the Appellant's submission that his request to the ASG/OHRM fulfilled the requirement of submitting the request for management evaluation; Staff Rule 11.2 determined that such request must be sent to the Secretary-General.[51]

10. Judgment No. 2015-UNAT-604 (30 October 2015): Ocokoru v. *Secretary-General of the United Nations*[52]

60-Day time limit to appeal a judgment—Date of service of UNDT judgment—Actual and Legal knowledge of a UNDT judgment—Requirement to send written notice to the Appeals Tribunal in order to have an extension of the time limit to appeal

The Respondent was a National Professional Officer ("NPO"), Grade NO-B/2 for the United Nations Mission in Sudan ("UNMIS"). In July 2011, UNMIS' mandate expired and the General Assembly approved a budget for a new United Nations Mission in the Republic of South Sudan ("UNMISS"). The Respondent was reassigned, receiving a one-year fixed-term appointment, to UNMISS. In January 2012, the Respondent was notified that her post would not continue after the end of the one-year period. The Respondent filed a request for management evaluation of the decision to end her post with UNMISS, and when that was not successful she filed a claim with the UNDT. The UNDT ordered rescission of the administrative decision not to renew the Respondent's service as well as reinstatement of her position. Alternatively, the UNDT ordered that the Respondent be paid compensation equivalent to two years' net base salary plus compensation of three months' net base salary for each of the discovered procedural and substantive irregularities that occurred with regard to the provided for procedures for dealing with reports of misconduct. The Secretary-General appealed the decision.

The Appeals Tribunal held that the Secretary-General's appeal was not receivable because it was not filed within 60 days of the receipt of the UNDT judgment. The issue for determination by the Appeals Tribunal was whether the relevant date for the filing of the Secretary-General's appeal ran from the date on which the Administrative Law Unit in ("ALU") of the Office of Human Resources Management ("OHRM") received the judgment in its capacity as counsel of record for the Secretary-General before the UNDT or the date on which the judgment was received by the Office of Legal Affairs ("OLA"), the Secretary-General's counsel of record before the Appeals Tribunal . The Appeals Tribunal found the latter argument to be legally and factually untenable. The prior receipt by the Secretary-General's counsel of the decision, and the fact that the ALU had begun working on a brief to OLA indicated that the Secretary-General had actual and legal knowledge of the decision.

[51] ST/SGB/2010/9.

[52] Judge Mary Faherty (Presiding), Judge Rosalyn Chapman, and Judge Luis María Simón (Nairobi).

Further, in the absence of any published UNDT rule or practice direction which decreed that transmission of UNDT judgments be made to OLA, it was not permissible for the Secretary-General to seek to rely on the date when the judgment was received by OLA. The Appeals Tribunal did not consider whether this constituted an exceptional circumstance warranting extension of the time line, because the Secretary-General never filed a request for such extension.[53]

Consequently, the appeal was found to be time-barred and the UNDT judgment awarding compensation of two years and six months net base salary was not disturbed. Upon rejection of the appeal, the Appeals Tribunal deemed moot a motion by the Respondent for monetary and other relief relating to the suspension from her position pending the appeal.

11. Judgment No. 2015-UNAT-607 (30 October 2015): Zakharov v. *United Nations Joint Staff Pension Board*[54]

Receivability of appeal—UNAT's jurisdiction over the UNJSPF—Employee's right to appeal under UNJSPF Rules and Regulations—Denial of rightful appeal constitutes denial of employee's due process rights

The Appellant served as a Human Settlements Officer—on secondment from the Government of the former Union of Soviet Socialist Republics ("USSR")—in the United Nations Centre for Human Settlements in Nairobi, Kenya as of 2 May 1980. His appointment was for a two-year fixed term and at the outset of his service he would be eligible to participate in the United Nations Joint Staff Pension Fund ("Fund" or "UNJSPF"). The Appellant's contract was renewed and ended on 3 August 1985. On 2 August 1985, the Appellant filled out a form so that his pension rights would be transferred to the USSR Bank for Foreign Trade, pursuant to an earlier transfer agreement between the Fund and the Government of the USSR. On 5 November 1985, he signed an application form alerting the Fund's Secretary that he wanted the terms of the Transfer Agreement to be applied to his case. The Secretary of the Fund then transferred USD 37,917 out of the Fund to the Social Security Fund of the USSR, and sent a letter to the Ministry of Social Security of the USSR advising that the funds were being transferred because of the Appellant's separation from the United Nations and his decision to transfer the funds.

On 28 September 1990, the Appellant joined the United Nations Economic Commission for Africa. In 1991, he sent a letter requesting that the Fund reinstate his prior contributory service from his previous post. The Fund responded that the funds could not be restored, since they had already been transferred at the Appellant's request, and that there was no provision in the transfer agreement to return the funds. The Appellant subsequently sent two more letters reiterating the same request, and both times, the Fund responded that the Appellant could not have his contributory funds restored since his contributory service was for a period longer than five years.

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[53] Article 7(3) of the United Nations Appeals Tribunal Statute; Article 7(2) of the United Nations Appeals Tribunal Rules of Procedure; *Thiam* v. *Secretary-General of the United Nations*, Judgment No. 2011-UNAT-144, paras. 14–18.

[54] Judge Richard Lussick (Presiding), Judge Rosalyn Chapman, and Deborah Thomas-Felix.

The Appellant separated from the Organization on 31 May 1998. In 2014, he sent two further communications to the Fund appealing the earlier decision not to reinstate his contributory service from his first post with the United Nations. Specifically, he requested that the Standing Committee restore his service pursuant to article 30 of the UNJSPF Regulations. The Fund responded that the Appellant's request was time-barred and that any questions related to the funds should be submitted to the Russian Federation (which has succeeded the USSR under the United Nations Charter). In response to further communication from the Appellant, the Fund advised him that all decisions were in compliance with the Fund' Rules and Regulations and that the Fund was unable to submit the case to the Standing Committee.

The Appeals Tribunal found that the decision of the UNJSPF not to submit the Appellant's appeal to the Standing Committee contravened his rights under the UNJSPF Rules and Regulations by depriving him of access to the appeals process. This was a serious violation of his due process rights. However, the Appeals Tribunal held that the appeal was not receivable because its jurisdiction is limited to hearing appeals of decisions of the Standing Committee and since the Applicant's case had not been reviewed by the Standing Committee, the Appeals Tribunal had no jurisdiction to hear the appeal. The Appeals Tribunal remanded the Appellant's case to the Standing Committee acting on behalf of the UNJSPF.

C. Decisions of the Administrative Tribunal of the International Labour Organization[55]

The Administrative Tribunal of the International Labour Organization adopted in 2015 a total of 167 judgments at its 119th and 120th sessions.[56]

[55] The Administrative Tribunal of the International Labour Organization is competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of the staff regulations of the following international organizations that have recognized the competence of the Tribunal: International Labour Organization, including the International Training Centre; World Health Organization, including the Pan American Health Organization; United Nations Educational, Scientific and Cultural Organization; International Telecommunication Union; World Meteorological Organization; Food and Agriculture Organization of the United Nations, including the World Food Programme; European Organization for Nuclear Research; World Trade Organization; International Atomic Energy Agency; World Intellectual Property Organization; European Organisation for the Safety of Air Navigation (Eurocontrol); Universal Postal Union; European Southern Observatory; Intergovernmental Council of Copper Exporting Countries; European Free Trade Association; Inter-Parliamentary Union; European Molecular Biology Laboratory; World Tourism Organization; European Patent Organisation; African Training and Research Centre in Administration for Development; Intergovernmental Organisation for International Carriage by Rail; International Centre for the Registration of Serials; International Office of Epizootics; United Nations Industrial Development Organization; International Criminal Police Organization (Interpol); International Fund for Agricultural Development; International Union for the Protection of New Varieties of Plants; Customs Cooperation Council; Court of Justice of the European Free Trade Association; Surveillance Authority of the European Free Trade Association; International Service for National Agricultural Research; International Organization for Migration; International Centre for Genetic Engineering and Biotechnology; Organisation for the Prohibition of Chemical Weapons; International Hydrographic Organization; Energy Charter Conference; International Federation of Red Cross and Red Crescent Societies; Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization; European and Mediterranean Plant Protection Organization; International Plant Genetic Resources Institute; International Institute for Democracy and Electoral Assistance; International Criminal Court; International Olive Oil Council; Advisory Centre on WTO Law; African, Caribbean and Pacific Group of States; the Agency for International Trade Information and Cooperation; European Telecommunications Satellite Organization; International Organization of Legal Metrology; International Organisation of Vine and Wine; Centre for the Development of Enterprise; Permanent Court of Arbitration; South Centre; International Organization for the Development of Fisheries in Central and Eastern Europe; Technical Centre for Agricultural and Rural Cooperation ACP-EU; International Bureau of Weights and Measures; ITER International Fusion Energy Organization; Global Fund to Fight AIDS, Tuberculosis and Malaria; and the International Centre for the Study of the Preservation and Restoration of Cultural Property. The Tribunal is also competent to hear disputes with regard to the execution of certain contracts concluded by the International Labour Organization and disputes relating to the application of the regulations of the former Staff Pension Fund of the International Labour Organization. For more information about the Administrative Tribunal of the International Labour Organization and the full texts of its judgments, see http://www.ilo.org/public/english/tribunal/.

[56] See http://www.ilo.org/dyn/triblex/triblexmain.showList?p_lang=en&p_session_id=119 and http://www.ilo.org/dyn/triblex/triblexmain.showList?p_lang=en&p_session_id=120, respectively.

D. Decisions of the World Bank Administrative Tribunal[57]

1. *Decision No. 506 (29 May 2015): CP* v. *International Bank for Reconstruction and Development*[58]

Non-extension of contract—Awareness of express contractual terms—Detrimental reliance—Materiality of reliance—Right of contract renewal—Abuse of discretion in selection process—Impropriety of *post hoc* justification in selection process

The Applicant was hired by the Global Partnership for Education ("GPE") in 2012 as an Extended Term Consultant ("ETC") for 12 months, with the possibility—but not the obligation—of extension. When she initially expressed interest in the vacancy announcements for the two advertised ETC positions, the Country Support Team Coordinator and hiring manager, Ms. SB, indicated in an email to the Applicant that the vacant posts "will start as TWO-YEAR (not one-year as advertised) External Term Contract positions that we anticipate converting to term positions at some point in the coming 18 months" (emphasis in original). The Applicant signed a letter of employment six month later and started working soon after that. However, at the end of the one-year term, the Applicant's position was not renewed.

The Applicant filed an Application with the Tribunal alleging that the Bank's failure to extend her appointment was a breach of specific promises given to her in writing which she relied upon to her detriment when she accepted the position. The Bank responded that Ms. SB's statements or other attendant circumstances did not constitute a right of renewal. The Bank asserted that the subsequent written letter of appointment was the governing instrument of the Applicant's legal relationship with the Bank and that its terms superseded any types of promises that Ms. SB might have made.

The Tribunal noted that a fixed-term appointment does not carry a right for a renewal, but a promise of renewal made expressly or by unmistakable implication by a Bank official with an apparent authority may create such a right. In this case, the Tribunal found that Ms. SB was "an official who had at least the apparent authority to negotiate on employment matters on behalf of the unit." The Tribunal found that Ms. SB had, in fact, made an unequivocal and unambiguous promise to the Applicant. Ms. SB expressly stated in her e-mail that the post will be two-year long, used the word "will" rather than "may," and emphasized

[57] 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 designed or otherwise entitled to receive payment under any provision of the Staff Retirement Plan. For more information on the World Bank Administrative Tribunal and full texts of its decisions, see https://tribunal.worldbank.org (accessed on 31 December 2013).

[58] The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.

the point by using capital letters and acknowledging that it was advertised as one year. The Tribunal held that "it was reasonable for the Applicant to rely on the emphatic assurances of Ms. SB['s] … email." The Tribunal rejected the Bank's assertion that the Applicant's reliance was unreasonable because she was aware of the terms of the letter of appointment.

The Tribunal found that the promise of a position of at least two years had a material effect on the Applicant's decision to work at the Bank since, prior to that e-mail, the Applicant was not inclined to accept the Bank's offer. Ms. SB had asked the Applicant to disregard the fact that the position was advertised for one year. The Applicant was persuaded to sign the letter of appointment on the basis of those express assurances which thus made them essential elements of the Applicant's employment relationship with the Bank. Finally, the Tribunal noted that, contrary to the Bank's claims, there was evidence of detrimental reliance on a promise, and the Applicant suffered material injury. This is because it was "abundantly clear" that the Applicant relied on assurances given by Ms. SB and gave up another better paid offer of employment. The Tribunal awarded the Applicant compensation in the amount of one year's salary net of taxes.

The Applicant also challenged the Bank's failure to automatically convert her position from an Extended Term Consultancy to a Term Appointment. The Tribunal reviewed Ms. SB's language in her emails and held that there were no express or unambiguous promises regarding the automatic conversion of the Applicant's contract to a Term Appointment. Instead, the email used words like "anticipate" and "almost certainly" that allowed room for the possibility that expectations may not materialize and that promises may not be met depending on circumstances.

Finally, the Applicant claimed that her non-selection to an advertised vacancy was unfair and an abuse of discretion. The Tribunal reviewed the Bank's decision for "objectivity, transparency, rigor, diversity and fairness in the selection process." The contemporaneous communications on record of the interview panel revealed that the assessment of the Applicant changed between the initial interview report (candidates' assessment matrix) and the last interview report. The Tribunal found that the interview panel initially placed the Applicant on the list of "suitable" candidates but then, without any discussions, lowered her assessment score and moved her to the list of "not suitable" candidates. The Tribunal also found that the panel changed their overall comments on the Applicant's assessment in an attempt to justify their decision *post hoc*. It had also been decided that candidates who were deemed "not suitable" for selection would also not be suitable for renewal. Thus, the *post hoc* characterization of the Applicant as "not suitable" also resulted in her appointment being terminated. Given the deficiencies in the process, the Tribunal found that a compensation award of three months' salary net of taxes was warranted.

In addition to the award of compensation, the Tribunal ordered the Bank to pay the Applicant's attorney fees in an amount of US dollar 15,008.53.

2. *Decision No. 507 (29 May 2015): Andres Pizarro* v. *International Bank for Reconstruction and Development*[59]

Publicity surrounding internal investigations—Duty of care to staff members—Reputational damage—Emotional distress—Confidentiality of ongoing investigations—Presumption of innocence—Causation

The Applicant, a former staff member, challenged the Bank's decisions concerning the publication of allegations, published between May and August 2012, in the Argentine newspaper, *La Nación*. The articles alleged that the Bank was involved in wrongdoing and corruption in a Bank-financed transportation project in Argentina, and named the Applicant personally in several of the articles.

The Bank immediately issued a statement to *La Nación* explaining its policies, sharing the Bank's concerns, and informing them that the Bank had commenced an internal investigation into the matter. At the same time, the Applicant sought to clear his name of the allegations, but the Bank instructed him not to speak with the press, reminded him of his obligation of confidentiality to the Bank, and started a World Bank Integrity Vice Presidency ("INT") investigation into allegations that the Applicant may have engaged in collusion or corruption, or otherwise had a financial interest in the outcome of the procurement of the Bank-financed transportation project. In January 2013, INT concluded an exhaustive investigation and did not find any evidence of misconduct against the Applicant. INT nevertheless told the Applicant that he was not permitted to share the result of the investigation with prospective employers or exonerate himself in the media. The Bank refused the Applicant's repeated requests to assist him in clearing his name and in commencing legal action against *La Nación*. Only in February 2014 did the Bank inform the Applicant that he could "disclose, without restriction, the outcome of the World Bank's administrative inquiry into allegations of misconduct on [his] part that was conducted by the Integrity Vice Presidency (INT)."

In August 2014, the Applicant filed an application before the Tribunal contending that Bank failed to protect him and prevented him from defending himself by instructing him to maintain confidentiality—even after the INT inquiry was concluded. The Applicant sought damages for loss of earnings, emotional distress and reputational harm. He also sought to enforce his requests made to the Bank: the cost of a defamation lawsuit against *La Nación*, and specific performance by the Bank in the form of a public statement and a letter to Argentine officials stating that he was completely cleared of any wrongdoing in connection with the project in question.

The Staff Association filed an *amicus curiae* brief for this case. It noted that the Principles of Staff Employment instruct the Bank to "ensure that a staff member who is accused publicly but exonerated privately is provided … with the support necessary to minimize [the resulting] dire consequences." The Bank should have countered the assumption of guilt in the news; instead, its announcement of the internal investigation might have been equated with guilt in the public eye.

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[59] The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.

The Tribunal first considered whether the Bank's decisions and handling of the allegations and the INT investigation were fair to the Applicant. It reinforced that international organizations have a recognised duty of care towards their employees and former employees. This duty of care stems from the terms of the contract of employment and all pertinent regulations and rules in force at the time of the alleged non-observance. The Tribunal found that the Bank's delays and inaction had violated that duty. The Bank disregarded its duty to the interests and due process rights of the Applicant when it failed to act with sensitivity towards the Applicant, or to take into consideration the impact the undenied allegations and ensuing INT inquiry would have had on the Applicant, as well as the ongoing damage to his reputation to which those uncontested allegations gave rise. In view of the fact that the Bank's response or lack of response to the articles published by *La Nación* would have a direct impact on the Applicant's reputation, the Bank was obliged to ensure that, in accordance with the duty of care owed to current and former staff members, its approach to the media allegations was implemented in a manner which was fair to the Applicant. At a minimum, the Bank's treatment of media accusations should, insofar as possible, neither cause nor contribute to the Applicant suffering harm. The Bank's decisions of unresponsiveness and inaction while denying the Applicant the possibility of his publicly rebutting accusations against him, were unfair. The inexplicable delay to allow the Applicant to disclose the INT's preliminary investigation was inexcusable. Although the case was sensitive, this delay was excessively long and the Bank failed to respect the need to address the matter expeditiously.

The Tribunal recalled that it had previously admonished the Bank for not protecting the reputation of staff members who were confronted with publicity concerning misconduct investigations. Here, it reasoned that the Bank could have affirmed the presumption of innocence principle, noted the Applicant's previously unblemished record of service, corrected the newspaper's explanation of the procurement process, or shared the findings of the INT inquiry with the newspaper—all without harming its own interests. These decisions had impacted the Applicant's reputation. In addition to failing to support him, the Bank may have prejudiced his situation by informing *La Nación* that an investigation by the Bank was in progress without providing clarifications as to the project, the staff rules, or the ongoing investigation.

The Tribunal recognized the need for individual members of staff not to speak out publicly on allegations of wrongdoing. Confidentiality restrictions notwithstanding, the Bank should have taken reasonable steps to protect the staff member's interests and reputational harm when accused of impropriety in the course of their duties. The Tribunal recalled that, under its jurisprudence, the Bank owed due process rights to even a party guilty of misconduct, and that a passivity to offer explanations or counter damaging publications against Bank staff members was disturbing.

On the question of whether the Bank's decisions caused or contributed to the damage suffered by the Applicant, the Tribunal found that there were steps the Bank could have taken in accordance with its duty of care towards the Applicant which would have mitigated the reputational damage the Applicant suffered, but which it failed to take. In apparently focusing solely on its perception of its organizational interests, the Bank unjustifiably contributed to the Applicant's economic and other harm.

In determining the quantum of damages, the Tribunal took note of the actual known economic losses suffered by the Applicant as well as non-pecuniary harm such as emotional

distress and harm to the Applicant's reputation. The Tribunal awarded the Applicant compensation of US dollar 350,000, plus attorney's fees in the amount of US dollar 21,749.38.

3. *Decision No. 525 (13 November 2015): DC* v. *International Bank for Reconstruction and Development*[60] *(Preliminary Objections)*

MEMORANDUM OF AGREEMENT—WAIVER OF ADMINISTRATIVE AND LEGAL ACTION—MUTUALLY AGREED SEPARATION—SCOPE OF WAIVER CLAUSE—*CONTRA PROFERENTEM* RULE OF CONTRACT CONSTRUCTION

The Applicant was given an unsatisfactory Overall Performance Evaluation ("OPE") and a low Salary Review Increase ("SRI") rating by a new supervisor, who also placed him on an Opportunity to Improve Unsatisfactory Performance Plan ("OTI"). The Applicant contested the OPE and SRI through mediation, and when that was unsuccessful, requested a review of the decision by Peer Review Services ("PRS"). This was filed as PRS Request for Review No. 186.

Pending the findings and recommendation of the PRS Panel, the Applicant was told that his performance was still unsatisfactory and that he was being recommended for termination. The Applicant was informed that management intended to terminate his contract unless he accepted a Mutually Agreed Separation ("MAS") and agreed to withdraw his PRS Request for Review No. 186. The Applicant refused to "mutually agree" to what he considered a disrespectful way of terminating his employment.

Subsequently, the Bank issued a Notice of Termination for Unsatisfactory Performance. The Applicant initiated mediation with the Bank on the Notice of Termination. Eventually, the Applicant and management concluded a Memorandum of Understanding on the Applicant's ending employment and the parties' post-employment understandings. If the Applicant would resign and agree to release all claims connected to the issues and refrain from future legal or administrative actions related to such actions, the Bank would give the Applicant a single payment of US dollar 25,000 and limit the access to his OPE, SRI, and OTI files. A day before the conclusion of the Memorandum of Understanding ("MOU"), the report of the PRS Panel was completed. Following conclusion of the MOU, the Bank refused to provide a copy of the PRS Panel report to the Applicant on the grounds that he had waived his rights to PRS Case No. 186.

The Applicant filed this Application with the Tribunal asking to reinstate PRS Case No. 186, or, in the alternative, to adjudicate the issues therein. The Bank filed a preliminary objection challenging the admissibility of the Applicant's claims on the grounds that he waived them in the MOU. The Applicant also challenged the Bank's failure to provide him with information about his separation benefits. The Bank contended that this claim should be deemed inadmissible as the Applicant should have "exhausted prior remedies, including PRS," in accordance with Article II of the Tribunal's Statute.

This Judgment addressed the Bank's preliminary objections. The Tribunal upheld the validity of the MOU and found that the waiver clause did not apply to the PRS Request for Review No. 186 and claims which preceded the notice of termination of the Applicant's employment. Upon a review of the MOU, the Tribunal held that the scope of the MOU

[60] The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.

was limited to any "future" claims relating to the Applicant's ending employment with the World Bank Group and post-employment benefits, commitments and understandings.

In assessing whether the claims reviewed in PRS Request for Review No. 186 were claims "connected to the issues" in the MOU, the Tribunal held that the subject of the MOU, the decision that the Applicant's OTI was unsuccessful resulting in termination, was separate and distinct from the decision to give him a poor OPE, a low SRI and even the decision to place him on an OTI. The Tribunal reviewed the Bank's practice in drafting MOUs and, applying the *contra proferentem* rule against the Bank, found that the MOU waiver clause did not operate in the manner asserted by the Bank. With respect to the Applicant's claims concerning his separation benefits, the Tribunal found these claims to be admissible. The Bank's preliminary objections were dismissed. The Request for Review No. 186 was reinstated. The claim on the Applicant's separation benefits was admitted, and the Applicant was awarded attorney's fees.

4. *Decision No. 510 (29 May 2015): AI (No. 4)* v. *International Bank for Reconstruction and Development*[61]

Finality of Tribunal's decisions—Article XIII of Tribunal's Statute—Review of final decisions—Discovery of a new fact—Materiality of omissions—*Res judicata*

In 2008, the Applicant filed an application with the Tribunal for a breach of promise to promote him and make him the Global Manager of the International Comparison Programme ("ICP"); for discrimination against him because of his race, and; for retaliation against him because he filed an appeal with the Appeals Committee. In 2010, the Tribunal dismissed all of the Applicant's claims. In 2009, the Applicant filed a second application challenging the Bank's decision to terminate his employment for unsatisfactory performance. In 2010, the Tribunal concluded that the Bank's decision was an abuse of discretion, and awarded the Applicant three years' salary—almost half a million dollars. In his second application, the Applicant also requested the Tribunal to "revisit" his "discrimination case." The Tribunal noted that the allegations were "irreceivable under the principle of *res judicata*."

The Applicant filed for a review of his past cases under article XIII of the Tribunal's Statute, which provides for a reconsideration of the Tribunal's judgment upon the discovery of new evidence. He claimed that the Bank informed him through an email message that it will restore deleted parts of his Overall Performance Evaluation ("OPE") without any explanation why these parts of his OPE were deleted and why the Respondent failed to restore it during the Tribunal's proceedings. The Applicant averred that the Bank submitted a different, incomplete personnel record to the Tribunal during his earlier applications, and that this record denied the Applicant's managerial experience. The Bank denied hiding any OPE files or sending any new emails about restoring deleted files. The Tribunal was requested by the Bank to dismiss the Application based on lack of jurisdiction.

The Tribunal first recalled its jurisprudence on the finality of judgments, where it held that no party to a dispute before the Tribunal may "bring his case back to the Tribunal for

[61] The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.

a second round of litigation, no matter how dissatisfied he may be with the pronouncement of the Tribunal or its considerations." The Tribunal noted that article XIII provides the sole exception to this principle of finality, where a party may request the Tribunal to revise its judgment within six months of the decision, in the event of the "discovery of a fact which by its nature might have had a decisive influence on the judgment of the Tribunal and which at the time the judgment was delivered was unknown both to the Tribunal and to that party…." The Tribunal stated that article XIII has a very rigorous standard to safeguard *res judicata*, and its requirements are fulfilled only in exceptional circumstances where the newly discovered facts are potentially decisive [and] shake the very foundations of the Tribunal's persuasion; "if we had known that, the judges must say, '[W]e might have reached the opposite result.'"

On the facts, the Applicant suggested that the Bank's email to him proved that the Tribunal did not have a full record of his 2002 OPE, and instead had documents that "reflected false evidence" which the Bank had submitted. The Tribunal found that the complete record of the Applicant's 2002 OPE had already been before the Tribunal, and was in fact submitted by the Applicant himself. This document was accompanied by detailed submissions on the Applicant's managerial role. The Tribunal found that there were no new decisive facts warranting a revision of the prior judgments under article XIII.

Finally, the Tribunal noted that the Applicant sought a revision also on the ground that the Tribunal's prior judgments contain "material omissions and errors." The Tribunal held that these were not new assertions. These repeated claims have no factual or legal basis to warrant a revision under article XIII and were dismissed.

5. *Decision No. 520 (13 November 2015): Alrayes* v. *International Finance Corporation*[62] *(Preliminary Objection)*

G-4 visa cancellation—Municipal investigation into staff member's allegations of terrorism—Family separation—Exceptional circumstances to allow delayed filing

The Applicant, a Saudi Arabian national, joined the International Finance Corporation ("IFC") in 2007, on a Term Appointment. He worked in the Washington, DC office, retained a G-4 visa for the United States, and travelled abroad on numerous missions on behalf of the IFC. In January 2010, he left for a two-week mission to the Gulf States. At the end of this mission, he attempted to board a flight at Dubai airport, to return to the United States; however, he was informed by airline personnel that his G-4 visa had been cancelled and that he could not travel to the United States.

Over the following months, as the visa issue remained unresolved, the Applicant sought the assistance of numerous colleagues at the IFC and the World Bank, stressing the difficulties he was facing in being separated from his children. In November 2010, the IFC agreed to pay the travel costs for the Applicant's family to visit him in Dubai. However, the IFC refused the Applicant's request that it seek a mandamus order from a US court.

During this time, the Applicant worked from the Dubai office. Eventually, the IFC proposed that the Applicant be formally appointed to work from Dubai and not

[62] The judgment was rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.

Washington, DC. In February 2011, the Applicant signed a short term Assignment ("STA") agreement. This was later extended for a further six months, until January 2012. In December 2011 the Applicant signed a Memorandum of Understanding ("MOU") relating to the completion of his employment with IFC, and his status with IFC pending resolution of his visa issues. His resignation was to become effective 5 January 2013. On 8 January 2013, the Applicant was informed that IFC would not contribute more than US dollar 25,000 towards his legal fees.

Also in February 2011, the Applicant was formally notified by the US Government that he had been found ineligible for a G-4 visa because of alleged terrorist activities. He was interviewed by the FBI in July 2011, and again in December 2012. Shortly after the second set of interviews he was told that he had received clearance. The Applicant later submitted claims for US dollar 40,000 in legal fees.

In July 2014, the Applicant finally received a visitor's visa for the United States. On returning, he sought to close any outstanding issues with the IFC, including the reimbursement of legal fees. The parties initiated mediation in October 2014, but the mediation proved to be unsuccessful. Shortly after mediation ended in January 2015, the Applicant filed a number of claims with PRS. All were rejected by the PRS for lack of jurisdiction.

In his Application with the Tribunal, the Applicant: requested payment of the visa-related legal fees; requested payment of costs incurred in arranging for his children to visit him; challenged his placement on a two-year STA; challenged his lack of salary increases while in Dubai; requested various separation payments; challenged the IFC's failure to seek a writ of mandamus; and challenged the validity of the MOU entered into in December 2011. The IFC contended that the Applicant's claims were time-barred, and that he failed to show exceptional circumstances to excuse the delays in filing. The Applicant accepted that some of his claims were filed after the applicable 120-day period, but argued that he satisfied the test for "exceptional circumstances" under the Statute.

The Tribunal considered the admissibility of the Applicant's various claims in turn. It found that his claim relating to separation payments was filed in a timely manner, and was admissible. All other claims were filed late, and could only be admissible to the extent that exceptional circumstances existed to justify the delays in filing.

Noting the confluence of factors which the Applicant encountered from January 2010 to July 2014, particularly the stresses associated with being unexpectedly separated from his children for an extended period, the Tribunal concluded that "exceptional circumstances" existed up to the point when the Applicant returned to the United States in July 2014. Taking into account the various circumstances of the case, including the mediation entered into by the parties and the effect this had on the time frame for filing claims, the Tribunal concluded that the following claims were admissible: the Applicant's claim for payment of the agreed US dollar 25,000 in legal fees; his claim for legal fees beyond this amount; his claim associated with the travel of his children to visit him; his challenge to being placed on a two-year STA; and his claim regarding the lack of salary increases while in Dubai.

Conversely, the Applicant's challenge to the validity of the MOU was found to be inadmissible because the Applicant filed this claim six months after he arrived to the United States, which was two months too late even taking into account his circumstances. The IFC's decision not to seek a writ of mandamus was also found to be inadmissible because this decision was not of a type which could be brought directly to the Tribunal, and the

Applicant had failed to raise this claim before PRS and exhaust internal remedies prior to raising the claim before the Tribunal.

The Tribunal ordered the IFC to pay the Applicant's attorney's fees arising from the preliminary objections phase of the proceedings.

E. Decisions of the Administrative Tribunal of the International Monetary Fund[63]

Judgment No. 2015–3 (29 December 2015): Ms. "GG" (No. 2) v. *International Monetary Fund*[64]

Unfair treatment—Hostile work environment—Sexual harassment—Gender discrimination—Pattern of prohibited conduct—Failure of the Fund effectively to respond—Admissibility of challenge to non-selection and Annual Performance Review (APR) decisions—Abuse of discretion in APR assessment—Abuse of discretion in adopting revised promotion policy and applying it to applicant—Failure of due process—Material impairment of the record—Compensation for intangible injury—No compensation for time spent on self-representation

The Applicant, Ms. "GG", alleged (*a*) that she had been subject to a pattern of retaliation, harassment, gender discrimination and a hostile work environment to which the Fund had failed effectively to respond; (*b*) that her non-selection for B-level positions in 2009, 2010 and 2011, as well as her Annual Performance Review ("APR") decisions for FY2009 and FY2010 had been improperly motivated by retaliation, harassment, and discrimination and formed part of a pattern of prohibited conduct; (*c*) that the Fund had abused its discretion in adopting its revised B1/B2 promotion policy of July 2011 and applying it to the Applicant; and (*d*) that elements of the administrative review and Grievance Committee processes constituted failures of due process or materially impaired the record of the case.

Invoking its earlier case law,[65] the Tribunal upheld the admissibility of the first claim since the contested acts, even if they could not have been individually challenged, constituted a pattern of conduct prohibited by the Fund's policies barring workplace discrimination and harassment. The Tribunal observed that even mildly offensive words or behaviour could rise to the level of prohibited conduct when they were repeated and form a pattern, the cumulative effect of which was to deprive the individual of fair and impartial treatment

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[63] The Administrative Tribunal of the International Monetary Fund became operational on 1 January 1994. The Tribunal is competent to pass judgment upon any application: a) by a member of the staff challenging the legality of an administrative act adversely affecting him; or b) by an enrollee in, or beneficiary under, any retirement or other benefit plan maintained by the Fund as employer challenging the legality of an administrative act concerning or arising under any such plan which adversely affects the applicant. For more information on the Administrative Tribunal of the International Monetary Fund and the full texts of its judgments, see http://www.imf.org/external/imfat/ (accessed on 31 December 2013).

[64] Catherine M. O'Regan (President) Jan Paulsson and Edith Brown Weiss (Judges).

[65] *Mr. "F", Applicant* v. *International Monetary Fund*, Judgment No. 2005–1, 18 March 2005, para. 90–91; *Ms. "W", Applicant* v. *International Monetary Fund*, Judgment No. 2005–2, 17 November 2005; *Mr. "O", Applicant* v. *International Monetary Fund*, Judgment No. 2006–1, 15 February 2006.

or to impede career advancement. On the merits, the Tribunal found that alleged comments by the Department Director, namely that the Applicant should seek to advance her career by using "charm, humour and personal appeal to him", constituted harassment. According to the Tribunal, the Applicant could have reasonably perceived the comments, made by a male supervisor to a female subordinate, to have impermissible gendered implications, whatever precisely their intent might have been. This finding was supported by reactions of similarly situated staff members to whom the Applicant had relayed the comments, and by the context in which they were made, *i.e.* while the Applicant had been seeking performance feedback. The Tribunal noted that gender stereotyping played a subtle, yet powerful, role in denying equal treatment. It found, however, that the comments did not constitute sexual harassment as they were not necessarily sexual in nature. Overall, the Tribunal held that at three key junctures the Applicant's Department Director had engaged in actions having an unfair and adverse effect on her conditions of employment. The Tribunal noted that the Fund was to be held accountable for abuse by its senior managerial authority and had failed to respond effectively to the resulting hostile work environment. An Ethics investigation undertaken by the Fund after the Applicant had raised a formal complaint could not shield it from responsibility before the Tribunal.

With regard to her second claim, the Tribunal found that the Applicant had failed to raise admissible challenges to a number of the decisions that she alleged formed part of the pattern. The failure of a selection panel to select the Applicant for appointment to a B-level position in 2009 did not constitute an "administrative act" since the vacancy had subsequently been cancelled. The Applicant also lacked standing to challenge non-selection decisions in 2010 and 2011 because she had applied for the vacancies in question. Moreover, the Applicant had not launched a timely challenge to her FY2009 APR decision and exceptional circumstances did not excuse her late filing. Turning to the Applicant's FY2010 APR challenge, the Tribunal found that the Applicant had not established that the Department Director had influenced the Applicant's Division Chief, either directly or indirectly, in appraising her performance. Because an allegation of improper motive called into question the impartiality of the decision-making process, the Tribunal also gave particular scrutiny to the question whether there had been a "reasonable and observable basis" for the contested APR rating and concluded that such basis was found in the record.

Third, the Tribunal found that unifying the criteria for B1/B2 promotions across career streams (by increasing the time-in-grade ("TIG") required for economist staff to reach eligibility for promotion and decreasing the TIG required for other staff) was neither arbitrary nor discriminatory against economists. The evidence showed that the decision had been based on a proper consideration of relevant facts in consultation with key stakeholders and was reasonably related to the objectives it sought to advance. Furthermore, the differential effect on economist *vis-à-vis* specialized career stream staff members was directly related to the purpose of the policy revision. The Applicant did succeed, however, in her contention that the revised promotion policy should not have been applied in the circumstances of her case. In implementing a transitional measure designed to protect the expectations of staff members who had been promoted to B1 before the change in policy in July 2011, the Fund had arbitrarily excluded the Applicant because her promotion to B1 became effective in the period 1 May–1 July 2011. In the view of the Tribunal, the transitional measure drew an unsupportable distinction between categories of staff.

Fourth, the Tribunal addressed the Applicant's contention that elements of the administrative review and Grievance Committee procedures in her case constituted failures of due process and materially impaired the evidentiary record of the case. The Tribunal observed that the integrity of the underlying review procedures had a direct bearing on the Tribunal's own work, as it drew upon the record assembled through those procedures in reaching its own findings and conclusions. The Tribunal reaffirmed that the Grievance Committee's decisions as to the admissibility of evidence and production of documents in its forum did not constitute "administrative acts" subject to review by the Tribunal. At the same time, the Tribunal confirmed that it could weigh, and even discount, the record generated by the Grievance Committee as an element of the evidence before it. However, the Tribunal found no ground to give the records of the review procedures any less than their usual weight. Insofar as the Applicant's challenges raised systemic issues relating to the Fund's dispute resolution system, the Tribunal observed that it was the province of the policy-making organs of the Fund to ensure its robustness and integrity.

Turning to remedies, the Tribunal affirmed its ability to provide compensation for intangible injury. In quantifying the compensation, the Tribunal took into account the legitimate expectation of staff members that the Fund would act in accordance with the rule of law, as well as the nature of the particular obligations breached. It noted that breach of fundamental principles of workplace fairness would necessarily constitute a serious injury. In light of all salient factors, the Tribunal set the compensation to correct the effects of the Fund's failure to respond effectively to a pattern of unfair treatment constituting a hostile work environment adversely affecting the Applicant at US dollar 60,000. With regard to the Applicant's successful claim that the implementation of the B1/B2 promotion policy had unfairly affected her, the Tribunal rescinded the individual decision that no exception would be made to the application of the revised promotion policy in the circumstances of the Applicant's case. It set the compensation for the Fund's failure to afford the Applicant the benefit of the transitional measure included in the B1/B2 policy revision at US dollar 10,000. The Tribunal further observed that it could not take into account the potential tax consequences in various jurisdictions of its monetary award. Accordingly, it denied the Applicant's request that it prescribe that any monetary relief be made on a net-of-tax basis. Finally, the Tribunal refused to compensate the Applicant for the imputed cost of her time spent representing herself in the proceedings, since she had not established that any out-of-pocket expenses had been incurred.

Chapter VI

SELECTED LEGAL OPINIONS OF THE SECRETARIATS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS[1]

A. Legal opinions of the Secretariat of the United Nations

(Issued or prepared by the Office of Legal Affairs)

1. Privileges and immunities

(*a*) Inter-office memorandum to the Assistant Secretary-General of [Office] concerning the issuance of the United Nations *laissez-passer* (UNLP) on an exceptional basis to individuals who are not officials of the United Nations

Convention on the privileges and immunities of the United Nations—The United Nations may issue United Nations *laissez-passers* to its "officials"—General Assembly resolution 3188 (xxvii)—Privileges and immunities granted to some "officials other than Secretariat officials"—Experts on missions, consultants and individual contractors not "officials" and not entitled to a *laissez-passerz*—Experts on missions may be provided with a United Nations certificate stating that they are travelling on official business—Consultants and individual contractors may be given status of experts on mission

1. This is with reference to your memorandum dated [date] and to the exchanges between our offices seeking our comments concerning the issuance of the United Nations *laissez-passer* (UNLP) on an exceptional basis to individuals who are not officials of the United Nations.

2. We understand that [Office] frequently receives requests for issuance of UNLPs to non-staff members of the United Nations. We further understand that most of these requests concern individuals who are consultants or experts on mission for the United Nations. We note that it is [Office]'s current policy that such categories of individuals are not generally entitled to receive a UNLP.

3. Pursuant to article VII, section 24 of the Convention on the Privileges and Immunities of the United Nations (the "General Convention"), the Organization may issue UNLPs "to its officials". Pursuant to article V, section 17 of the General Convention the Secretary-General specifies the "categories of officials" to which the privileges and immunities set forth in articles V and VII shall apply.

4. In accordance with article V, section 17, the Secretary-General proposed to the General Assembly that the categories of officials to which privileges and immunities under

[1] This chapter contains legal opinions and other similar legal memoranda and documents.

article V shall apply include "all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates". In resolution 76 (I) adopted by the General Assembly on 7 December 1946, the General Assembly approved the granting of the privileges and immunities referred to in articles V and VII of the General Convention "to all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates". Pursuant to the Staff Regulations (ST/SGB/2014/2), staff members are those who fall within the meaning of Article 97 of the Charter of the United Nations, and "whose employment and contractual relationship are defined by a letter of appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter".

5. Pursuant to article V, section 17 of the General Convention, the Secretary-General has further proposed to the General Assembly that articles V and VII of the General Convention should apply to other individuals, apart from staff members. For example, in resolution 3188 (XXVII) of 18 December 1973, upon the Secretary-General's proposal, the General Assembly approved the granting of privileges and immunities under articles V and VII of the General Convention to members of the Joint Inspection Unit and the Chair of the Advisory Committee on Administrative and Budgetary Questions. Individuals who fall within this category have been consistently referred to by the General Assembly as "officials other than Secretariat officials".

6. Pursuant to article VII, section 26 of the General Convention, "experts on mission" may be provided with a United Nations certificate, stating that they are travelling on the business of the United Nations. They are not entitled to a UNLP although as holders of a United Nations certificate, experts on mission shall be accorded similar facilities as a holder of a UNLP.

7. Consultants and individual contractors are not considered as "officials" of the United Nations and as such, they are not entitled to the privileges and immunities in article[s] V and VII of the General Convention. However, depending on the circumstances, such consultants and individual contractors, may be considered as experts on mission and may therefore be provided with a United Nations certificate of the kind described in section 26 of the General Convention. Indeed, pursuant to Administrative Instruction ST/AI/2013/4 on consultants and individual contractors:

> "Consultants and individual contractors serve in their individual capacity and not as representatives of a Government or of any other authority external to the United Nations. They are neither staff members under the Staff Rules and Staff Regulations of the United Nations nor officials for the purpose of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946. Consultants and individual contractors may be afforded the status of experts on mission within the meaning of article VI, section 22, of the Convention. If the consultants and individual contractors are required to travel on behalf of the United Nations, they may be given a United Nations certificate in accordance with article VII, section 26, of the Convention".

8. In light of the above, OLA has consistently taken the position that in accordance with the General Convention, only "officials", whether staff members or officials other than Secretariat officials, are entitled to UNLPs. Experts on mission, even where such individuals are former staff members, are not entitled to a UNLP but are entitled to a certificate, confirming that they are travelling on the business on the United Nations. Consultants and individual contractors may, depending on the circumstances, be given the status of

experts on mission and similarly be entitled to a certificate. The issuance of UNLPs to individuals other than officials has been authorized by the Organization in the past only on an exceptional basis, dictated by the operational needs of the Organization. For example, a review of our files indicates that requests for the issuance of UNLPs to individuals other than officials have been approved on an exceptional basis after taking into account the particular political situation and security concerns of such requests. In the cases that we have seen, such approvals were authorized in consultation with OLA. Accordingly, any request for the issuance of a UNLP on an exceptional basis would need to be assessed on a case-by-case basis.

19 March 2015

(*b*) Inter-office memorandum to the Assistant Secretary-General of [Office] concerning the privileges and immunities of the United Nations with regard to the export of weapons and ammunition in support of United Nations peacekeeping and political missions and for the protection of United Nations personnel and premises

Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition—2012 European Union rules and regulations on export of firearms—United Nations Convention against transnational organized crime—Article 105 of the Charter of the United Nations—Article II, Section 7(*b*) of the Convention on the privileges and immunities of the United Nations—The United Nations is exempt from national regulations barring export of weapons and ammunition

1. This is with reference to the email received from [Name], [position], [Division and Office] on [date] and the exchanges between our offices seeking our views on the application of the Convention on the Privileges and Immunities of the United Nations (the "General Convention") with respect to national regulations, sanctions and/or embargoes imposed by Member States related to the export of weapons and ammunition in support of United Nations peacekeeping and political missions and the protection of United Nations personnel and premises worldwide.

2. We understand that [Office] regularly purchases weapons and ammunition from vendors who export these items to United Nations field missions and premises worldwide. We also understand that the export of weapons and ammunition by the vendors is often delayed due to requirements under national regulations or sanctions and embargoes on the transfer of weapons to certain countries.

3. We note that [Office] has raised the issue of the applicability of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition[2] ("Firearms Protocol") and the 2012 European Union rules and regulation on export of firearms[3] (Regulation No 258/2012) ("EU Firearms Regulation") to

[2] A/RES/55/255. For more information about the Firearms Protocol, please access: http://www.unodc.org/unodc/en/firearms-protocol/the-firearms-protocol.html.

[3] To access this document, please visit: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0258&from=EN.

the United Nations. We note that the Firearms Protocol supplements the United Nations Convention against Transnational Organized Crime,[4] which is open to signature and ratification by Member States and regional economic organizations. The European Union is a signatory to the Firearms Protocol and pursuant to its obligations under article 10 of the Firearms Protocol to establish or maintain an effective system of export and import licensing of firearms, the European Union established the EU Firearms Regulation. While the Firearms Protocol and the EU Firearms Regulation are not directly applicable to the United Nations, we understand that as the United Nations is not listed as an exempt entity under the protocol and regulation, this may create impediments to the export of weapons and ammunition by vendors on behalf of the United Nations.

4. In this connection, we recall that under Article 105 of the Charter of the United Nations (the "Charter"), "[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes". Pursuant to article II, Section 7(*b*) of the General Convention, the United Nations, its assets, income and other property shall be "exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use". Accordingly, where the United Nations is itself the exporter, provided that the exports are for the official use of the United Nations, the Organization would be exempt from national regulations that may constitute a "prohibition" or "restriction" on its exports, even if the United Nations has not been listed as an exempt entity under the Firearms Protocol or the EU Firearms Regulation.

5. Where the United Nations is not the direct exporter, but rather is purchasing from a vendor which is responsible for the export of weapons and ammunition to the United Nations, States (and the vendors themselves) may take the position that the vendor is responsible for complying with national regulations or sanctions, including the obligation to obtain an export license for such goods. In these circumstances, Member States should nevertheless assist the United Nations in facilitating the expeditious export of weapons and ammunition by vendors required for the operations of the United Nations in accordance with the principle set out in Article 2, paragraph 5 of the Charter that "[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter".

6. In this regard, we understand that [Office] intends to enter into long-term agreements with [State], [State] and [State] for the export of weapons and ammunition. [Office] may wish to enter into bilateral discussions with the relevant Governments (and the European Union, if necessary) to discuss practical options that would facilitate the export of items necessary for the United Nations to implement its operations. We note that a resolution of this issue will require an understanding as to which regulations may be causing the delay, how the regulations are being implemented in relation to the vendors of the United Nations, and an exploration of alternative methods where vendors purchase weapons and ammunition for Organization. OLA is available to assist with respect to the legal aspects of such discussions.

10 April 2015

[4] United Nations, *Treaty Series*, vol. 2225, p. 209.

(*c*) Note to [State] concerning privileges and immunities of United Nations staff members regarding the appointment and conditions of service, and taxation of the salaries and emoluments paid by the United Nations to United Nations officials

Article 101, paragraph 1 of the Charter of the United Nations—Conditions of service of staff members established exclusively by the United Nations Staff Rules and Regulations—Staff members not subject to national labour legislation—Convention on the privileges and immunities of the United Nations—United Nations staff members are exempt from national taxation—National courts are not an available forum to resolve labour disputes between staff members and the United Nations—General Assembly resolution 76 (I)—United Nations officials include locally recruited staff members, unless they are "assigned to hourly rates"—General Assembly resolution 239 (III)—Convention on the privileges and immunities of the specialized agencies—Exemption from taxation also applies to specialized agencies

This letter sets out the position of the United Nations with regard to the appointment and conditions of service of United Nations staff members, and with regard to the taxation of the salaries and emoluments paid by the United Nations to United Nations officials.

Appointment and Conditions of Service of United Nations Staff Members

It is a well-recognized principle of public international law that the employment relationship between the United Nations and its staff is not subject to national law, but is governed by the internal rules of the United Nations. This principle derives from Article 101, paragraph 1 of the Charter of the United Nations (the "Charter"), which provides that "[t]he staff shall be appointed by the Secretary-General under regulations established by the General Assembly". Furthermore, pursuant to Article 100, paragraph 2 of the Charter, "each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff".

The Staff Regulations promulgated by the General Assembly provide, *inter alia*, that such Regulations "embody the fundamental conditions of service and the basic rights, duties and obligations" of the United Nations, and that the appointment of staff is subject to the provisions of the Staff Regulations and the Staff Rules promulgated by the Secretary-General to implement those Regulations. Locally-recruited staff, who may be nationals or permanent residents of a host State, are considered as staff within the meaning of Article 101, paragraph 1, of the Charter, and therefore their appointment is subject to the Staff Regulations and Rules. Pursuant to article V, section 17 of the Convention on the Privileges and Immunities of the United Nations (the "General Convention"), the Organization has an obligation to provide the names of these staff members "from time to time" to the Governments of Members.

Pursuant to the provisions in the Charter and the Staff Regulations, I am pleased to confirm that the United Nations has long maintained the position, which has been consistently recognized by its Member States, that the conditions of service of staff members are established exclusively by the Staff Regulations and Rules and, consequently, the conditions of service of staff members, including locally-recruited staff, are not subject to

national labour legislation. The Staff Regulations and Rules establish a complete employment code for the staff of the Organization and include detailed provisions with regard to matters which are usually covered by national labour laws, including a comprehensive social security and pension scheme, and the requirement to comply with local laws.

Consistent with the above provisions, any requirement that the employment of nationals or permanent residents of a host State with the United Nations must be subject to national or local labour laws would contravene the provisions of the Charter and would interfere with the prerogatives of the Secretary-General and the Regulations approved by the General Assembly, undermining the exclusively international character of United Nations staff members as enshrined in Article 100 of the Charter. Moreover, the Organization would face an impossible administrative and financial burden if it were required to be subject to the labour laws and regulations in each of the 193 Member States in which it undertakes activities.

I am further pleased to confirm the position of the United Nations that national courts are not an available forum to resolve labour disputes between staff members and the United Nations. Pursuant to article II, section 2 of the General Convention, "[t]he United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity". The immunity of the Organization applies to cases in which staff members bring labour-related claims against the Organization in national courts.

It should be recalled that the doctrine of state immunity is not applicable to the United Nations. The jurisdictional immunities of States and the privileges and immunities of international organizations have a different nature and origin. The jurisdictional immunities of States are a part of customary international law that has evolved through the years. The privileges and immunities of the United Nations are of a treaty law nature, originating in the Charter and the General Convention.

Notwithstanding the immunity of the Organization from legal process, United Nations staff members are not without a remedy to redress their complaints. In accordance with their contract of employment with the Organization, staff members have recourse to the justice mechanism provided for in the Staff Regulations and Rules to address any disputes they may have with the Organization.

The above is applicable to subsidiary bodies such as UNICEF, UNDP, UNHCR and UNFPA, which are integral parts of the United Nations. The principles articulated above would also be applicable to the Specialized Agencies under the relevant legal instruments of those agencies.

Taxation of Salaries and Emoluments paid by the United Nations to United Nations Officials

I wish to confirm that the long-standing position of the United Nations is that, in accordance with the privileges and immunities afforded to the Organization and its officials, all officials of the Organization, regardless of nationality, are exempt from the payment of income taxes on their United Nations income.

The applicable legal principles, and instruments, are as follows.

The United Nations and its officials have been accorded certain privileges and immunities which are necessary for the fulfillment of the purposes of the Organization. Article 105 of the Charter provides the general basis for the privileges and immunities of both the United Nations and its officials, by expressly stating that the Organization shall enjoy such privileges and immunities as are necessary for the fulfillment of its purposes.

In order to give effect to Article 105 of the Charter, the General Assembly of the United Nations adopted the General Convention on 13 February 1946. As integral parts of the United Nations, subsidiary bodies such as UNICEF, UNDP, UNHCR and UNFPA and their respective officials are entitled to the privileges and immunities provided for in the General Convention.

Pursuant to article V, section 18, sub-paragraph (*b*) of the General Convention, "officials of the United Nations shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations". It should be noted that the General Assembly in its resolution 76 (I) decided who may be considered as an official under the General Convention. That resolution provides that the privileges and immunities referred to in article V of the General Convention are granted "to all members of the staff of the United Nations, with the exception of those who are recruited locally *and* are assigned to hourly rates" (emphasis added). Therefore, all staff members of the United Nations are considered officials for the purposes of the General Convention, with the sole exception of those who are both recruited locally and assigned to hourly rates, and are entitled to exemption from such taxation irrespective of their nationality, residence, place of recruitment or rank.

Accordingly, locally-recruited staff members must be afforded the privileges and immunities of article V of the General Convention, including immunity from taxation on the salaries and emoluments paid to them, unless they are "assigned to hourly rates". Individual consultants and/or contractors are not considered as officials of the Organization.

The immunity from taxation applies to taxes levied by any governmental entity, whether national or sub-national.

The immunity from taxation on salaries and emoluments paid by the United Nations was established to achieve the equality of treatment for all officials of the Organization and in order to ensure that no Member State should derive any national financial advantage from the presence of international staff members in their territory. These principles were clearly enunciated by the General Assembly in resolution 239 (III) C of 18 November 1948 in which the Assembly requested Members which had not acceded to the General Convention or had acceded to it with reservations as to section 18(*b*), to "take the necessary action, legislative or other, to exempt their nationals, employed by the United Nations from national income taxation with respect to their salaries and emoluments paid to them by the United Nations, or in any other manner to grant relief from double taxation to such nationals".

It should be recalled that Member States of the Organization are expected not to make use of United Nations salaries and emoluments for any tax purposes. It will be recalled that in place of national taxation and to avoid the double taxation of United Nations officials, the General Assembly, in 1948, adopted a Staff Assessment Plan designed "to impose a direct assessment on United Nations staff members which is comparable to national income taxes" (General Assembly resolution 239 (III) A of 18 November 1948). The total funds

collected from this staff assessment are distributed among Member States (other than those which impose taxes based on a relevant reservation filed with the Secretary-General at the time of acceding to the General Convention), in proportion to their contributions to the assessed budget of the United Nations; this distribution serves as an offset against amounts otherwise owing by the Member States involved. National taxation would, therefore, impose a double taxation burden on officials of the United Nations and would increase the financial burden of the Organization and its Member States.

As staff members of the funds and programmes are subject to such staff assessment, any taxes that might be applied to the income derived from the United Nations would result in double taxation on those staff members.

A few Member States have, from time to time, in error, sought to levy taxation on the salaries and emoluments paid by the United Nations to their locally-recruited staff. However, once the matter is explained to the relevant national authorities, these States have repealed such measures and fully complied with their obligations under the General Convention. (See page 173, paragraph 63, *1985 Yearbook of the International Law Commission*, Volume 11, Part One, New York, 1989).

The same immunity from taxation is granted to officials of the "Specialised Agencies" of the United Nations. The term, "Specialized Agency", is a term of art and refers to an international, inter-governmental organization which has its own governing or legislative body that is not appointed by, nor reports directly to, the United Nations General Assembly. As set forth in Article 57 of the Charter, Specialized Agencies are those agencies that are "established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields" which have been "brought into relationship with the United Nations in accordance with the provisions of Article 63". Article 63(1) of the Charter provides that "[t]he Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly".

The immunity afforded to officials of the Specialized Agencies is established in the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 (the "Specialized Agencies Convention"), which parallels the provisions of the General Convention. Under article I of the Specialized Agencies Convention, the "specialized agencies" are: The International Labour Organization (ILO); The Food and Agriculture Organization of the United Nations (FAO); The United Nations Educational, Scientific and Cultural Organization (UNESCO); The International Civil Aviation Organization (ICAO); The International Monetary Fund (IMF); The International Bank for Reconstruction and Development (IBRD, now part of the World Bank Group); The World Health Organization (WHO); The Universal Postal Union (UPU); The International Telecommunications Union (ITU); and "any other Agency in relationship with the United Nations in accordance with Articles 57 and 63 of the Charter".

The following agencies are Specialized Agencies which have been brought into relationship with the United Nations in accordance with Articles 57 and 63 of the Charter: The International Fund for Agricultural Development (IFAD); The International Maritime Organization (IMO); The United Nations Industrial Development Organization (UNIDO);

The World Intellectual Property Organization (WIPO); The World Meteorological Organization (WMO); and The World Tourism Organization (UNWTO). I note that the International Development Association (IDA) and International Finance Corporation (IFC), both part of the World Bank Group, are also considered as Specialized Agencies of the United Nations.

Officials of these Specialized Agencies would enjoy the privileges and immunities under the Specialized Agencies Convention so long as (*a*) the host country is party to the Specialized Agencies Convention; and (*b*) that Specialized Agency has been listed by the host country in its instrument of accession as an Agency to which it will apply the provisions of the Specialized Agencies Convention.

Organizations not listed in this letter might also be afforded privileges and immunities for themselves and their employees based on agreement with the host State.

14 April 2015

(*d*) Note to [State] concerning the privileges and immunities enjoyed by United Nations officials from [State] taxation on the salaries and emoluments paid by the United Nations to its officials and from mandatory contributions to national social welfare schemes, which is also a form of taxation

Article 105 of the Charter of the United Nations—Convention on the privileges and immunities of the United Nations—United Nations officials are exempt from national taxation—General Assembly resolution 76 (I)—United Nations officials include locally recruited staff members, unless they are "assigned to hourly rates"—General Assembly resolution 239 (III)—Staff assessment plan replaces national taxation—Exemption from taxation also applies to specialized agencies—Mandatory contributions to social welfare schemes or social security schemes are a form of taxation

This letter sets out the position of the United Nations with regard to the taxation of the salaries and emoluments paid by the United Nations to United Nations officials and mandatory contributions by United Nations officials to national social welfare schemes.

I understand that the Government of [State] intends to implement a procedure requiring international organizations, including the United Nations in [State], and diplomatic missions to withhold and transfer to the Government income taxes and contributions to the mandatory social welfare scheme from the salaries and emoluments paid to locally-recruited United Nations officials by the United Nations. In this regard, I wish to confirm the long-standing position of the United Nations that, in accordance with the privileges and immunities afforded to the Organization and its officials, the Organization does not withhold or deduct taxes on the income earned by officials of the Organization and that all officials of the Organization, regardless of nationality, are exempt from the payment of income taxes on their United Nations income and from mandatory contributions to social welfare schemes under national legislation.

The applicable legal principles, and instruments, are as follows.

Exemption from Taxation

The United Nations and its officials have been accorded certain privileges and immunities which are necessary for the fulfillment of the purposes of the Organization. Article 105 of the Charter of the United Nations (the "Charter") provides the general basis for the privileges and immunities of both the United Nations and its officials, by expressly stating that the Organization shall enjoy such privileges and immunities as are necessary for the fulfillment of its purposes.

In order to give effect to Article 105 of the Charter, the General Assembly of the United Nations adopted the Convention on the Privileges and Immunities of the United Nations on 13 February 1946 (the "General Convention"), to which [State] is a party since [date] without reservation. As integral parts of the United Nations, subsidiary bodies such as UNICEF, UNDP, UNHCR and UNFPA and their respective officials are entitled to the privileges and immunities provided for in the General Convention.

Pursuant to article II, section 7(*a*) of the General Convention, "[t]he United Nations, its assets, income and other property shall be exempt from all direct taxes." Pursuant to article V, section 18, sub-paragraph (*b*) of the General Convention, "officials of the United Nations shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations." It should be noted that the General Assembly in its resolution 76 (I) decided who may be considered as an official under the General Convention. That resolution provides that the privileges and immunities referred to in article V of the General Convention are granted "to all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates." Therefore, all staff members of the United Nations are considered officials for the purposes of the General Convention, with the sole exception of those who are both recruited locally and assigned to hourly rates, and are entitled to exemption from such taxation irrespective of their nationality, residence, place of recruitment or rank. The immunity from taxation applies to taxes levied by any governmental entity, whether national or sub-national.

Accordingly, locally-recruited staff members must be afforded the privileges and immunities of article V of the General Convention, including immunity from taxation on the salaries and emoluments paid to them, unless they are "assigned to hourly rates". Individual consultants and/or contractors are not considered as officials of the Organization.

The immunity from taxation of salaries and emoluments paid by the United Nations was established to achieve the equality of treatment for all officials of the Organization and in order to ensure that no Member States should derive any national financial advantage from the presence of international staff members in their territory. These principles were clearly enunciated by the General Assembly in resolution 239 (III) C of 18 November 1948 in which the Assembly requested Members which had not acceded to the General Convention or had acceded to it with reservations as to section 18(*b*), to "take the necessary action, legislative or other, to exempt their nationals, employed by the United Nations from national income taxation with respect to their salaries and emoluments paid to them by the United Nations, or in any other manner to grant relief from double taxation to such nationals".

It should be recalled that Member States of the Organization are expected not to make use of United Nations salaries and emoluments for any tax purposes. It will be recalled that in place of national taxation and to avoid the double taxation of United Nations officials,

the General Assembly, in 1948, adopted a Staff Assessment Plan designed "to impose a direct assessment on United Nations staff members which is comparable to national income taxes" (General Assembly resolution 239 (III) A of 18 November 1948). The total funds collected from this staff assessment are distributed among Member States (other than those which impose taxes based on a relevant reservation filed with the Secretary-General at the time of acceding to the General Convention), in proportion to their contributions to the assessed budget of the United Nations; this distribution serves as an offset against amounts otherwise owing by the Member States involved. National taxation would, therefore, impose a double taxation burden on officials of the United Nations and would increase the financial burden of the Organization and its Member States.

As staff members of the funds and programmes are subject to such staff assessment, any taxes that might be applied to the income derived from the United Nations would result in double taxation on those staff members.

A few Member States have, from time to time, in error, sought to levy taxation on the salaries and emoluments paid by the United Nations to their locally recruited staff. However, once the matter is explained to the relevant national authorities, these States have repealed such measures and fully complied with their obligations under the General Convention. (See page 173, paragraph 63, *1985 Yearbook of the International Law Commission*, Volume II, Part One, New York, 1989).

The same immunity from taxation is granted to officials of the "Specialized Agencies" of the United Nations. The term, "Specialized Agency", is a term of art and refers to an international, inter-governmental organization which has its own governing or legislative body that is not appointed by, nor reports directly to, the United Nations General Assembly. As set forth in Article 57 of the Charter, Specialized Agencies are those agencies that are "established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields" which have been "brought into relationship with the United Nations in accordance with the provisions of Article 63." Article 63(1) of the Charter provides that "[t]he Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly".

The immunity afforded to officials of the Specialized Agencies is established in the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 (the "Specialized Agencies Convention") which parallels the provisions of the General Convention. [State] has been a party to the Specialized Agencies Convention since [date], without reservation. Under article I of the Specialized Agencies Convention, the "specialized agencies" are: The International Labour Organization (ILO); The Food and Agriculture Organization of the United Nations (FAO); The United Nations Educational, Scientific and Cultural Organization (UNESCO); The International Civil Aviation Organization (ICAO); The International Monetary Fund (IMF); The International Bank for Reconstruction and Development (IBRD, now part of the World Bank Group); The World Health Organization (WHO); The Universal Postal Union (UPU); The International Telecommunications Union (ITU); and "any other Agency in relationship with the United Nations in accordance with Articles 57 and 63 of the Charter."

The following agencies are also Specialized Agencies which have been brought into relationship with the United Nations in accordance with Articles 57 and 63 of the Charter: The International Fund for Agricultural Development (IFAD); The International Maritime Organization (IMO); The United Nations Industrial Development Organization (UNIDO); The World Intellectual Property Organization (WIPO); The World Meteorological Organization (WMO); and The World Tourism Organization (UNWTO). I note that the International Development Association (IDA) and International Finance Corporation (IFC), both part of the World Bank Group, are also considered as Specialized Agencies of the United Nations.

Officials of these Specialized Agencies would enjoy the privileges and immunities under the Specialized Agencies Convention, irrespective of nationality, so long as that Specialized Agency has been listed by [State] in its instrument of accession as an Agency to which it will apply the provisions of the Specialized Agencies Convention.

Organizations not listed above might also be afforded privileges and immunities for themselves and their employees based on agreement with [State].

Exemption of United Nations officials from mandatory national social welfare schemes

It has also been the long-standing position of the Organization that mandatory contributions to social welfare schemes or social security schemes under national legislation are considered a form of taxation and therefore are contrary to the provisions of article V, section 18, sub-paragraph (*b*) of the General Convention. Accordingly, for the reasons articulated above, I wish to confirm that all officials of the United Nations, including locally-recruited [State] officials, are entitled to an exemption from such mandatory contributions required under national laws.

The exemption from mandatory contributions to national social security schemes is further evidenced by the fact that the United Nations has its own comprehensive social security scheme. The establishment of such scheme is required under regulation 6.2 of the United Nations Staff Regulations, which are established by the General Assembly according to Article 101 of the Charter of the United Nations. Pursuant to the Staff Regulations, the Secretary-General has promulgated Rule 6.1 (Participation in the United Nations Joint Staff Pension Fund), Rule 6.2 (Sick leave), Rule 6.3 (Maternity and paternity leave), Rule 6.4 (Compensation for death, injury or illness attributable to service), Rule 6.5 (Compensation for loss or damage to personal effects attributable to service) and Rule 6.6 (Medical Insurance). It should be noted that, with the exception of Rule 6.6 (Medical Insurance) in which staff members "may be required to participate … under conditions established by the Secretary-General", the United Nations social security system is compulsory. It would therefore be inconsistent with Staff Regulation 6.2 for a Member State to insist that staff members not participate in the United Nations scheme, but participate in its national scheme. Moreover, as the United Nations social security scheme is subsidized by the United Nations and often offers benefits that other national schemes do not, mandatory contributions to the [State] scheme could deprive [State] nationals and permanent residents of the favourable benefits of the United Nations social security scheme.

In this regard, however, I note that United Nations officials are not prohibited from voluntarily participating in such schemes as they see fit at their own expense. Accordingly, it is the view of the United Nations that staff should be allowed to choose whether they would like to contribute to [State's] social welfare scheme, but should not be compelled to contribute to the scheme.

Under article VII, section 34 of the Convention, [State] has an obligation to be "in a position under its own law to give effect to the terms of this convention". Moreover, any interpretation of the provisions of the General Convention must be carried out within the spirit of the underlying principles of the Charter, and in particular, paragraph 1, Article 105 thereof, which provides that the Organization shall enjoy such privileges and immunities as are necessary for the fulfilment of its purposes. Measures which might, *inter alia*, increase the financial or other burdens of the Organization have to be viewed as being inconsistent with this provision.

17 April 2015

(*e*) Note to the Permanent Mission of [State] concerning the privileges and immunities of United Nations officials performing functions in [State] and who are [State] nationals or permanent residents

Convention on the privileges and immunities of the United Nations—Article 105 of the Charter of the United Nations—United Nations officials immune from legal process—General Assembly resolution 76 (I)—Privileges and immunities apply to all United Nations staff members, except those who are locally recruited and assigned to hourly rates—The Secretary-General can waive immunity of any official in the interest of justice—The United Nations will cooperate with Member States to administer justice notwithstanding immunities—Privileges and immunities furnishes no excuse for staff failing to observe local laws and police regulations or for staff not performing their private obligations

The Office of Legal Affairs of the United Nations presents its compliments to the Permanent Mission of [State] to the United Nations and has the honour to refer to recent questions that have arisen regarding the status, privileges and immunities of the Organization and its officials in [State].

In particular, the Office of Legal Affairs wishes to note the issue raised by the Government during a meeting between representatives of the Permanent Mission and the Office of Legal Affairs on [date] concerning whether United Nations officials performing functions in [State] who are [State] nationals or permanent residents shall enjoy privileges and immunities under the applicable international instruments, including the Convention on the Privileges and Immunities of the United Nations (the "General Convention") as well as various specific host country agreements concluded with United Nations entities. The Office of Legal Affairs also wishes to note that similar questions have arisen in discussions between United Nations entities operating in [State], including the United Nations Development Programme ("UNDP"), the United Nations Population Fund ("UNFPA"), the United Nations Joint Programme on HIV/AIDS ("UNAIDS"), the United Nations Interregional Crime and Justice Research Institute ("UNICRI") and the United Nations

University ("UNU"), and the Ministry of Foreign Affairs of [State] with respect to the conclusion of certain host country and project agreements.

Further to the request of the Permanent Mission made during the meeting of [date], the Office of Legal Affairs wishes to provide the following general information regarding the status, privileges and immunities of the Organization and its officials under international law.

The legal framework applicable to the status, privileges and immunities of the United Nations and its officials derives from the Charter of the United Nations (the "Charter") and the Convention on the Privileges and Immunities of the United Nations (the "General Convention"), which establish a specialized regime that is necessary for the Organization to carry out its important work for the benefit for all 193 of its Member States. It is fundamentally different from the legal framework that applies in bilateral relations between States as codified in the 1961 Vienna Convention on Diplomatic Relations, which is based on the principle of reciprocity and limits immunity to diplomatic agents and not to the administrative, technical and service staff of the mission, including national staff.

Article 105, paragraph 1 of the Charter provides that the Organization "shall enjoy … such privileges and immunities as are necessary for the fulfilment of its purposes". Article 105, paragraph 2 further provides that officials of the Organization "shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization". Pursuant to paragraph 3 of Article 105 of the Charter, the General Assembly was empowered to "make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose".

As contemplated by paragraph 3 of Article 105, the General Assembly adopted the General Convention on 13 February 1946, to which [State] is a party without relevant reservation since 31 October 1963.

The General Convention defines the privileges and immunities enjoyed by the Organization and its officials. Notably, in accordance with article V, section 18(*a*) of the General Convention, United Nations officials shall be "immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity".

It is important to note that by resolution 76 (I) of 7 December 1946, the General Assembly approved the granting of the privileges and immunities referred to in article V of the General Convention to "all members of the staff of the United Nations, with the exception of those who are recruited locally and assigned to hourly rates." Therefore, all staff members of the United Nations, regardless of nationality, residence, place of recruitment or rank, are considered officials for the purposes of the General Convention with the sole exception of those who are both recruited locally and assigned to hourly rates.

The categories established in resolution 76 (I) have remained unchanged and the Secretary-General has accordingly maintained that the determination made by the General Assembly in that resolution precludes any distinction being drawn on grounds of nationality or residence to exclude a given category of staff from the benefit of the privileges and immunities referred to in the General Convention. As a result, the immunity from legal process granted by article V, section 18(*a*) of the General Convention applies to all United Nations staff members, independent of their nationality, provided they are not assigned to hourly rates.

The rationale for such immunity is that the officials of the Organization must be able to carry out their official functions impartially and free from interference. Absent immunity, individuals employed by the United Nations could find themselves vulnerable to criminal prosecution and civil suit in local courts and tribunals around the world for claims arising out of their official acts. This immunity is therefore a vital condition for the United Nations to function, which is why it was granted to the Organization by the agreement of its Member States. It secures the independence of the United Nations and its officials from regulation under national law and relieves the Organization from exposure to litigation in national courts and tribunals in more than 190 Member States with different criminal and civil laws and procedures.

It is also important to note that the privileges and immunities enjoyed by United Nations officials by virtue of the Charter and the General Convention are conferred in the interests of the Organization and not for the personal benefit of the individuals themselves. Pursuant to the United Nations Staff Regulations and Rules, these privileges and immunities furnish no excuse to the staff members who are covered by them to fail to observe laws and police regulations of the State in which they are located, nor do they furnish an excuse for the non-performance of their private obligations.

Moreover, in accordance with article V, section 20 of the General Convention, "[t]he Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations".

In addition, article V, section 21 of the General Convention provides that "[t]he United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in [article V]".

Pursuant to these obligations, the United Nations has consistently cooperated with the appropriate authorities of Member States to facilitate the proper administration of justice. In criminal matters, the United Nations cooperates fully with national law enforcement authorities, including through the waiver of immunity accorded to United Nations officials, in order to prevent abuse of the privileges and immunities under the General Convention.

It should be recalled that under section 34 of the General Convention, [State] has an obligation to be "in a position under its own law to give effect to the terms of this Convention". Accordingly, the Office of Legal Affairs would be grateful for the assistance of the Permanent Mission in facilitating the resolution of any outstanding issues related to this matter consistent with the status, privileges and immunities of the United Nations under the applicable international agreements.

The Office of Legal Affairs wishes to express its gratitude for the support and assistance that the Organization enjoys in [State]. The Office of Legal Affairs of the United Nations also avails itself of this opportunity to renew to the Permanent Mission of [State] to the United Nations the assurances of its highest consideration.

4 June 2015

(*f*) Inter-office memorandum to the Deputy Director of the [Division] concerning the privileges and immunities of United Nations officials to use the United Nations diplomatic pouch service to transmit and receive medical items

ARTICLE III, SECTION 10 OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS—DIPLOMATIC POUCH HAS SAME STATUS AS DIPLOMATIC BAG—DIPLOMATIC BAGS MAY CONTAIN DOCUMENTS OR "ARTICLES INTENDED FOR OFFICIAL USE"—PERMISSIBLE USE OF THE DIPLOMATIC POUCH TO SHIP ITEMS NOT ABLE TO BE SHIPPED THROUGH OTHER MEANS AND, SPECIFICALLY, FOR HEALTH SUPPLIES FOR STAFF MEMBERS AND THEIR DEPENDENTS—EXEMPTION OF IMPORTS AND EXPORTS BY THE UNITED NATIONS FOR ITS OFFICIAL USE MAY NOT TO BE USED TO CIRCUMVENT DOMESTIC LAWS

1. This is with reference to your memorandum of [date] addressed to [Name] and the discussion between our offices on [date] requesting OLA's views on the use of the diplomatic pouch for medical items.

2. We understand that [Division] is currently reviewing its policies and procedures regarding the use of the diplomatic pouch to send medical items to United Nations clinics in field duty stations. We further understand that [Division] also receives requests from staff members working in the field to send medical items to them through the diplomatic pouch for their own use or for the use of their dependents. We set out below the legal issues which we recommend be taken into account by [Division] in formulating the appropriate policies and procedures in dealing with such requests.

3. We note that pursuant to article III, section 10 of the Convention on the Privileges and Immunities of the United Nations ("General Convention"), "[t]he United Nations shall have the right to use codes and to dispatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags." Based on this provision, the United Nations has established the diplomatic pouch service. We note that the main purpose of the United Nations diplomatic pouch service is to provide a secure means of transmitting and receiving the Organization's correspondence. The United Nations diplomatic pouch is seen to have the same status as diplomatic bags. The legal status of diplomatic bags is codified in the 1961 Vienna Convention on Diplomatic Relations. Pursuant to article 27(4) of the 1961 Vienna Convention on Diplomatic Relations, diplomatic bags may contain documents or "articles intended for official use". From a review of the practice of Member States, it appears that States send a wide range of items for official use through their diplomatic pouch. What constitutes "articles for official use" is interpreted by each State according to its internal regulations. It appears that some States allow medical supplies not available in the receiving State to be sent through the diplomatic pouch.

4. As you are aware, the United Nations has developed internal policies on what may be included in United Nations diplomatic pouches, which are set out in Administrative Instruction ST/AI/368 of 10 January 1991 on "Instructions Governing United Nations Diplomatic Pouch Service". At paragraph 3(*b*), it states that "[a]rticles intended for official use appropriate for inclusion in the pouch, where shipment by other means is not feasible" may be sent through the diplomatic pouch. Accordingly, medical supplies which are required by United Nations field clinics would be considered as "articles intended for official use" and therefore may be sent through the diplomatic pouch.

5. Further, paragraph 3(*c*) of ST/AI/368 provides that health supplies for staff members and their dependents may also be sent in the diplomatic pouch:

> "Urgently needed health supplies, including medicines, spectacles and hearing aids prescribed by a physician for the use of United Nations staff members or their dependents when such items are not obtainable locally and are requested in reasonable quantities. All shipments of health supplies must be certified by a United Nations medical officer".

In accordance with the above, the Organization may also use the diplomatic pouch to send medical items to staff members and their dependents as long as the conditions set out in this provision are met.

6. We understand from our discussions that in most cases, the medical items requested by staff members and their dependents are over-the-counter medications. We also understand that in a small number of cases, [Division] receives requests from staff members for medical items which are controlled in the country the staff member is situated. We further note that [Division] anticipates that there may be cases where the medical item requested is available elsewhere but is illegal in the State to which it will be sent. In this regard, we note that pursuant to article II, section 7(*b*) of the General Convention of the United Nations, its assets, income and other property shall be "exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use". Accordingly, we note that while the United Nations would be exempt from any national restrictions on medical items, staff members and their dependents are required to comply with such restrictions. In this regard, we note that using the United Nations diplomatic pouch to routinely dispatch restricted medical items to staff members or their dependents may be seen to facilitate the circumvention of domestic laws which apply to them and may be considered as an abuse of the diplomatic pouch service.

7. We would therefore recommend that every request for a medical item by a staff member or their dependent be considered on a case-by-case basis. We understand that it is currently the practice of [Division] to require a prescription before certifying a request for a controlled medicine. We would recommend that this practice be maintained. If [Division] becomes aware that a certain medical item requested by a staff member is illegal in the receiving State, [Division] may wish to inform the relevant staff member and discuss suitable alternatives with the staff member. Another option may be for restricted medicines to be dispatched through diplomatic pouch to the nearest United Nations clinic and for the medicine to be dispensed by a United Nations medical officer to the staff member or their dependent at the clinic. The appropriate procedures and processes to be followed when considering a request for medical items from staff members will depend on [Division's] policies. We note that the aim of such policies should include the establishment of sufficient internal monitoring and regulation to ensure that the use of the diplomatic pouch is consistent with the objectives of the United Nations and not abused. This office would be happy to advise further on specific legal issues that may arise.

19 June 2015

(*g*) Note to the Ministry of Foreign Affairs of [State] concerning privileges and immunities of United Nations officials to be granted visas, and other travel documents, necessary to enter [State] on official United Nations business

ARTICLES 97, 100; 101, PARAGRAPHS 1 AND 3; AND 105 OF THE CHARTER OF THE UNITED NATIONS—ACCREDITATION AND *PERSONA NON GRATA* AS DESCRIBED IN THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS NOT APPLICABLE TO OFFICIALS OR EXPERTS ON MISSION OF THE UNITED NATIONS—THE SECRETARY-GENERAL HAS EXCLUSIVE AUTHORITY TO DECIDE ON STAFFING OF THE UNITED NATIONS—OBLIGATION ON GOVERNMENTS TO FACILITATE ENTRY OF UNITED NATIONS OFFICIALS—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS—MEMBER STATES NOT TO APPLY PASSPORT AND VISA REQUIREMENTS TO PREVENT UNITED NATIONS STAFF FROM TAKING UP THEIR POST OR TRAVELLING ON OFFICIAL BUSINESS

The Office of Legal Affairs of the United Nations presents its compliments to the Ministry of Foreign Affairs of the [State] and has the honour to refer to the assignment of officials by the United Nations Offices, Funds and Programmes in [State] and the issuance of visas to such officials.

The Office of Legal Affairs has the further honour to refer to the note verbale of [date] from the United Nations Office in the [State] concerning the case of [Name], [United Nations Programme] Country Director of [State] and [State], who was based in [City]. The Office of Legal Affairs understands that [Name's] extension of appointment as [United Nations Programme] Country Director was not accepted by the Government of [State] and accordingly, the Government of [State] has declined to renew [his/her] visa. Accordingly, [Name], together with [his/her] spouse, was required to leave [State] immediately. The Office of Legal Affairs further understands that a request to extend [Name]'s stay in [State] in order to conclude official matters was refused. The Office of Legal Affairs understands that no reasons were provided for the decision not to allow [Name] to continue in [his/her] capacity as [United Nations Programme] Country Director of [State] and [State]

The Office of Legal Affairs wishes to express its concern that [Name] is one of several United Nations officials in the past ten years who have been unable to exercise the functions assigned to them by their respective organization due to the unilateral decisions by the authorities of [State], including non-renewal of their visa. In this regard, the Office of Legal Affairs wishes to inform the Government that such actions are not in accordance with the obligations of [State] to the United Nations and incompatible with the status, privileges and immunities of the United Nations established under the Charter of the United Nations (the "United Nations Charter") and applicable legal instruments.

The Office of Legal Affairs notes that in accordance with Article 101, paragraph 1 of the UN Charter, "[t]he staff shall be appointed by the Secretary-General under regulations established by the General Assembly". Article 101, paragraph 3 provides that "[t]he paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competency and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible". Article 100 further provides that "[i]n the performance of their duties, the Secretary-General and the staff shall not seek or receive instructions from any government […] Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities".

It is the long-standing position of the United Nations that the concepts of "accreditation" and *persona non grata*, as described in the Vienna Convention on Diplomatic Relations, do not apply to officials or experts on mission of the United Nations. As set forth in the *1964 United Nations Juridical Yearbook*, "the principle of *persona non grata* which applies with respect to diplomats accredited to a government has no application with respect to United Nations staff" as these staff members "are not accredited to a government but must serve as independent and impartial international officers responsible to the United Nations". As explained by the International Law Commission in paragraph 364 of its 1967 study,[5] the United Nations has consistently denied the application of the *persona non grata* doctrine on the grounds that United Nations personnel are not sent and accredited to Member States in a way that is analogous to the bilateral exchange and accreditation of diplomatic recognition on the part of two states. Rather, United Nations personnel "are employed, as determined by the Secretary-General, on behalf of all Member States, for purposes chosen by those States as a result of action taken on a multilateral plane".

The above makes clear that it is for the Secretary-General, as the Chief Administrative Officer of the Organization pursuant to Article 97 of the UN Charter, to ultimately decide upon the staffing of the United Nations offices and the manner in which it operates. Once the Secretary-General has appointed officials to a United Nations office, the Office of Legal Affairs notes that the Government has an obligation under the UN Charter to facilitate the entry of those officials into the country to enable them to carry out their functions.

Pursuant to paragraph 1 of Article 105 of the UN Charter, "[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes". Pursuant to paragraph 2 of the same Article "… officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization". These privileges and immunities are specified in the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946 (the "General Convention").

[State] has recognized the applicability of the General Convention in, *inter alia,* the Agreement between the United Nations and the Government relating to the establishment of a United Nations Interim Office in [State] of [date] (the "[year] Agreement"), article IX (1) of the Agreement between the United Nations Development Programme and the Government signed on [date] (the "UNDP SBAA"), and article IX of the Basic Cooperation Agreement concluded between UNICEF and the Government on [date] (the "BCA").

The Office of Legal Affairs wishes to note that in accordance with article V, section 18(*d*) of the General Convention, officials of the United Nations, together with their spouses and dependent relatives, are immune "from immigration restrictions and alien registration". Article VII, section 25 stipulates that "[a]pplications for visas (where required) from the holders of United Nations *laissez-passer*, when accompanied by a certificate that

[5] For the full text of the study entitled "The practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: study prepared by the Secretariat" (regarding the topic "Representation of States in their relations with international organizations", please visit: http://legal.un.org/docs/?path=../ilc/documentation/english/a_cn4_l118.pdf&lang=EFS.

they are traveling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel".

In addition, the provisions of the bilateral agreements between the United Nations and the Government make clear that the Government shall impose no impediment to the exit (or entry) of United Nations officials. Article XII of the [year] Agreement provides that internationally-recruited officials, experts on mission and persons performing services shall be entitled to "unimpeded access to or from the country … to the extent necessary for the implementation of programmes of co-operation". Article X, paragraph 1 (*b*) of the UNDP SBAA provides that the "Government shall take any measures which may be necessary … to grant them such other facilities as may be necessary for the speedy and efficient execution of UNDP assistance", including the "prompt issuance without cost of necessary visas, licenses or permits". In addition, paragraph 1 (*d*) provides that the Government shall grant the "free movement within or to or from the country, to the extent necessary for proper execution of UNDP assistance". Article XVI of the BCA provides that UNICEF officials shall be entitled "to prompt clearance and issuance, free of charge, of visas, licenses or permits, where required" and "to unimpeded access to or from [State] … ." Accordingly, the Government of [State] has an obligation to grant visas to officials of the United Nations in a timely manner to enable them to carry out their functions in fulfilment of the purposes of the Organization. As noted by the Secretary-General in paragraph 115 of his report to the 7th Session of the General Assembly (A/2364, 30 January 1953), "it is clear that Member States should not, under the provisions of the Charter, seek to interpose their passport or visa requirements in such a manner as to prevent staff from taking up their post of duty with the United Nations or from travelling from country to country on its business".

The Office of Legal Affairs notes that the presence of United Nations Offices, Funds and Programmes in [State] is upon the invitation of the Government of [State] and the work carried out by its officials is for the benefit of the people of [State]. The Organization has established close and sustained cooperation with the relevant governmental agencies of [State] and wishes to continue such cooperation. If the Government has any specific issues concerning individual United Nations officials, which are not related to nationality, religion, professional or political affiliation of the individual, the United Nations is willing to cooperate with the Government to resolve the matter in a manner consistent with the UN Charter, the General Convention and the Agreements referred to above.

In light of the above, the Office of Legal Affairs urges the Government of [State] to take all necessary steps to ensure that the Government's obligations under the UN Charter and the other applicable legal instruments are fulfilled with respect to the appointment by the Secretary-General of officials of the United Nations.

…

29 October 2015

2. Procedural and institutional issues

Inter-office memorandum to the Assistant Secretary-General, Controller Office of Programme Planning, Budget and Accounts Department of Management, concerning what constitutes official documents of the United Nations that need to be issued in the six official languages of the United Nations

Administrative instruction ST/AI/189/Add.3/Rev.2—Definition of "official document"—General Assembly rules 51, 56, and 47—"All resolutions and other documents" to be published in the languages of the General Assembly—Paragraph 107(*a*) of Annex II to General Assembly resolution 2837 (XXVI)—Requirement of timely distribution of documents in the official languages—Paragraph 9 of the Annex to General Assembly resolution 2 (I)—Conference room papers and working papers are informal papers, not documents—Paragraph 2(*d*), section II of General Assembly resolution 33/56—"Six-week" rule for distribution of General Assembly documents

1. I wish to refer to your memorandum dated [date] by which you have asked for our responses on the following questions posed by a member of the Advisory Committee on Administrative and Budgetary Questions ("ACABQ") at its meeting held on [date]:

(*a*) a legal interpretation of what constitutes an official United Nations document, and which documents are issued in the six official languages of the United Nations;

(*b*) whether a letter from the Controller to the ACABQ is an official document;

(*c*) what the legal basis is for not providing documents such as the letter to the ACABQ in the six official languages of the United Nations; and

(*d*) whether or not it is legal not to provide official documents in the six official languages to the ACABQ, given that the ACABQ does not always receive official documents in the six languages, even though the Committee works in the six languages.

2. We would like to note that the primary responsibility of the Office of Legal Affairs ("OLA") is to provide legal advice to the Secretary-General, Secretariat departments and offices and United Nations organs. Therefore, this Office is not in a position to provide legal advice to individual members of United Nations organs. It can, however, provide legal opinions to United Nations intergovernmental organs at the formal request of those organs.

3. Thus, in the present case, we are only able to provide information with regard to the questions you have transmitted to us as opposed to a formal legal opinion. We would recommend that this information be transmitted as information from the Secretariat, and not as information from OLA. Subject to this understanding, relevant information is provided below, which was compiled in consultation with DGACM [Department of General Assembly and Conference Management].

4. With respect to the question as to what constitutes an official document of the United Nations, paragraph 2 of the Secretariat's administrative instruction entitled "Distribution of documents, meeting records, official records and publications" (ST/AI/189/Add.3/Rev.2) provides that "[a] document is a text submitted to a principal organ or a subsidiary organ of the United Nations for consideration by it, usually in connection with item(s) on its agenda".

5. As to which documents are issued in the six official languages of the United Nations, this depends on the rules of procedure applicable to the United Nations organ concerned, and the intergovernmental decisions and practice that regulate the issuance of documents of that organ. As far as the General Assembly and its subsidiary organs are concerned, the following rules of procedure, decisions and practice may be relevant to the question.

6. First, the rules of procedure of the General Assembly contain provisions that deal with the issuance of documents of the Assembly and its subsidiary organs. Rule 51 of the rules of procedure of the General Assembly provides that "Arabic, Chinese, English, French, Russian and Spanish shall be both the official and the working languages of the General Assembly, its committees and its subcommittees." Rule 56 of the rules of procedure of the General Assembly then provides that "[a]ll resolutions and other documents shall be published in the languages of the General Assembly." Rule 47 of the rules of procedures of the General Assembly also provides that "[t]he Secretariat shall receive, translate, print and distribute documents, reports and resolutions of the General Assembly, its committees and its organs".

7. In addition, we note that paragraph 107 (*a*) of annex II to General Assembly resolution 2837 (XXVI) of 17 December 1971, which contains the conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly and which supplements the rules of procedure of the General Assembly as its annex IV, provides that "[t]imely distribution of documents in all working languages should be scrupulously observed."

8. The General Assembly has also adopted a series of other resolutions concerning the issuance of official documents of the General Assembly in the official languages of the United Nations. Initially, by paragraph 9 of the annex to resolution 2 (I) of 1 February 1946, the General Assembly decided that "[a]ll resolutions and other important documents shall be made available in the official languages" and that "[u]pon the request of any representative, any other document shall be made available in any or all of the official languages." Subsequently, the General Assembly introduced the "six-week rule" by paragraph 2 (*d*), section II of resolution 33/56 of 14 December 1978 entitled "Control and limitation of documentation", which requested the Secretary-General "[t]o take measures to ensure that pre-session documents for meetings shall be distributed not less than six weeks before the meetings, in all languages, in so far as the subjects deal with, the schedule of meetings or the reporting system allow." The six-week rule was reiterated in a number of subsequent General Assembly resolutions, the latest one being resolution 61/236 of 22 December 2006 entitled "Pattern of conferences" (section IV, paragraph 4).

9. By paragraph 5, section Ill of resolution 55/222 of 23 December 2000 entitled "Pattern of conferences", the General Assembly decided that "there should not be any exemption to the rule that documents must be distributed in all official languages, and emphasize[d] the principle that all documents must be distributed simultaneously in all official languages before they are made available on United Nations web sites". This decision has been reiterated in subsequent resolutions of the General Assembly, the most recent one being resolution 69/250 of 29 December 2014 entitled "Pattern of conferences" (section IV, paragraph 71).

10. As far as the practice is concerned, certain documents submitted to United Nations intergovernmental organs have not been translated into the six official languages to the United Nations, such as conference room papers and working

papers. According to paragraph 9 of the Secretariat's administrative instruction entitled "Distribution of documents, meeting records, official records and publications" (ST/AI/189/Add.3/Rev.2), "[c]onference room papers and working papers … are not official documents but are informal papers in one or more languages considered to be of concern primarily to the members of an organ. As such, they are not issued in the normal way … and it is the responsibility of the secretariat of the organ concerned to see to their distribution to the members of the organ." Consequently, conference room papers and working papers are not subject to the requirement to translate documents into the six official languages.

11. As to the question whether a letter from the Controller to ACABQ is an "official document", we have identified one letter from the Controller to the Chairs of the Fifth Committee and of ACABQ which was issued as a document of the Fifth Committee and in the six official languages of the United Nations (A/C.5/69/22). However, we understand that the normal practice in ACABQ has been not to translate letters from the Controller to the Chair of ACABQ in the six official languages or make them available for general distribution.

12. Finally, we would like to point out that the questions raised by the member of ACABQ are not exclusively of a legal nature. They have administrative and financial implications, such as whether adequate resources are available to carry out the requests made by the General Assembly. In this regard, the General Assembly, by paragraph 2, section E of its resolution 50/206 of 23 December 1995 entitled "Pattern of conferences", stressed "the need to continue to ensure the availability of the necessary resources to guarantee the timely translation of documents into the different official and working languages of the Organization and their simultaneous distribution in those languages".

31 July 2015

3. Procurement

(*a*) Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, Department of Management concerning the applicability of liquidated damages under a contract for the provision of household appliances

Applicability of liquidated damages under contract for the provision of household appliances—No right to claim liquidated damages when such provisions only apply to delays for delivery—In which case rights to claim such damages will depend on whether similar goods from another vendor were obtained at an increased cost[6]

1. I refer to PD's memorandum, dated 22 October 2014, requesting OLA's advice on the applicability of liquidated damages with respect to Contract No. [Number], signed [Date], with [Vendor]), for the provision of household appliances for regional missions (the "Contract"). I further refer to the subsequent communications between the representatives of PD and OLA, at the working level, regarding this matter.

[6] Footnotes omitted except as provided.

2. Enclosed is our legal analysis of the foregoing issues, which is based on documentation and information made available to OLA by PD. In summary, OLA's conclusion and recommendations are as set forth below:

(i) The UN does not have the right to claim liquidated damages for failure to deliver household appliances because the liquidated damages provision only applies to delays for delivery. In this case, given that [UN mission] had cancelled the relevant purchase orders, the goods were never delivered;

(ii) [UN mission] is advised to consider whether it suffered any actual damages as a result of [Vendor]'s failure to deliver the goods, *i.e.* whether [UN mission] obtained similar goods from another vendor at an increased cost, in order to determine whether the Organization has a right to claim damages from [Vendor].

3. It should be noted that our assessment of the matter and recommendations is based upon the information that PD has provided to us. It is conceivable however that our assessment of this matter could change should further information be provided. …

Legal analysis

Liquidated Damages Under Contract No. [number omitted] with [Vendor] for the Provision of Household Appliances

Background

1. On 8 March 2013, the UN signed Systems Contract No. [number omitted] for the provision of household appliances for regional missions with [Vendor].

2. [UN mission] issued two orders under the Contract: (*a*) On 27 April 2013, [UN mission] issued order No. [number] for delivery DAP Port [name] on 15 July 2013 of various household items for the total amount of Euro 2,197,490.00 ("Order No.1"), which receipt [Vendor] acknowledged on 1 May 2013; and (*b*) On 18 June 2013, [UN mission] issued order No. [number] for delivery DAP Port [name] on 31 July 2013 of fifteen hundred television screens for the total amount of Euro 502,845.00 ("Order No.2"), which receipt [Vendor] acknowledged on 18 June 2013.

3. On 17 October 2013, [UN mission] issued an amendment to Order No. [number] with revised terms for delivery FCA [name] on 17 December 2013 ("New Order"). The New Order was for Euro 1,656,525.00. [Vendor] acknowledged receipt of the New Order on 21 October 2013. However, on 28 January 2014, [UN mission] sent a fax to [Vendor], cancelling Orders No.1 and No.2. On 7 February 2014 [Vendor] sent a fax to [UN mission], acknowledging cancellation of the purchase orders and asking [UN mission]'s help in selling cooker ovens.

4. On 24 June 2014, [UN mission] sent a fax to PD, providing factual background of the matter, and recommending that [Vendor]'s performance be reviewed by the Vendor Review Committee and that liquidated damages be applied for failure to perform. On 16 July 2014, PD sent a fax to [UN mission], noting that liquidated damages cannot be applied because [UN mission] cancelled both Orders. On 19 August 2014, [UN mission] sent a fax to PD, outlining its reasons for application of liquidated damages.

Analysis

5. We understand that PD/[UN mission] is inquiring whether liquidated damages may be applied to [Vendor]'s failure to deliver the goods under the now cancelled Orders.

6. Section 4.9 ("Liquidated Damages") provides in relevant part:

> [The] Contractor acknowledges that the UN will suffer both financial loss and inconvenience as a result of late performance … In the event that the Contractor fails to supply Goods within a period specified by an Order, the UN shall, without prejudice to other remedies under this Contract, deduct from the price of the Order, as liquidated damages, a sum equivalent to 0.5 per cent of the delivered price of the delayed Goods for each week of delay until actual delivery, up to a maximum deduction of 10 per cent of the Order value … The Parties further agree that any rights to terminate this Contract shall have no effect on the right of the UN to claim liquidated damages as hereinbefore provided. (emphasis added).

7. The provision makes clear that the remedy of liquidated damages is only applicable when the performance is late but not where there is a total failure to perform Further, the remedy is no longer available to the Mission, as the Mission has exercised its right under Section 3.9 to cancel the Orders. In this respect, we would like to note that the survival clause in Section 4.9—"any rights to terminate this Contract shall have no effect on the right of the UN to claim liquidated damages"—is not applicable because the Contract itself has not been terminated but only the Orders placed under the Contract have been cancelled.

8. Further, the Contract sets forth in Section 3.5 the minimum requirements that must be included in an order, among them the named place for the delivery and the manner of shipment. The Contract also specifies in Section 4.8 that the delivery should be FCA Port of Exit—[city and country]. The parties, according to Section 3 8, can vary in a written order the terms of the Contract.* However, the provisions in an order, other than those set forth in Section 3.5 that are inconsistent with the Contract are considered void.** The Contract further specifies that no order shall be fulfilled and the contractor shall not supply or deliver any goods unless and until the UN has issued an order that fulfills all the requirements of the Contract, including, at a minimum, the requirements of Section 3.5.***

9. When the Mission issued the Orders with the delivery terms different than in the Contract and when [Vendor] accepted the Orders, the parties modified the terms of the Contract per Section 3.8. As delivery term is one of the terms specifically excluded from application of Section 3.10, it cannot be considered void and, therefore, supplanted by the Contract terms. Further, if the Contract were interpreted as only permitting delivery FCA [country], then [Vendor], oddly, were correct in failing to fulfill the Orders, as Section 3.6 prohibits the contractor from fulfilling an order that does not comport to the Contract requirements. Taken further, [Vendor] cannot be even considered late in fulfilling Order No. 2, as no amendment correcting delivery terms was ever issued and, taken to its logical conclusion, [Vendor] was never under an obligation to deliver the goods. In order to avoid such absurd results, the provisions of the Contract must be read in such a way as to give reasonable meaning to all the provisions and intent of the parties as a whole.

10. Therefore, it cannot be considered that [Vendor] acted contrary to the requirements under the Contract when it accepted the delivery terms different than the ones

provided in the Contract. The parties instead have modified the Contract terms and entered into an agreement based on DAP Port [name].

11. This is not to say that [Vendor] fulfilled its obligations under the Contract since it failed to deliver the goods under the modified terms. The Contract in Section 5.4 provides that the UN may exercise a number of remedies, including calling the performance guarantee or procuring all or part of the goods from other sources and holding the Contractor responsible for any excess costs.[****]

12. In this respect, OLA would like to note that if the Mission has suffered actual damages as a result of [Vendor]'s failure to perform, for example, if the Mission had to obtain the same goods at an increased cost from a different vendor, then the Mission may have a right to claim damages for such excess costs. However, the ability of the UN to advance such a claim will depend on the facts and circumstances of the case, which OLA has not been provided with.

Conclusion and Recommendation

13. For the foregoing reasons, and taking into account that [UN mission] cancelled the Orders, the UN does not have the right to enforce liquidated damages under the Contract.

14. [UN mission] should consider whether the Organization has the right to claim actual damages under the Contract, as outlined in this Memorandum.

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[*] Section 3.8 states "The Parties, in particular, acknowledge and agree that, unless otherwise clearly agreed in writing by both the Contractor, on the one hand, and the UN as the case may be, on the other, and unless specifically provided in such Order, nothing contained in such Order shall be deemed, interpreted or otherwise construed as varying from, derogating from, adding to, or in any other way altering the essential terms and conditions of this Contract that would otherwise apply to the transaction contemplated by such Order."

[**] Section 3.10 states m relevant part "Any provision of any Order, other than those set forth m Article 3.5, above, that may be inconsistent with any provision of this Contract, including but not limited to, purchase price, shall be void, and the applicable provisions of this Contract shall be used and shall apply in lieu of any such inconsistent term of the Order."

[***] Section 3.6 provides in relevant part "The Parties specifically acknowledge and agree that the Contractor shall not supply or deliver, and the UN shall not be bound to accept or to pay for any Goods unless and until the UN has issued an Order therefore to the Contractor, which Order fulfills all of the requirements of this Contract, including, at a minimum, those set forth in Article 3.5, above."

[****] Article 74 of the United Nations Convention on the International Sale of Goods (CISG), similarly provides that "[d]amages for breach of contract by one party consist of a sum equal to the loss, including loss of profit, suffered by the other party as a consequence of the breach" Article 75 further states that "[i]f the contract is avoided and if, in a reasonable manner and within a reasonable time after avoidance, the buyer has bought goods in replacement …, the party claiming damages may recover the difference between the contract price and the price in the substitute transaction …"

(*b*) Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, Department of Management concerning an increase in hourly rates under Contract for the provision of Global Tax Consultancy Services

Articles 2 (3), 6.1 and 6.2 of the contract for the provision of global consultancy services—And article 22 of the United Nations general conditions of contract—Request for increase in hourly rates outside notification period—No obligation on the United Nations to engage in negotiations—Waiver of notification period not prohibited under contract—Accordingly, modification of contract possible following necessary consultations

1. I refer to PD's memorandum, dated 25 March 2015, requesting OLA's advice in relation to Contract No. [number] between the United Nations on behalf of the United Nations Joint Staff Pension Fund (the "UNJSPF") and [Vendor] for the provision of global tax consultancy services, effective as of [date omitted] (the "Contract"). I also refer to subsequent communications between the representatives of PD and OLA, at the working level, regarding this matter.

2. [Vendor] has submitted a request for four per cent increase in [Vendor]'s hourly rates under the Contract. However, such request was not submitted within the timeframe set forth in the Contract. For this reason, PD has sought OLA's advice regarding [Vendor]'s untimely request.

Factual Background

3. The Contract was entered into as of [date] (the "Effective Date") for a period of two years from the Effective Date, unless earlier terminated in accordance with the Contract terms (the "Initial Term").

4. On 22 October 2014, the UN provided [Vendor] with notice that, *inter alia,* the UN wished to exercise its option to extend the Initial Term of the Contract for a period of one year (the "Extension Notice").

5. By e-mail, dated 22 October 2014, [Vendor] acknowledged receipt of the Extension Notice and expressed its agreement to extend the Initial Term as set forth in the Extension Notice (the "[Vendor] Acknowledgement").

6. By letter, dated 18 February 2015 (the "Fee Increase Request"), [Vendor] requested a four per cent increase in [Vendor]'s hourly rates set forth in the Contract.

Analysis

7. Article 2.3 of the Contract provides that:

> "The United Nations may, at its sole option, extend the Initial Term of this Contract under the same terms and conditions as set forth in this Contract, for a maximum of three (3) additional periods of up to one (1) year each, provided the UN provides written notice of its intention to do so at least 30 days prior to the expiration of the then current Contract term (each, an "Extended Term")."

8. Article 6.1 of the Contract provides that "[i]n full consideration for the complete, satisfactory and timely performance by [Vendor] under this Contract, the United Nations shall pay [Vendor] fees for the provision for the Services at the rates as set forth below, which rates shall remain firm and fixed during the Initial Term of this Contract."

9. Article 6.2 of the Contract provides as follows:

> "With respect to the Extended Terms, the Contractor may request an adjustment to the existing rates set forth in Section 6.1 above by providing a written notice to the UN within ten (10) days upon receipt of the notice that the UN intends to extend the Initial Term, in accordance with Section 3.2 [*sic*] hereof. The Parties shall seek to negotiate an adjustment to the rates for the Extension Terms [*sic*] that reasonably reflects changes in costs prior to the expiration of this Contract; provided that such adjustment of the existing rates shall not exceed a maximum of four per cent (4%) of the existing rates set forth in Section 6.1 above for the Extended Terms. The Parties acknowledge that any such adjusted rate may be higher or lower than the rates set forth in Section 6.1 above, taking into account the provision of the preceding sentence hereof. Notwithstanding anything in this Contract, any proposed adjustment of the existing rates based on the foregoing may be accepted or rejected by the UN in its sole discretion. If applicable, such adjustment of the existing rates shall be reflected in a modification to the Contract in accordance with Article 22 *(Modifications)* of the UN General Conditions of Contract."

10. Article 22 *(Modifications)* of the UN General Conditions of Contract provides, in relevant part, as follows:

> "22.1 Pursuant to the Financial Regulations and Rules of the United Nations, only the Chief of the United Nations Procurement Division, or such other Contracting authority as the United Nations has made known to the Contractor in writing, possesses the authority to agree on behalf of the United Nations to any modification or change in the Contract, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in the Contract shall be valid and enforceable against the United Nations unless provided by a valid written amendment to the Contract signed by the Contractor and the Chief of the United Nations Procurement Division or such other contracting authority."

11. In the Fee Increase Request, [Vendor] acknowledged that the Fee Increase Request was not submitted within ten days of the [Vendor] Acknowledgement, and explained that the delay was due to the fact that it was not clear to [Vendor] whether additional documents would be required in connection with the proposed extension of the Initial Term. However, under Article 6.2 of the Contract, [Vendor] was obligated to submit the Fee Increase Request within ten days of the [Vendor] Acknowledgement, regardless of whether any additional documentation was required in connection with the Extension Notice.

Conclusion

12. Accordingly, given [Vendor]'s failure to provide the Fee Increase Request in accordance with the notice requirement set forth in Article 6.2 of the Contract, the UN is not obligated under the terms of the Contract to engage in negotiations with [Vendor] for any adjustment to the rates for the Extension Term. Moreover, even if [Vendor] had submitted the Fee Increase Request in a timely manner, Article 6.2 permits the UN to accept or reject the request in its sole discretion.

13. The Contract, however, does not prohibit the UN from waiving the requirement that [Vendor] submit the Fee Increase Request within ten days of 22 October 2014. Hence, if PD, in consultation with the UNJSPF, determines that it would be appropriate to consider an adjustment to the existing rates, then PD could seek to negotiate an adjustment to the rates for the Extension Term that reasonably reflects changes in costs prior to the expiration of the Contract; provided that such adjustment of the existing rates does not exceed a maximum of four per cent (4%) of the existing rates set forth in Section 6.1 of the Contract. Such adjustment of the existing rates should be reflected in a modification to the Contract in accordance with Article 22 *(Modifications)* of the UN General Conditions of Contract.

1 May 2015

(*c*) Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, Department of Management concerning the misuse of the United Nations name

Misuse of United Nations name—United Nations not entity for certification nor endorser of services provided by vendor—Publication of vendor information on United Nations website not intended for advertisement but transparency to potential bidders—Use of United Nations emblem and name, including abbreviation thereof, reserved for official purposes of the organization

1. I refer to PD's memorandum, dated 15 April 2015, requesting OLA's advice in relation to Contract No. [number] between the UN and [Vendor] Ltd ("[Vendor]") for the provision of aircraft global satellite tracking services (the "Contract"). I also refer to subsequent communications between the representatives of PD and OLA, at the working level, regarding this matter.

2. We understand from your memorandum that [Vendor]'s website found at [web address] advertises that "[Vendor]'s ISAT-200A is the first aircraft tracking system certified compliant to the latest United Nations Aviation Global Satellite Tracking Solution (UNGASTS) protocol …" and that "[Vendor]'s UN Certified ISAT-200A transceivers" have been selected by an air transportation company servicing the United Nations. We further understand from PD that, contrary to the statements published on [Vendor]'s website, the UN does not offer certifications for aircraft tracking systems, and hence, has not provided any certification for [Vendor]'s ISAT-200A as claimed on [Vendor]'s website.

3. Therefore, while the UN's particular requirements for aircraft global tracking solution services are currently met through [Vendor]'s services, the UN is not an entity which certifies such services or provides endorsements relating to such services. In this regard, we note, however, that the UN makes public on PD's external website that air transportation companies that seek to provide air transportation services to the UN are required to have an active compliant aircraft-tracking unit that transmits real-time automatic geospatial tracking flight data to [Vendor]. This publication, in our view, is not intended for advertising purposes and is only intended to make the UN's requirements transparent to potential bidders.

4. The use of the United Nations emblem and name, including any abbreviation thereof, is reserved for the official purposes of the Organization, in accordance with General Assembly resolution 92 (I) of 7 December 1946. That resolution expressly prohibits the use of the United Nations emblem and name in any other way without the express

authorization of the Secretary-General and recommends that Member States take the necessary measures to prevent the use thereof without the authorization of the Secretary-General. Moreover, Article 6 *ter,* of the *Paris Convention for the Protection of Industrial Property* (the Convention), revised in Stockholm in 1967 (828 UNTS 305 (1972)), provides trademark protection in respect of the emblems and names of "international organizations" and 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.

5. Within the framework of the above policy, the consistent practice of the UN has been to include in its commercial contracts, including in the Contract* with [Vendor], a standard clause preventing any entity contracting with the UN from using the United Nations emblem and name, including any abbreviation thereof, or official seal for any purpose without the UN's permission, and from advertising or making public for purposes of commercial advantage or goodwill that it has a contractual relationship with the UN. The aim of such clauses is to prevent public solicitation for business on the basis of connection with the UN.

6. In view of the foregoing, [Vendor]'s use of the UN name on its website, as described in PD's memorandum, cannot be authorized as such use of the UN name constitutes a form of commercial advertisement or solicitation for business, which is inconsistent with the Organization's policy and the express terms of the Contract. Accordingly, we would recommend that PD inform [Vendor] that it immediately cease its unauthorized use of the United Nations name. Enclosed is a draft letter that PD can send to [Vendor] for that purpose [enclosure omitted]

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* Article 10 of the United Nations General Conditions of Contract—Contracts for the Provision of Services (April 2012), which is annexed to the Contract, states the following:

"Publicity, and use of the name, emblem or official seal of the United Nations: The Contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with the United Nations, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of the United Nations, or any abbreviation of the name of the United Nations in connection with its business or otherwise without the written permission of the United Nations."

(*d*) Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, Department of Management concerning eligibility of company to continue to be registered as a UNPD vendor

Decision to permit a vendor to continue to be a registered vendor rests with the Assistant Secretary-General office of Central Support Services—Decision based on the review and recommendation of the vendor review committee and pursuant to the procurement manual—Failure to provide accurate information constitutes potential grounds for suspension or removal—Procurement manual permits vendor that fails the prerequisites, on an exceptional basis, to be registered on the United Nations vendor registry

1. I refer to PD's memorandum, dated 26 May 2015, requesting OLA's advice regarding eligibility of [Vendor], a company organized under the laws of [Country X], to continue

to be registered as a UNPD vendor ("Vendor"). I also refer to the subsequent communications between representatives of PD and OLA, at the working level, concerning this matter.

2. We understand from your memorandum that [Vendor] is a 100% owned subsidiary of [Name], a company organized under the laws of [Country Y] (the "Parent Company"). The Parent Company was suspended by UNPD on [date] due to its appearance on the […] Report of the Independent Inquiry Committee (IIC) into the United Nations Oil for Food Program. We further understand that the Vendor Review Committee reviewed the Parent Company's status on [date] and recommended that PD send a reinstatement condition letter to the Parent Company. In [date], UNPD sent a reinstatement condition letter to the Parent Company and, in [date], the Parent Company's proposed independent ethics and compliance expert was approved by UNPD. However, PD has informed us that, as of the date of PD's memorandum, the approved ethics and compliance expert has yet to submit a report, which is required to be submitted, in order to reinstate the vendor. As a result, the Parent Company continues to be listed as "suspended" on the UNPD's list of registered vendors.

3. We understand from PD's memorandum that in 2010, [UN Office] registered [Vendor] as a vendor. It further appears that until recently, [UN Office] was conducting business with [Vendor] without the knowledge of its affiliation with the Parent Company. We understand from the documents provided by PD that at the time of the registration, [Vendor] declared on its registration application that neither [Vendor], nor its affiliates, appeared on the IIC list.

4. According to your memorandum, by Special Approval Request dated 24 April 2015, [UN office] requested registration of [Vendor] at Level 1 in order to establish a system contract with [Vendor]. The VRC reviewed the request on 1 May 2015 and recommended that [Vendor] be approved at Level 1 but only for the award of the specific contract at issue; that [UN office] conduct research to identify alternative sources of supply; and further requested a consultation with OLA on the general approval of [Vendor].

5. As we have advised in similar cases involving potential suspension or removal of vendors, the UN should scrupulously adhere to the procedures set forth in the Procurement Manual (rev. 7, 2013), regarding the criteria for suspension or removal of a vendor from the register of vendors [reference omitted]. A failure to observe those procedures could be used against the UN by aggrieved vendors.

6. The authority to suspend the vendor, whether temporarily or indefinitely, or to remove the vendor from the vendor register, lies only with the ASG/OCSS. The ASG/OCSS's decision is based on the review and recommendation of the vendor review committee and, pursuant to Article 7.13(2) of the Procurement Manual, must be "based on substantial and documented evidence," taking into account "any mitigating factors." In addition, according to Article 7.15 of the Procurement Manual, a notification to suspend or remove a vendor from the vendor register must "specify the reasons for the decision" and "inform the Vendor that it may request review of the decision."

7. Article 7.7(1) of the Procurement Manual permits registration of vendors, on an exceptional basis, who do not meet the pre-requisites for eligibility of Article 7.5. In this instance, we understand that on such an exceptional basis, the VRC recommended the approval of the registration of [Vendor]. We note, at the same time, that [Vendor] has failed in its affirmative duty to provide accurate information to PD at the time of its registration as

a UN vendor, as it declared in 2010 that neither [Vendor] nor its parent or subsidiary companies have been identified on the IIC list. Failure to do so constitutes potential grounds under Article 7.13(2)(*e*) for suspension or removal.

8. Accordingly, the decision on whether to permit [Vendor] to continue to be registered as a UN vendor lies with the ASG/OCSS, upon the recommendation of the VRC. As noted, Article 7.7(1)(*b*) of the Procurement Manual permits a vendor that fails the pre-requisites in Article 7.5, on an exceptional basis, to be registered on the UN vendor registry.

12 October 2015

(*e*) Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, Department of Management concerning an amendment to a contract on the provision of office supplies

CONTRACT ON THE PROVISION OF SUPPLIES FOLLOWING MERGER—ASSIGNMENT AND ASSUMPTION CONTRACT AND AMENDMENT TO CONTRACT REQUIRED SUBJECT TO OPERATIONAL DETAILS TO BE AGREED UPON

1. I refer to PD's memorandum, dated 17 November 2015, requesting OLA's assistance in the review of a draft Amendment Number [number] (the "Draft Amendment") to Contract No. [number] between the United Nations and [Vendor X] for the provision of office supplies, effective as of 1 August 2013 (as amended by amendments one through four, the "Contract"). I also refer to subsequent communications between representatives of PD and OLA, at the working level, regarding this matter and to a telephone conference on 9 December 2015 (the "Teleconference") among OLA, PD, [Vendor X] and [Vendor Y] ("Vendor Y").

Factual Background

2. Pursuant to Article 4 (Goods Orders by the UN and Eligible UN Entities) of the Contract, the UN Secretariat may place orders for office supplies through an internet-based system maintained by [Vendor X] (the "Vendor Platform") and, upon entering into a participation agreement with [Vendor], Eligible UN Entities, as identified on Annex E (List of Eligible UN Entities) of the Contract, may also place orders for office supplies through the [Vendor X] Platform.

3. Pursuant to a Secretary's Certificate from the Assistant Secretary of [Vendor Y], dated [date], [Vendor Y] informed PD that, on [date], [Vendor Y] completed a merger with [Vendor X] and, as a result thereof, [Vendor X] became a wholly owned subsidiary of [Vendor Y] (the "Merger"). In subsequent communications, [Vendor X] and [Vendor Y] (together, the "Merged Entities") informed PD that, as a result of the Merger, two things would need to occur: (*a*) [Vendor X] would need to assign the Contract to [Vendor Y] (the "Assignment"); and (*b*) due to the fact that the Merged Entities are phasing out the [Vendor X] Platform and replacing it with an internet-based ordering system maintained by [Vendor Y] (the "Vendor Y Platform"), the UN Secretariat and the Eligible UN Entities must transition to the [Vendor Y] Platform.

4. PD informed OLA that, on [date], the UN Secretariat completed its transition to the [Vendor Y] Platform. During the Teleconference, the Merged Entities stated that the Eligible UN Entities have not yet transitioned to the [Vendor Y] Platform, as this process will require coordinated efforts between each Eligible UN Entity and [Vendor Y].

The Assignment and the Amendment Agreement

5. With respect to assignment of the Contract, Article 3.1 of the United Nations General Conditions of Contract—Contract for the Provision of Goods and Services (the "General Conditions"), attached to the Contract as Annex A (omitted), provides, in relevant part, as follows:

> "Except as provided in Article 3.2, below, the Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of the UN."

Article 3.2 of the General Conditions provides as follows:

> "The Contractor may assign or otherwise transfer the Contract to the surviving entity resulting from a reorganization of the Contractor's operations, *provided that:*
>
> 3.2.1 such reorganization is not the result of any bankruptcy, receivership or other similar proceedings; *and,*
>
> 3.2.2 such reorganization arises from a sale, merger, or acquisition of all or substantially all of the Contractor's assets or ownership interests; *and,*
>
> 3.2.3 the Contractor promptly notifies the United Nations about such assignment or transfer at the earliest opportunity; *and,*
>
> 3.2.4 the assignee or transferee agrees in writing to be bound by all of the terms and conditions of the Contract, and such writing is promptly provided to the United Nations following the assignment or transfer."

Thus, an assignment of the Contract would be permissible under limited circumstances, as set forth above.

6. We have reviewed the Draft Amendment, which was prepared by [Vendor Y], and find that it fails to include provisions that are necessary to protect the legal interests of the Organization and contains certain provisions that raise a number of concerns.

7. Accordingly, we have prepared, and enclose herein a draft assignment and assumption agreement and amendment number five to the Contract, between [Vendor X], [Vendor Y] and the United Nations to reflect the Assignment and the necessary amendments to the Contract resulting from the Assignment, as well as additional, unrelated amendments to certain of the pricing terms as may be agreed by [Vendor Y] and the UN (the "Assignment and Amendment Agreement").

8. In the enclosed Assignment and Amendment [omitted], we have modified or excluded legally objectionable provisions proposed by [Vendor Y] in the Draft Amendment and incorporated provisions that are necessary to protect the legal interests of the Organization in connection with the Assignment, including *inter alia,* provisions: (*a*) setting forth the obligations of the Merged Entities under the Contract upon the effective date of the Assignment; (*b*) containing representations and warranties of the Merged Entities;

and (*c*) obligating [Vendor Y] to provide the insurance and the performance security required under the Contract.

9. In order to ensure the suitability of the Assignment and Amendment Agreement from commercial and operational perspectives, we recommend that PD, in consultation with the Requisitioner, review the Assignment and Amendment Agreement in its entirety. In this regard, please note that the Assignment and Amendment Agreement contains a number of comments that begin with "Note to PD." These comments were inserted where it appeared to us that certain provisions give rise to questions or issues that essentially are of an operational or commercial nature and are within the purview of PD or the Requisitioner. If PD and/or the Requisitioner have any comments on the enclosed Assignment and Amendment Agreement, we would be pleased to further modify the Assignment and Amendment Agreement to reflect such comments before PD provides the Assignment and Amendment Agreement to the Merged Entities.

Enclosure [omitted]

14 December 2015

(*f*) Inter-office memorandum to the Director, Procurement Division, Office of Central Support Services, Department of Management concerning effective international competition

Effective international competition—Compliance with United Nations Financial Regulation 5.12—Need to consider limiting or excluding affiliated entities from participating in any one solicitation to remove risk of collusion (footnotes omitted)

1. I refer to PD's memorandum, requesting OLA's advice with respect to the following three issues arising in the context of effective competition in public procurement in accordance with the UN Financial Regulation 5.12:

(*a*) First, PD seeks advice on the implementation of the proposals outlined in OLA's memorandum of 8 April 2013 (unpublished) regarding whether the principles of fair and open competition allow for subsidiaries of the same parent company, as well as the parent company itself, to bid on one UN solicitation. The concern is that such entities could collude in pricing and prevent the UN from conducting a procurement exercise in accordance with Financial Regulation 5.12, which requires "effective international competition" in procurement.

(*b*) Second, PD wishes to obtain OLA's guidance on which measures may be instituted by PD in order to facilitate diversification of the supplier database so that no vendor is supplying more than a certain percentage of any commodities to the UN.

(*c*) Third, PD wishes to obtain OLA's guidance on which procedures may be adopted to mitigate the risks associated with a high degree of revenue concentration by vendors where such revenues are substantially derived from the supply of commodities to the Organization.

Summary of Recommendations

2. As more fully discussed in OLA's memorandum of 8 April 2013, PD may wish to consider limiting or excluding affiliated entities from participating in any one solicitation in order to effectively remove the risk of collusion. The likelihood of collusion increases

where there is a potential for communication occurring among bidders, particularly in cases of affiliated companies participating in the same solicitation. Allowing subsidiaries of the same company and/or the parent company and its subsidiaries to participate in the same solicitation exercise could increase the opportunity of such bidders to engage in collusive agreements. PD could consider including as part of the requirements of the ITB or RFP, as the case may be, a representation by the vendors that no such affiliated entities are participating in the solicitation exercise. Such representation could be also made in a separate document to be signed by the participating vendors, attesting that the submitted bid is non-collusive and is made with the intent to accept the contract if awarded.

3. Further, the decisions on appropriate measures to implement in order to diversify the supplier database and to mitigate the risks associated with sourcing from vendors whose revenue is substantially derived from the UN contracts mainly involve policy considerations. However, in considering these policy issues, PD should assure itself that any policy measures implemented to address the two concerns identified in PD's 30 January 2015 memorandum are in compliance with the Financial Regulations and Rules of the Organization.

Analysis

A. Implementation of the Approach Described in OLA's Memorandum of 8 April 2013

4. As requested in PD's 1 March 2013 memorandum, OLA's memorandum of 8 April 2013 addressed whether the issue of the principles of fair and open competition allow for subsidiaries of the same parent company, as well as the parent company itself, to bid on one UN solicitation. For the reasons set forth in that memorandum, OLA recommended that PD consider limiting or excluding affiliated entities from participating in any one solicitation in order to effectively remove the risk of collusion.

5. The approach described in OLA's 8 April 2013 memorandum, as noted in that memorandum, could be implemented by including in UN solicitation documents a limitation on bidding by several subsidiaries of the same parent company and/or by the subsidiaries of a parent company and the parent company itself. In this context, the solicitation document could specify as follows:

(*a*) Bids or proposals submitted by a vendor and its parent entity, or vendors having the same parent entity, shall not be accepted, and if submitted, shall result in their bids or proposals being rejected as non-compliant with the requirements of the ITB or RFP, as the case may be.

(*b*) Only one bid from a vendor and its parent entity, or vendors having the same parent entity, will be accepted in any given procurement exercise; if the services of both or all of such entities are for some reason required, then one must take the lead with the other affiliated entities serving as sub-contractors under the bid or proposal, as the case may be.

(*c*) For purposes of the foregoing, bids or proposals submitted in the same solicitation by the following entities will be rejected:

(i) The parent entity and any entity or entities in which more than 50% of the voting shares or other relevant indicia of ownership or control are owned or controlled, whether directly or indirectly, by such parent entity; or

(ii) Two or more entities having a common related entity which owns or controls, whether directly or indirectly, more than 50% of the voting shares or other relevant indicia of ownership or control of such entities; or

(iii) Entities which would otherwise meet the requirements of subparagraphs (c)(i) or (*c*)(ii), above, but for the requirement of 50% voting share or other relevant indicia of ownership or control, where in the sole opinion of the United Nations effective operational control by a parent or other related entity creates a risk of collusion among the entities in the tendering process.

6. Further, as recommended in OLA's 8 April 2013 memorandum, to the extent that it may be difficult to monitor compliance with the above requirement in every solicitation, PD could consider including as part of the requirements of the ITB or RFP, as the case may be, a representation by the vendors that no such entities, as defined above, are participating in the solicitation exercise. Such representation could be made in a separate document to be signed by the participating vendors. In this regard, PD may also consider whether to require all the bidders to sign a "Certificate of Independent Bid Determination" or an equivalent attestation that the submitted bid is non-collusive and is made with the intent to accept the contract if awarded. (footnote omitted).

B. Diversification of Supplier Database

7. At the outset, in considering the issue of diversification of the supplier database and risks associated with a high degree of revenue concentration by vendors whose revenues are substantially derived from the supply of commodities to the UN, it is important for the Organization to assure itself that any policy decisions taken on such matters are consistent with and in full compliance with various norms and principles of internal UN law that bear on these issues. A failure to observe those norms and principles and related procedures may be a basis for claims against the Organization by aggrieved vendors.

8. The General Assembly resolutions and the UN's Financial Rules and Regulations regulate the Organization's procurement activities and establish an overarching framework within which specific policy decisions may be made by the respective decision-makers. In particular, the UN Financial Regulation 5.12 requires that the procurement functions of the Organization shall be governed by the following four principles: (1) best value for money; (2) fairness, integrity and transparency; (3) effective international competition; and (4) the interest of the United Nations. These principles have been recently reaffirmed and stressed in GA's resolution of 17 April 2015, A/RES/69/273.

9. The Procurement Manual, for example, in Sections 1.2, 1.3, 1.4, 8.2, 9.2, 9.8, and 11.1 incorporates the above referenced principles. Section 1.2 specifically discusses the "best value for money" principle and addresses which factors need to be taken into consideration in conducting procurement exercises, *i.e.* market environment, competitive, fair, and transparent sourcing, and various risk factors.

10. While there is no international law that would necessarily apply to this issue, the governments and international organizations, including the UN, have promulgated model laws, guidelines, and regulations aiming to assist decision-makers in conducting public procurement exercises that are based on the principles outlined above (footnoted omitted). Such international standards have been set out for example in the United Nations Set of Principles and Rules for the Control of Restrictive Business Practices (the "UN Set"),

adopted by the General Assembly in its resolution 35/63, of 5 December 1980. The UN Set states, in relevant part, that "[a]ppropriate action should be taken in a mutually reinforcing manner at national, regional and international levels to eliminate or effectively deal with, restrictive business practices, including those of transnational corporations, adversely affecting international trade" (footnote omitted). However, notwithstanding the emergence of such international standards, we are unaware of any legal regime on which the UN could rely in preventing collusive practices among affiliated entities involved in UN procurement activities. However, no single set of model rules or laws applies to the UN. Thus, any proposed procurement policy promulgated within the UN must be first and foremost guided by the principles outlined in Financial Regulation 5.12.

C. Over-Dependency on One Supplier

11. The question of how to deal with over-dependency on a supplier is an issue that various governments and organizations around the world have grappled with. It shares the same features and principles that were discussed in relationship to the diversification above. The question bears a certain relationship to the requirement of effective international competition, as over-dependency may, although not necessarily, distort effective competition. For instance, the Office of Government Commerce of the UK (OGC) issued a Procurement Policy: Guidelines on Factors that Can Be Considered When Trying to Reduce the Risks of Over-dependency on a Supplier (footnotes omitted). The OGC noted that over-dependency may pose the following risks to effective competition: (*a*) a supplier is so over-stretched by existing demand that the risk of capacity failures or financial difficulties arises as a result; (*b*) a supplier's share of the government business is such that it has the potential to exploit its position, or that its dominance may deter other bidders. The OGC's Guidelines then outline several steps that may be taken to reduce over-dependency. For example, OGC's Guidelines advise that it may be necessary to consider "interim arrangements with a supplier whose capacity to deliver is compromised" or to take measures "to lower the barriers to entry to the public sector" in order to avoid the risk of exploitation of a position.

12. Similarly, Queensland State government of Australia issued Procurement Guidance: Planning for Significant Procurement (footnotes omitted) where it addressed the same two potential risks associated with overdependency and outlined several recommendations on how to address it. For example, in order to mitigate capacity failures, it proposed "undertaking supplier development activities to stimulate new entrants to the market" and to "ensure that the incumbent supplier is not led to believe that they will be supported *via* Government business." Noting, however, that "[u]ltimately the supplier's decision to be dependent on the agency's work is a commercial decision." In order to mitigate supplier's potential to exploit its position, it proposed the following strategies: (1) unbundling the requirement into smaller, more manageable packages which may be more attractive to a wider range of suppliers; (2) using market sounding techniques to gauge the market's level of interest in the agency's business, and identify the agency's value to suppliers as a customer; (3) using market development initiatives to stimulate competition in the market for the agency's business.

13. Undoubtedly, the decision on whether to implement a particular strategy to reduce over-dependency on a single supplier properly lies with the relevant decision-maker. Within the UN context, the policy decision must be guided by the principles outlined in

Regulation 5.12 and, if a significant policy change is determined to be warranted, may need to be approved by the member States. In this regard, the UN's procurement requirements may warrant careful review at the vendor registration, solicitation and award stages of the supplier's capacity to perform its obligations if PD determines that there exists a tangible risk to the Organization that a given supplier may be overstretched in its capacity or that its financial ability to perform its obligations to the UN is jeopardized. In this respect, Procurement Manual Section 7.7(4) provides that "the VRO shall evaluate whether the applicant is in sound financial condition based on the financial documentation and information furnished." Similarly, careful attention should be paid to the possibility of a supplier exploiting its dominant position due to its large share of the UN's business, which may lead to creating an entrance barrier to other suppliers. In the latter context, it has been suggested that entering into the so-called "framework agreements" may alleviate such concern. There is no single definition of a "framework agreement," however, the European Parliament defined framework agreement as "an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged."

Conclusions and Recommendations

14. Based on the foregoing, OLA recommends that PD consider limiting or excluding affiliated entities from participating in any one solicitation in order to effectively remove the risk of collusion. Further, the decisions on appropriate measures to implement in order to diversify the supplier database and to mitigate the risks associated with sourcing from vendors whose revenue is substantially derived from the UN contracts mainly involve policy considerations. Of course, any policy measures that may be adopted to address the two concerns identified in PD's 30 January 2015 memorandum should be consistent with the Financial Regulations and Rules of the Organization.

31December 2015

4. Miscellaneous

(*a*) Inter-office memorandum to the Principal Legal Officer in charge of the Office of the Legal Counsel concerning the authority of the Commission on Narcotic Drugs to schedule a substance under the Convention on Psychotropic Substances if there is a recommendation from the World Health Organization that the substance should not be placed under international control

Article 2 (4)–(5) and Article 17 of the Convention on Psychotropic Substances—The Commission must consider a substance before scheduling it, notwithstanding a recommendation from the World Health Organization—Assessments by the World Health Organization are "determinative" on medical and scientific nature of a substance—The Commission must also consider economic, social, legal, administrative, and other factors

1. I refer to your memorandum dated [date] in which you state that the secretariat of the Commission on Narcotic Drugs ("the Commission") was asked to seek our legal advice on the following question:

> "Can the Commission on Narcotic Drugs schedule a substance under the Convention on Psychotropic Substances of 1971[7] if there is a recommendation from the World Health Organization that the substance should not be placed under international control?"

2. We are aware that Parties to the Convention and the Commission 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 we would appreciate your conveying this understanding to the Commission.

3. Subject to that understanding, our response to your question is that, in our view, the Commission can schedule a substance under the Convention on Psychotropic Substances even if there is a recommendation from the World Health Organization that the substance should not be placed under international control, provided that the Commission has taken into account all relevant factors specified in article 2 (5) of the Convention before taking a decision.

4. A detailed analysis is contained in the annex to this memorandum.

Annex

1. The purpose of this annex is to provide a detailed analysis on the following question on which you have asked us for our advice:

> "Can the Commission on Narcotic Drugs schedule a substance under the Convention on Psychotropic Substances of 1971 if there is a recommendation from the World Health Organization that the substance should not be placed under international control?"

2. We understand that this question has been posed in relation to a notification from [State] under article 2 (1) of the Convention on Psychotropic Substances ("the Convention") stating that ketamine should be added to Schedule I of the Convention, to which the World Health Organization (WHO) responded that the substance concerned should not be included in that Schedule. You have noted that the Commission on Narcotic Drugs ("the Commission") is expected to act on the notification of [State] at its [number] session to be held from [date] to [date].

Functions of the Commission under the Convention

3. By way of background, the Commission on Narcotic Drugs was established by the Economic and Social Council (ECOSOC) by its resolution adopted on 16 February 1946, and was mandated, among other things, to "[a]ssist the Council in exercising such powers of supervision over the application of international conventions and agreements

[7] For the full text of the convention, please visit the e-Book entitled "The International Drug Control Conventions" which includes the Convention on Psychotropic Substances of 1971 as well as the Single Convention on Narcotic Drugs of 1961 (amended by the 1972 Protocol) and the United Nations Convention against Illicit Traffic in Narcotic Drugs: https://www.unodc.org/documents/commissions/CND/Int_Drug_Control_Conventions/Ebook/The_International_Drug_Control_Conventions_E.pdf.

dealing with narcotic drugs as assumed by or conferred on the Council". The Convention on Psychotropic Substances, which was adopted on 21 February 1971 and entered into force on 16 August 1976, and which is aimed at preventing and combatting abuse of psychotropic substances and the illicit traffic to which it gives rise, sets out certain functions of the Commission under the Convention. Those functions were formally accepted by ECOSOC by its resolution 1576 (L) of 20 May 1971.

4. Article 17 of the Convention entitled "Functions of the Commission" provides, in paragraph 1, that "[t]he Commission may consider all matters pertaining to the aims of this Convention and to the implementation of its provisions, and may make recommendations relating thereto."

5. Article 2 of the Convention then sets out the specific functions of the Commission in relation to the addition of substances to the Schedules of the Convention, the transfer of substances from one Schedule to another, and the deletion of substances from the Schedules. As far as the Commission's role in adding substances to the Schedules is concerned, which is the relevant scenario in the present case, article 2 (5) of the Convention provides that "[t]he Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources."

Procedure for adding a substance to the Schedules of the Convention

6. Any consideration by the Commission under article 2 (5) of the Convention is preceded by several steps, in which WHO plays a key role. Under article 2 (1) of the Convention, a notification to include specific substances not yet under international control in a Schedule of the Convention may be made by a Party to the Convention or by WHO. Under article 2 (2), "[t]he Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission and, when the notification is made by a Party, to the World Health Organization."

7. Pursuant to article 2 (4) of the Convention, WHO should conduct an assessment of a specific substance in accordance with the criteria set out in that article, and communicate its assessment and recommendation to the Commission. The Commission then considers the matter pursuant to article 2 (5) quoted above.

8. In this context, we understand the notification by [State] to include ketamine in Schedule I of the Convention was made under article 2 (1) of the Convention (E/CN.7/2015/7, annex III). We also understand that WHO recommended not to place ketamine under international control at this time, in response to the notification made by [State] (E/CN.7/2015/7, annex IV). Your question relates to whether the Commission may include a substance in a Schedule of the Convention, if WHO had recommended not to place the substance concerned under international control.

Role of the Commission and the Parties

9. In the first instance, it is for the Commission itself to decide whether it has the competence to deal with a specific matter, such as the inclusion of a substance in a Schedule of the Convention in case where WHO had expressed a contrary opinion. In this regard, rule 54 of the Rules of Procedure of the Functional Commissions of ECOSOC, which is applicable to the Commission, provides that "[a] motion calling for a decision on the competence of the commission to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question." Therefore, if a member of the Commission puts forward such a motion, it is for the Commission to decide.

10. However, certain indications that may shed light on your question are set out below. We would like to emphasize that the points mentioned below do not purport to be an authoritative or definitive interpretation of the relevant provisions of the Convention and that other parties may take a different view.

Analysis of the relevant provisions

11. We first note that the Convention does not contain provisions that specifically deal with the situation described in your question. Article 2 (4) of the Convention deals with a situation where WHO communicates an assessment on a substance and any control measures necessary for the substance, and article 2 (5) authorizes the Commission to add any substance in the Schedules of the Convention.

12. However, there is no specific provision that explicitly deals with the procedure to be followed when WHO recommends *not* to place a substance under international control, or a specific provision that states that the Commission is free to take a contrary decision in case *not* to place a substance under international control, or a specific provision that states that the Commission is free to take a contrary decision.

13. As far as the nature of the WHO communication under article 2 (4) of the Convention is concerned, that article provides that the communication should contain an "assessment" of the substance concerned, together with "recommendations" on control measures. Article 2 (5) further provides that the assessments of WHO "shall be determinative as to medical and scientific matters". The word "determinative" seems to indicate that WHO's assessments have a special status that serve to conclusively define the medical and scientific nature of a substance.

14. Article 2 (5), however, further provides that the Commission may add the substance to a Schedule "bearing in mind the economic, social, legal, administrative and other factors it may consider relevant". Therefore, it seems that the Commission is required to take into account not only the WHO's assessments as to medical and scientific matters, but also economic, social, legal, administrative and other factors. Only when they have been taken into account can the Commission proceed to decide whether to add the substance to the Schedule or not. Article 2 (5) therefore seems to indicate that the Commission is expected to reach a conclusion after taking into account all the relevant factors, rather than on the basis of only one or several factors, such as the WHO's assessments. This approach seems to have been accepted by the Commission (E/1983/15, para. 195).

15. Article 2(5) of the Convention also clarifies that the Commission alone is authorized to add a substance to a Schedule of the Convention. The Convention does not confer that authority on WHO. The only exception is when a Party appeals the Commission's decision, in which case ECOSOC may decide to add a substance to a Schedule of the Convention (article 2 (8) of the Convention).

Commentary on the Convention

16. In shedding light on your question, we have also consulted *Commentary on the Convention on Psychotropic Substances* (E/CN.7/589), which was published in 1976, and which provides useful guidance in interpreting the provisions of the Convention. The commentary to article 2 (5) provides that:

> "[i]f WHO finds under paragraph 4 [of Article 2] that a substance does not have the dangerous properties described in subparagraph (*a*), clause (i) or (ii), and by consequence expressly or impliedly recommends in its communication to the Commission that the substance should not be controlled, the Commission would not be authorized to place it under control. Doing so would be incompatible with the provision that the WHO assessment should be 'determinative as to medical and scientific matters', and also with the basic assumptions of the authors of the Vienna Convention which is intended to deal only with problems arising from the abuse of substances which have dangerous qualities as defined in the above-mentioned clause (i) or (ii)" *(Commentary,* p. 71).

17. The commentary seems to put emphasis on the determinative nature of the WHO assessments as far as medical and scientific matters are concerned, and the object and purpose of the Convention.

Subsequent practice

18. As far as subsequent practice is concerned, we have identified two potentially relevant cases dealt with by the Commission. In 1997, Spain proposed the inclusion of several substances in Schedules I and II of the Convention, but WHO recommended not to amend those Schedules to extend international controls collectively to some of the substances notified by Spain, and made its own recommendations on two substances in response to the proposal by Spain (E/1999/28/Rev.1, paras. 109 and 111). The Commission approved the WHO recommendations on the two substances, but there is no record of any action taken with respect to the substances to which WHO objected.

19. In 1991, WHO recommended that a substance should be deleted from Schedule IV of the Convention, and that it should not be transferred to any other Schedule (E/1991/24, p. 23). This was a case that concerned the deletion of a substance which was already included in a Schedule, rather than an objection to the inclusion of a new substance to a Schedule. However, the case is relevant in the sense that WHO recommended that the substance should not appear in any of the four Schedules of the Convention. In this case, the Commission unanimously decided to remove the substance from Schedule IV (E/1991/24, p. 23).

20. While these two cases seem to indicate that the Commission has generally followed WHO recommendations not to add substances to or maintain substances in the

Schedules of the Convention, the Commission has, in the past, rejected a number of WHO recommendations to include specific substances in the Schedules of the Convention (E/1983/15, paras. 206 to 208; E/1984/13, para. 11). While the context was different from that envisaged in your question, *i.e.* a case where WHO recommended *not* to include a specific substance in a Schedule, the practice of the Commission to reject WHO recommendations is still relevant as it indicates that the Commission has not felt itself bound by WHO recommendations. that the Commission has generally followed WHO recommendations not to add substances to or maintain substances in the Schedules of the Convention, the Commission has, in the past, rejected a number of WHO recommendations to include specific substances in the Schedules of the Convention (E/1983/15, paras. 206 to 208; E/1984/13, para. 11). While the context was different from that envisaged in your question, *i.e.* a case where WHO recommended *not* to include a specific substance in a Schedule, the practice of the Commission to reject WHO recommendations is still relevant as it indicates that the Commission has not felt itself bound by WHO recommendations.

Conclusions

21. Article 2 (5) of the Convention does provide that WHO assessments are determinative as to medical and scientific matters of a substance, and that the Commission should take them into account, but the ultimate authority to decide whether the substance should be added in a Schedule rests with the Commission. In doing so, the Commission is required to take into account factors broader than medical and scientific factors. If the overall assessment of the Commission is to add the substance in a Schedule, it has the authority to do so, even if WHO had recommended otherwise. Therefore, it does not seem that the narrower assessments by WHO on medical and scientific matters alone could determine the course of action to be taken by the Commission.

22. As far as the views expressed in the *Commentary* are concerned, it placed emphasis on the fact that WHO assessments were "determinative" as to medical and scientific matters of a substance to conclude that the Commission may not add a substance in a Schedule when WHO recommends not to place a substance under international control. However, looking at article 2 (5) as a whole, the Commission is expected to take a broader perspective, and is required to take into account all relevant factors to reach a conclusion. From this perspective, if the Commission takes a decision not to include a substance in a Schedule without considering the relevant factors other than the WHO assessments, it could be said that the requirements under article 2 (5) incumbent upon the Commission have not been fulfilled.

23. Therefore, in response to your question, in our view, the Commission can schedule a substance under the Convention on Psychotropic Substances even if there is a recommendation from WHO that the substance should not be placed under international control, provided that the Commission has taken into account all relevant factors specified in article 2 (5) of the Convention before taking a decision.

18 February 2015

(*b*) Inter-office memorandum to the Under-Secretary-General for Management requesting the application of article 45 *bis* of the UNJSPF Regulations to the pension benefit of a staff member

Application of Article 45 *bis* of the UNJSPF Regulations to the pension benefit of a staff member towards recovery following a court order of restitution—Restitution order by court distinct mechanism of recovery from Article 45 *bis*, which is an internal administrative mechanism

1. This refers to the case of […], a former United Nations staff member, who, following his separation, was convicted in [month and year] of defrauding the United Nations by the United States District Court for the Eastern District of Virginia (the "District Court") for working for the United States Government while on paid sick leave from the Organization.

2. The Organization has calculated its financial losses as a result of […] fraud to be […]. In order to recover a portion, OLA recommends that DM, on behalf of the Organization, submit the enclosed memorandum (text omitted) to the United Nations Joint Staff Pension Fund (the "Pension Fund") requesting the application of Article 45 *bis* of the United Nations Joint Staff Pension Regulations (the "UNJSPF Regulations") to the disposition of the pension benefit of […].

Background

3. In [month and year] […] was convicted of nine counts of interstate wire fraud for concealing his employment with the United States Government while on paid sick leave from his position as […]. As a result of his fraudulent scheme, […] had received salary payments from both the United Nations and the United States between April and September 2009. Accordingly, in [month and year], the District Court issued a "Judgment in a Criminal Case" (…) sentencing […] to (1) eighteen months of imprisonment and three years of supervised release and (2) to pay, firstly, a special assessment of US $900 to the United States and, secondly, restitution in the amount of […] to the United Nations, as a victim in the case, in monthly installments of minimum (the "Restitution Order").

Article 45 bis *of the UNJSPF Regulations*

4. By resolution 67/240, the General Assembly "approve[d] new article 45 *bis*, …, which allows the [Pension] Fund, in very specific circumstances, to pay a portion of a retiree's benefit directly to the retiree's former employing organization towards restitution in cases where amounts had been embezzled by the staff member from the organization". The amendment to the UNJSPF Regulations was made on the recommendation of the United Nations Joint Staff Pension Board, as well as the ACABQ.

5. Article 45 *bis* enables the Pension Fund to remit to a member organization, on request, a portion of the benefit payable to a participant in the Fund where the participant has been convicted of fraud against the member organization, provided that two requirements are met: (1) a participant must be the *"subject of a criminal conviction for fraud against that employing organization"*, and (2) the criminal conviction must be *"evidenced by a final and executable court order issued by a competent national court"*. We note that,

under the UNJSPF Regulations, a participating staff member would have the right to appeal any remittance decision.

Application of Article 45 bis *to […]*

6. OLA has determined that the requirements of Article 45 *bis* are met […] case. As noted in paragraph 3, in [month and year], […] was convicted by the District Court of nine counts of interstate wire fraud against the United Nations. We have been advised that […] has exhausted all of his appeals under United States law and that the District Court Judgment thus represents a final and executable court order.

7. In view of the foregoing, we note that (1) […] is the subject of a criminal conviction by a competent national court for fraud against the United Nations, which is (2) evidenced by a final and executable court order. Accordingly, the requirements of Article 45 *bis* are satisfied in this case and the Pension Fund may, upon the Organization's request, decide to remit a portion of […] pension benefit to the United Nations.

8. As noted above, the District Court ordered […] to pay restitution […] to the United Nations as a victim in the case. The amount of restitution owed to the United Nations was calculated based on a recommendation of the United States Government, the prosecutor in the case. In its Memorandum in Aid of Sentencing submitted to the District Court, the United States recommended that restitution […] be ordered, consisting of (1) […] United Nations salary and emoluments paid *via* direct deposit to […] bank account between April and September 2009, as well as (2) […] in "necessary" legal expenses incurred by the United Nations in the case.

9. In determining the amount of restitution owed to the United Nations, the District Court was aware that the United Nations incurred additional losses that were not included in the restitution recommended by the United States. In its Memorandum in Aid of Sentencing, the United States recommended that *"[o]ther portions of the defendant's gross salary for this period of time, which were intended for the defendant's benefit (e.g. , pension contributions and staff assessments) and properly included in the loss calculation pursuant to [United States law], are directly recoupable by the UN and therefore should not be included in any restitution order"* (emphasis in original). The District Court adopted this recommendation and, therefore, the loss amount reflected in the Restitution Order does not include the United Nations' losses resulting from pension contributions.

10. Accordingly, the loss figure included in the memorandum to the Pension Fund differs from the Restitution Order and reflects the *total* loss of the Organization attributable to […] fraud, including losses resulting from pension contributions and all legal costs incurred by the Organization in connection with the case. The total loss amount consists of […] in salary and emoluments, as well as […] in legal costs.

Relationship between the Restitution Order and Article 45 bis

11. Although the Restitution Order is a welcome means of recovering a portion of the Organization's losses, we note that it is a distinct mechanism of recovery from Article 45 *bis.* Article 45 *bis* is an internal, administrative mechanism that may be utilized by the Organization to recover financial losses resulting from fraud irrespective of whether

a national court has ordered restitution as part of its criminal conviction. We would further note that the Restitution Order was possible in this particular case pursuant to a law in the United States that requires the payment of restitution to the victims of fraud offenses. Analogous laws do not exist in many other jurisdictions and, further, the courts in jurisdictions where such laws exist may not award restitution to the United Nations in all cases. Moreover, even in cases such as this one where restitution is ordered, the restitution order may not enable the Organization to achieve full or practicable recovery of its losses. Accordingly, as recognized by the General Assembly, Article 45 *bis* constitutes an important mechanism for the Organization to utilize in these cases to recover losses as a result of fraud by a staff member.

12. In view of the foregoing, we would recommend that the United Nations request remittance of […] pension benefit to the Organization in order to recover a portion of the Organization's losses in this case. We note that this would be the first request made by the Organization pursuant to Article 45 *bis,* and OLA remains available to assist as needed.

25 March 2015

(*c*) Inter-office memorandum to the Deputy Controller in the Office of Programme Planning, Budget and Accounts, Department of Management on the status of the "Financial Rules" for the United Nations Office on Drugs and Crime (UNODC)

Application of the United Nations Financial Regulations and Rules of the United Nations to the United Nations Office on Drugs and Crimes—Establishment of Financial Regulations and Rules for trust funds established pursuant to the United Nations Financial Regulations and Rules

Introduction

1. This refers to your request, including most recently the one of 11 March 2015, seeking advice concerning the background to, the status of, and revisions that UNODC has proposed to make to the so-called "Financial Rules of the United Nations Office on Drugs and Crime." This also refers to the numerous meetings, exchanges of e-mails and other communications on this matter among representatives of our offices. We understand that your request for advice was a consequence of UNODC's having submitted, for approval by the Controller's Office, a set of revised financial rules which would supersede the current version of the so-called, "Financial Rules of the United Nations Office on Drugs and Crime" that had been promulgated by the Secretary-General in 2008. We understand that the main purpose of the proposed revisions is to make such financial rules consistent with the International Public Sector Accounting Standards (IPSAS). In connection with UNODC's request, your office has specifically questioned the basis for an office of the Secretariat, UNODC, having its own financial rules.

2. Our general comments concerning the (i) background to the promulgation of the so-called "Financial Rules of the United Nations Office on Drugs and Crime" and (ii) the proposed revisions thereto are summarized below and are elaborated more fully in the enclosed Annexes I and II [omitted, except for the annex below]

Status of the Financial Rules to which UNODC Has Proposed Revisions

3. The cover page of the proposed revised set of financial rules provided to the Controller's Office uses the title, "Financial Rules of the United Nations Office on Drugs and Crime." Nevertheless, according to the Preface to the document, the actual title of the proposed revised set of financial rules is, "Financial Rules of the Fund of the United Nations International Drug Control Programme established pursuant to General Assembly resolution 45/179 of 21 December 1990 and the Fund of the Crime Prevention and Criminal Justice Programme established pursuant to General Assembly resolution 46/152 of 18 December 1991." The title, as used on the cover page, "Financial Rules of the United Nations Office on Drugs and Crime," therefore is inaccurate and, given your questions regarding the status of such financial rules, has been misleading. The proposed revised financial rules have been promulgated for the sole purpose of the proper financial administration of the UNDCP Fund and the UNCPCJP Fund and not for the financial management of UNODC, an Office of the Secretariat, the financial administration of which is governed by the UN Financial Regulations and Rules. Accordingly, the title, "Financial Rules of the United Nations Office on Drugs and Crime" should not be used in connection with the promulgation of the proposed revised set of financial rules for the financial administration of the UNDCP Fund and the UNCPCJP Fund. Instead, such financial rules should be entitled, "Financial Rules of the Fund of the United Nations International Drug Control Programme and the Fund of the Crime Prevention and Criminal Justice Programme." Such a title for the proposed revised financial rules, albeit more unwieldy, is more accurate and does not create the misleading impression that UNODC operates under separate financial rules.

4. There can be no question that UNODC, as a unit of the Secretariat, is subject exclusively to the UN Financial Regulations and Rules. Financial Regulation 1.1 provides that such Financial "Regulations shall govern the financial administration of the United Nations, including the International Court of Justice." Financial Rule 101.1 further provides, in pertinent part, that the Financial Rules of the United Nations "govern all the financial management activities of the United Nations except as may otherwise expressly be provided by the Assembly or unless specifically exempted by the Secretary-General". To OLA's knowledge, neither the General Assembly nor the Secretary-General has exempted or otherwise provided that UNODC is not subject to the UN Financial Regulations and Rules.

5. [T]he UNDCP Fund and the UNCPCJP Fund are trust funds established in accordance with the UN Financial Regulations and Rules. Financial Regulation 4.14, in pertinent part, states that, with respect to trust funds, reserve and special accounts, "unless otherwise provided by the General Assembly, such funds and accounts shall be administered in accordance with the [UN Financial] Regulations." As more fully explained in the annexes (omitted), the General Assembly has not provided that the UNDCP Fund and the UNCPCJP Fund are not subject to the UN Financial Regulations. Rather, the General Assembly has authorized the Secretary-General to provide specific financial rules for the UNDCP Fund and the UNCPCJP Fund in accordance with Financial Regulation 5.8(*a*), which states that the Secretary-General "shall establish detailed financial rules and procedures in order to ensure effective and efficient financial management and the exercise of economy." In addition to the General Assembly, including its Advisory Committee on Administrative and Budgetary Questions, the Commission on Narcotic Drugs, Commission on Crime Prevention and Criminal Justice and the Economic and

Social Council were consulted on the Secretary-General's proposals to establish financial rules for the UNDCP Fund and the UNCPCJP Fund.

6. Based on the foregoing, the proposed revised financial rules that UNODC provided to the Controller's Office are applicable to the two trust funds, the UNDCP Fund and the UNCPCJP Fund. Moreover, such financial rules are subject to and must be read consistently with the UN Financial Regulations and Rules. Such financial rules for the two funds, thus, are merely adjunct to the UN Financial Regulations and Rules and have been established by the Secretary-General, in accordance with Financial Regulation 5.8, for the proper financial administration of the UNDCP Fund and the UNCPCJP Fund. UNODC is not subject to such financial rules other than in connection with its administration of the UNDCP Fund and the UNCPCJP Fund and, when doing so, subject to the overriding authority of the UN Financial Regulations and Rules.

Revisions to the Financial Rules of the Two Funds

[omitted] … .

Annex

Background and comments concerning the basis of the promulgation of the so-called "Financial Rules of the United Nations Office on Drugs and Crime"

A. Legislative background to the financial Rules of the Fund/or the United Nations International Drug Control Programme ("UNDCP Fund")

1. By its resolution 45/179 dated 21 December 1990, the General Assembly *"[r]equeste[d]* the Secretary-General to create a single drug control programme, to be called the United Nations International Drug Control Programme ['UNDCP'], based at Vienna, and to integrate fully therein the structures and the functions of the Division of Narcotic Drugs of the Secretariat, the secretariat of the International Narcotics Control Board and the United Nations Fund for Drug Abuse Control ['UNFDAC']", *"[i]nvite[d]* the Secretary-General to take the necessary steps in order to appoint a senior official at the level of Under-Secretary-General, who will execute the integration process and head the new integrated Programme starting from 1 January 1991", and *"[e]ndorse[d]* the proposal of the Secretary-General to place the financial resources of the existing [UNFDAC] under the direct responsibility of the head of the [UNDCP] as a fund for financial operational activities, mainly in developing countries" *(see* operative paragraphs 3, 4 and 6).

2. By his report A/46/480 of 25 October 1991, the Secretary-General informed the General Assembly that the United Nations International Drug Control Programme ("UNDCP") had been established and the Executive Director of UNDCP had been appointed on 1 March 1991, and proposed that "a new fund, to be called the 'Fund of the United Nations International Drug Control Programme' [UNDCP Fund], be established and the assets and liabilities of the current UNFDAC be transferred to this new Fund" *(see* paragraph 3 below). In his report A/C.5/46/23 dated also 25 October 1991, the Secretary-General stated that:

"[g]iven the magnitude of the extrabudgetary resources of the Programme [UNDCP], and the distinct feature of the proposed Fund of the [UNDCP] (see A/46/480, para. 25), the Secretary-General considers that the new [UNDCP] Fund calls for special treatment by way of separate financial rules […]. The proposed distinctive features of the Fund, as compared to the regular budget activities, include a system of continuous programming based on annual funding; a distinction between commitment and obligation; and the establishment of a general reserve and of a programme reserve. Furthermore, the anticipated size of the Fund makes it advisable, in the interest of efficient operation, for the Executive Director of the Programme to be granted a maximum degree of decentralized authority as regards both financial and personnel matters." *(See* paragraph 5 of the report).

In light of the above, subject to the General Assembly's approval of the proposed financial arrangements for the UNDCP Fund set out in the report A/C.5/46/23, the Secretary-General indicated his intention to promulgate, pursuant to the UN Financial Regulations, separate financial rules applicable to the UNDCP Fund, and attached the proposed financial rules in the annex to the report *(see* A/C.5/46/23*,* para 8).

3. Having reviewed the Secretary-General's reports, above, and the report of the ACABQ, the General Assembly, by its resolution 46/185C dated 20 December 1991, Section XVI:

"l. *Decide[d]* to establish, as from 1 January 1992, under the direct responsibility of the Executive Director of the [UNDCP], the Fund of the [UNDCP] as a fund for financing operational activities mainly in developing countries and to transfer to it the financial resources of the former [UNFDAC];

"2. *Authorize[d]* the Commission on Narcotic Drugs as the principal United Nations policy-making body on drug control issues, […] to approve, on the basis of the proposals of the Executive Director of the [UNDCP], both the budget of the programme of the Fund and the administrative and programme support costs budget, other than expenditures borne by the regular budget of the United Nations, […];

"7. *Note[d] also* the intention of the Secretary-General to promulgate financial rules for the Fund, in accordance with the Financial Regulations of the United Nations, it being understood that the references in the said financial rules to the role and functions of the Commission on Narcotic Drugs shall be consistent with the role of the Commission given in paragraph 2 above;

"8. *Decide[d]* that, notwithstanding regulations 11.1 and 11.4 of the Financial Regulations of the United Nations, the Executive Director of the [UNDCP] shall maintain the accounts of the Fund of the [UNDCP] and shall be responsible for submitting the said accounts and related financial statements, no later than 31 March following the end of the financial period, to the Board of Auditors and for submitting financial reports to the Commission on Narcotic Drugs and to the General Assembly."

4. Subsequently, the draft financial rules of the UNDCP Fund, annexed to the Secretary-General's report A/C.5/46/23 dated 25 October 1991, were further amended in order to reflect the recommendations of the ACABQ and the Commission on Narcotic Drugs. In 1998, the Commission on Narcotic Drugs "took note with approval of the intention of the Secretary-General to promulgate the revised draft financial rules of the Fund", and the Economic and Social Council, in its decision 1998/20 dated 30 July 1998, also "took note of the report of the Commission on Narcotic Drugs on its forty-first session".

Thereafter, almost seven years after the initial draft rules were prepared, the financial rules of the UNDCP Fund were promulgated in 1998.

B. Legislative background to the financial rules of the Fund of the United Nations Crime Prevention and Criminal Justice Programme ("UNCPCJP Fund")

5. By its resolution 46/152 of 18 December 1991, the General Assembly *"[a]pprove[d]* the statement of principles and programme of action, annexed to the present resolution, recommending the establishment of a United Nations crime prevention and criminal justice programme ['UNCPCJP']" and *"[r]equeste[d]* the Secretary-General to take the necessary action within the overall existing United Nations resources in accordance with the financial rules and regulations of the United Nations and to provide appropriate resources for the effective functioning of the [UNCPCJP] in accordance with the principles outlined in the statement of principles and programme of action" *(see* paragraphs 2 and 7 of the resolution).

6. The statement of principles and programme of action of the UNCPCJP provides m section G, "Funding of the Programme", paragraph 44, that:

> "[t]he [UNCPCJP] shall be funded from the regular budget of the United Nations. Funds allocated for technical assistance may be supplemented by direct voluntary contributions from Member States and interested funding agencies. Member States are encouraged to make contributions to the United Nations Trust Fund for Social Defence [established pursuant to ECOSOC resolution 1086B (XXXIX) of 30 July 1965], to be renamed the United Nations Crime Prevention and Criminal Justice Fund. […]"

7. By its resolution 61/252 of 22 December 2006, Part XI, the General Assembly:

> *"Considering* that it would be opportune to grant the Commission on Crime Prevention and Criminal Justice the same powers with respect to the [UNCPCJP] Fund as the Commission on Narcotic Drugs has with respect to the Fund of the [UNDCP],
>
> […]
>
> "1. *Authorize[d]* the Commission on Crime Prevention and Criminal Justice, as the principal United Nations policymaking body on crime prevention and criminal justice issues, to approve, on the basis of the proposals of the Executive Director of the [UNODC], bearing in mind the comments and recommendations of the [ACABQ], the budget of the [UNCPCJP] Fund, including its administrative and programme support costs budget, other than expenditures borne by the regular budget of the United Nations
>
> […]
>
> "4. *Requeste[d]* the Secretary-General to promulgate financial rules for the [UNCPCJP] Fund, in accordance with the Financial Regulations and Rules of the United Nations, [footnote 32 herein is omitted] it being understood that the reference in the said financial rules to the role and functions of the Commission on Crime Prevention and Criminal Justice shall be consistent with the role of the Commission given in paragraph 1 above;
>
> "5. *Decide[d]* that, notwithstanding regulations 6.1 and 6.5 of the Financial Regulations of the United Nations, the Executive Director of [UNODC] shall maintain the accounts of the Fund and shall be responsible for submitting the said accounts and related financial statements […] to the Board of Auditors and for submitting

financial reports to the Commission on Crime Prevention and Criminal Justice and to the General Assembly."

8. We understand that subsequently, it was determined by the Administration that the financial rules of the UNDCP Fund, promulgated in 1998, could also be made applicable to the UNCPCJP Fund by making necessary adjustments to the 1998 financial rules of the UNDCP Fund. Such adjustments were made and in 2008, the Secretary-General promulgated, effective as of 1 May 2008, the financial rules of the UNDCP Fund and the UNCPCJP Fund, also referred to as the "Financial Rules of the United Nations Office on Drugs and Crime" and the "Financial Rules of the Voluntary Funds of United Nations Office on Drugs and Crime", and abolished the financial rules of the UNDCP Fund promulgated in 1998 *(see* the cover page, Preface and heading to the "Financial Rules of the United Nations Office on Drugs and Crime"). The 2008 version of the "Financial Rules of the United Nations Office on Drugs and Crime" is currently in force and this is the version that will be revised, mainly in order to make the rules compliant with IPSAS.

C. OLA comments concerning the basis for the promulgation of the so-called "Financial Rules of the United Nations Office on Drugs and Crime"

9. There can be no question that UNODC, as a unit of the Secretariat, is subject exclusively to the UN Financial Regulations and Rules. Financial Regulation 1.1 provides that the Financial "Regulations shall govern the financial administration of the United Nations, including the International Court of Justice." Financial Rule 101.1 further provides, in pertinent part, that the Financial Rules of the United Nations "govern all the financial management activities of the United Nations except as may otherwise expressly be provided by the Assembly or unless specifically exempted by the Secretary-General" (emphasis added). To OLA's knowledge, neither the General Assembly nor the Secretary-General has exempted or otherwise provided that UNODC is not subject to the UN Financial Regulations and Rules.

10. With respect to the UNDCP Fund, the General Assembly noted the Secretary-General's intention to promulgate separate financial rules for the Fund and, with respect to the UNCPCJP Fund, the General Assembly requested the Secretary-General to promulgate separate financial rules for the Fund *(see* General Assembly resolutions 46/185C and 61/252). In addition to the General Assembly, the ACABQ, the Commission on Narcotic Drugs, Commission on Crime Prevention and Criminal Justice and ECOSOC were also consulted on the proposals for the promulgation of separate financial rules for the two funds *(see, e.g.,* paragraph 4 above).

11. The General Assembly also decided that the Executive Director of UNODC shall maintain the accounts of the UNDCP Fund and the UNCPCJP Fund, that the Executive Director shall be responsible for submitting the said accounts and related financial statements to the Board of Auditors and for submitting financial reports on the UNDCP Fund to the Commission on Narcotic Drugs and the General Assembly, and financial reports on the UNCPCJP Fund to the Commission on Crime Prevention and Criminal Justice and the General Assembly *(see* paragraphs 3 and 7 above). The General Assembly's decisions, above, are reflected in Rules 3.3 and 7.1 of the "Financial Rules of the United Nations Office on Drugs and Crime" which, together with Rule 1.3, stipulate as follows:

"Rule 1.3

"The authority and responsibility for the implementation of these Financial Rules is delegated to the Executive Director of the United Nations Office on Drugs and Crime (UNODC). […]"

"Rule 3.3

"The biennial budget outline and the biennial budget [of the "UNODC Funds", *i.e.*, the UNDCP Fund and UNCPCJ Fund] shall be submitted to the [ACABQ] for examination. The biennial budget outline and the biennial budget and the related reports of the [ACABQ] shall be submitted to the Commission on Narcotic drugs and the Commission on Crime Prevention and Criminal Justice."

"Rule 7.1

"The Executive Director [of UNODC] is responsible for maintaining the UNODC Funds accounts and for reporting thereon to the Board of Auditors, the Commission on Narcotic Drugs, the Commission on Crime Prevention and Criminal justice and the General Assembly."

Since Rules 3.3 and 7.1 reflect the decisions of the General Assembly, we consider that any proposal to substantively revise or abolish those rules would require the General Assembly's approval.

12. The General Assembly has plenary authority over the finances of the Organization pursuant to Article 17 of the Charter of the United Nations. Pursuant to Rule 152 of the Rules of Procedure of the General Assembly, "the General Assembly shall establish regulations for the financial administration of the United Nations." Financial Regulation 5.8(*a*) provides that the Secretary-General shall "establish detailed financial rules and procedures in order to ensure effective and efficient financial management and the exercise of economy". Financial Regulation 5.8(*a*), adopted by the General Assembly, provides the legal basis and authority for the Secretary-General to promulgate Financial Rules.

13. We understand that the distinct features of the UNDCP Fund and of the UNCPCJP Fund were deemed to justify the promulgation of financial rules for the two funds. Should circumstances significantly change requiring their substantial revision or abolishment, we consider that the General Assembly's express approval would be necessary given that the General Assembly was consulted in respect of the promulgation of the original financial rules for the two funds and that certain provisions of the current financial rules reflect its decisions, *e.g.,* Rules 3.3 and 7.2 *(see* General Assembly resolutions 46/185C and 61/252). Moreover, since the ACABQ, the Commission on Narcotic Drugs, Commission on Crime Prevention and Criminal Justice and the ECOSOC were also consulted, in addition to the General Assembly, with respect to the proposals to promulgate financial rules for the two funds, we would recommend that they be also consulted on any proposal to abolish or substantially revise those financial rules

27 March 2015

B. Legal opinions of the secretariats of intergovernmental organizations related to the United Nations

1. International Labour Organization

(submitted by the Office of the Legal Adviser of the International Labour Office)

(*a*) Legal opinion rendered during the 104th session of the International Labour Conference (June 2015) concerning the application by the Cook Islands for admission to membership of the International Labour Organization[1]

Admission to membership—Sovereign status of self-governing entity—Capacity to conduct an independent foreign policy—Responsibility at international law

Following the presentation of the Subcommittee's report concerning the application by the Cook Islands for admission to membership of the International Labour Organization to the Selection Committee, a question was raised by a Government representative of [State] who indicated, while offering his Government's support to the resolution concerning the admission of the Cook Islands to membership of the ILO, that there had been some discussion within the [grouping of States] as to the sovereignty of the Cook Islands, and its Government's capacity to conduct an independent external foreign policy. Clarification from the Office was requested.

The Legal Adviser of the ILO responded by pointing out that the Cook Islands was a self-governing entity in free association with New Zealand. This association was defined most recently in clauses 4 and 5 of the 2001 Joint Centenary Declaration of the Principles of the Relationship between New Zealand and the Cook Islands as follows: "in the conduct of its foreign affairs the Cook Islands interacts with the international community as a sovereign and independent state. Responsibility at international law rests with the Cook Islands in terms of its actions and the exercise of the international rights and fulfilment of its international obligations. Any action taken by New Zealand in respect of its constitutional responsibilities for the foreign affairs of the Cook Islands will be taken on the delegated authority, and as an agent or facilitator at the specific request of, the Cook Islands." Section 5 of the Cook Islands Constitution Act, 1964, thus records a "responsibility to assist the Cook Islands and not a qualification of Cook Islands' statehood".

It was further highlighted that the Cook Islands had established diplomatic relations with 43 States, was a member of tens of international organizations, including Specialized Agencies of the United Nations (such as WHO, FAO, UNESCO), and had signed over 100 multilateral treaties and a comparable number of bilateral treaties, including the United Nations Convention on the Law of the Sea[2]and the Rome Statute of the International Criminal Court.[3] It had also concluded maritime boundary agreements with a number of countries.

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[1] See Provisional Record of the International Labour Conference, 104th session, no. 3–3, Second report of the Selection Committee, paras. 13–17, pp. 3–4.

[2] United Nations, *Treaty Series*, vol. 1833, p. 396.

[3] *Ibid*., vol. 2187, p. 3.

(*b*) Legal opinion rendered during the 325th Session (October–November 2015) of the Governing Body of the International Labour Office concerning the scope of the principle *nemo judex in causa sua*[1]

Complainants' participation in debate on non—Observance of certain labour conventions—Principle that no one should be judge and party in the same case—Procedure under article 26(4) of the ILO Constitution—Members of governing body do not have to recuse themselves from debates on complaints brought by them

The Legal Adviser rendered an opinion during the debates held by the Governing Body, at its 325th Session, regarding the complaint concerning the non-observance by [State] of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), submitted under article 26 of the Constitution by several delegates to the 104th Session (2015) of the International Labour Conference.

The Government representative of [State] argued that the abovementioned item on the agenda should not be debated and no decision should be taken on it as, among other reasons, 14 of the 35 employers who had signed the complaint were members of the Governing Body. Therefore, they could not participate in the debate or take a decision without infringing upon the universal principle that no one could be judge and party in the same case, as stated by the ILO's own Legal Adviser in relation to an article 26 complaint in 2005.

The Legal Adviser stressed that the legal opinion of 2005 had been given in the context of the possible referral of a complaint under article 26 to the Committee on Freedom of Association. Most of the signatories of the complaint were members of that Committee. In those circumstances, the Legal Adviser had recommended that those Committee members should recuse themselves. Conversely, in the case debated at the 325th Session, no action proposed encompassed referral to that Committee. Further, the current complaint was being filed under article 26(4) of the Constitution, according to which the Governing Body could act of its own motion to initiate the article 26 procedure. If a party initiating a procedure was debarred in all cases from participating in the procedure, then it would not be possible for the Governing Body to take any action under article 26(4) as it should recuse itself as a whole, which was evidently not the intention of the drafters of the Constitution.

2. Universal Postal Union

(submitted by the Director of Legal Affairs of the Universal Postal Union)

(*a*) Letter dated [date] from the Deputy Director General of the Universal Postal Union (UPU) to the Director General of the [State's] designated postal operator concerning a request by [State] concerning the use of postal financial services

Request to rehabilitate postal financial services—Application of sanctions—Specialized agency bound by Security Council resolutions adopted under Chapter VII of the Charter of the United Nations

[1] See the Provisional Records of the 325th session of the Governing Body, no. GB.235/PV, pp. 75–80.

I refer to your letter dated [date] and discussions with the [State] delegation during the last session of the Council of Administration. The Director General informs me that he carefully considered and evaluated your request concerning the rehabilitation of Postal Financial Services for [State] through operational assistance by the Universal Postal Union (UPU). The experts of the UPU's international Bureau have thoroughly examined the matter with due respect to applicable international laws and decisions. Based on their analyses and recommendations, I regret to inform you that the UPU is currently not in a position to assist your country in the aforementioned undertaking.

As you may know, the UPU is a specialized agency of the United Nations responsible for international postal service matters. It is thus bound to apply and comply with the relevant resolutions adopted by the United Nations Security Council. Accordingly, it needs to be noted that the Security Council in its [resolutions] reaffirmed its commitment concerning the [Treaty] and expressed the need for all States party to that [Treaty] to comply fully with all their obligations. In this regard, the aforementioned resolutions instruct that all addressees "[…] shall prevent the provision to [State] by their nationals or from or through their territories of technical training, financial resources or services, advice, other services or assistance […]." In addition, all of the concerned resolutions, including [resolution], were adopted under Chapter VII of the Charter of the United Nations, making them legally binding towards all members of the United Nations, its organs and organizations. As explained above, this necessarily also applies to the UPU as specialized agency of the United Nations.

In light of the political decisions by the Security Council of the United Nations, the UPU is therefore unable to take any action that may be interpreted as providing any assistance concerning a rehabilitation of financial services towards [State] until the restrictions contained within the respective resolutions are lifted.

(*b*) Reply dated 1 May 2015 from the Director of Legal Affairs concerning [General Assembly resolution]

Implementation of a General Assembly resolution—Specialized agencies not bound by resolutions of the United Nations General Assembly

In response to your note concerning [resolution] adopted by the General Assembly on [date], I have the pleasure in providing you with the following information concerning the relationship between the Universal Postal Union (UPU) and [State]:

As a specialized agency of the United Nations, the UPU is not directly involved in implementing [resolution] of the United Nations General Assembly, which only affects Member States.

The UPU has always regarded [State] as a fully-fledged member of the organization. As such, [State] enjoys the same rights and obligations as other UPU members.

…

(*c*) Legal Affairs Directorate note dated 5 August 2015 concerning a request for temporary exemption from contribution class payments by [State]

Request for temporary exemption from contribution class payment due to exceptional circumstances—Article 21 of the Constitution of the Universal Postal Union (UPU)—Article 150 of the UPU regulations—Possibility of temporary reduction for maximum period of two years—Lowest possible contribution class for least-developed countries—Impossibility of authorizing reduction of contribution class to zero—Literal interpretation in accordance with international law

A. *Background information*

1. On [date], the General Management asked the Legal Affairs Directorate to undertake a legal analysis on whether it would be possible for [State] to request a temporary exemption from its contribution class payments, in view of the exceptional circumstances faced by that country since late [year].

B. *Legal considerations pertaining to the issue of contribution classes (UPU Constitution and General Regulations)*

2. Article 21 of the UPU Constitution ("Expenditure of the Union. Contributions of member countries") states in its § 3 that "[t]he expenses of the Union, including where applicable the expenditure envisaged in paragraph 2, shall be jointly borne by the member countries of the Union for this purpose, *each member country shall choose the contribution class in which it intends to be included*. The contribution classes *shall be laid down in the General Regulations*." The same principle also applies in the case of accession or admission to the Union under article 11 of the UPU Constitution, whereby "[t]he country concerned shall *freely choose* the contribution class into which wishes to be placed for the purpose of apportioning the expenses of the Union." (emphasis is ours)[1]

3. The provision above is complemented by article 150 of the UPU General Regulations, which not only defines the different contribution classes (currently from 0.5 to 50 units, as contained in paragraph 1) but also establishes a specific procedure under paragraphs 6 and 7 whereby member countries facing "exceptional circumstances"[2] (such as natural disasters necessitating international aid programmes) may be authorized by the Council of Administration (hereinafter CA) to have a temporary reduction in contribution class once between two Congresses, when so requested by a member country, if the said member establishes that it can no longer maintain its contribution at the class originally chosen.

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[1] As noted in the UPU international Bureau commentary to article 21 of the UPU Constitution, the principle of "free choice of contribution class" stems from the relevant decisions adopted by the 1974 (Lausanne) and 1989 (Washington) Congresses, which abolished the power previously held by Congresses to classify member countries in the different contribution classes.

[2] Whether or not a certain "exceptional circumstance" merits the temporary reduction referred to in article 150 § 6 is a decision taken at the sole discretion of the CA.

4. It may be noted in any case that such a temporary reduction may be authorized for a maximum period of two years or up to the next Congress, whichever is earlier (after which the country concerned shall automatically revert to its original contribution class).

C. *The specific situation of [State]*

5. As can be confirmed by the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, [State] has been a least-developed country since [year], therefore, it already benefits from the possibility afforded under article 150 § 1 of the UPU General Regulations to choose the lowest possible contribution class, *i.e.* the class of 0.5 unit, which is legally reserved for the "least advanced countries as listed by the United Nations and for other countries designated by the Council of Administration."[3]

6. However, due to the difficult and rapidly deteriorating situation faced by that member country since late [year] (particularly in terms of domestic strife, political demonstrations and military clashes), the UPU International Bureau received on [date] a specific request from the [Government] (through its General Authority for Post and Postal Savings) to be completely exempted from payment of its contribution class for the year 2015, which in practice would mean a reduction to a "zero unit" contribution class.

7. Notwithstanding the exceptional situation mentioned above, the understanding of the Legal Affairs Directorate is that there is no possibility, under the UPU General Regulations, for any member country to request a reduction to "zero" in its contribution units, especially bearing in mind that, as can be more clearly seen in the French version of the above treaty, "le Conseil d'administration peut autoriser *un déclassement temporaire d'une class*, un seule fois entre deux Congrès" (emphasis is ours). In other words, any such authorization would be in contradiction with the letter and the spirit of articles 21 of the UPU Constitution and 150 of the UPU General Regulations, by which a class no lower than 0.5 unit can be identified.

8. It must be emphasized that, as an intergovernmental organization and a specialized agency of the United Nations, the UPU is bound by international law and the treaties that constitute the organization. This is reflected in the Acts of the Union, whose provisions must be interpreted consistently with the fundamental public international law tenet of literal interpretation of treaties (article 31 of the Vienna Convention on the Law of Treaties),[4] 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."

9. Therefore, in case [State] still decides not to pay its annual contribution to the Union's annual expenditure for the year 2015, the relevant procedures contained in articles 146 (and potentially 149) of the UPU General Regulations would have to apply.

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[3] The latter situation only occurs when the CA authorizes an exceptional, temporary reduction for non-least developed countries already in the class of 1 unit by placing them in the class of 0.5 unit.

[4] United Nations, *Treaty Series*, vol. 1155, p. 331.

D. *Conclusions*

10. In summary, the following conclusions may be drawn from the brief considerations contained herein:

— Under the current provisions contained in the Acts of the Union, there is no possibility for the CA to authorize an exemption from payment of contribution classes for any member country;

— The exceptional authorization to temporarily reduce a member country's contribution class (by one contribution class and only once between two Congresses) is evidently limited by the lowest possible threshold, *i.e.* the class of 0.5 unit as defined in article 150 § 1 of the UPU General Regulations;

— As a result, and notwithstanding the difficult circumstances faced by [State], the request made by that member country should not be entertained by legal reasons provided herein.

(*d*) Legal Affairs Directorate note dated 9 December 2015 concerning possible proposals for the establishment of a permanent Universal Postal Convention

Proposals to establish a permanent Universal Postal Convention—Option to change the lifespan of the current Convention and provide for future amendments in additional protocols—Option to transfer time-dependent articles to additional annex—Option to transfer time-dependent articles to regulations—Amendment procedures dependent on constitutional processes in member countries

A. *Background information and preliminary remarks*

During the latest meeting of the Acts of the Union Project Group (AUPG) on 5 November 2015, two proposals concerning the establishment of a permanent Universal Postal Convention (hereinafter "convention") were discussed.

The International Bureau (hereinafter "IB") presented documents CA C1 AUPG 2015.2-Doc4.Revl and CA C1 AUPG 2015.2-Doc 2.Add1 containing a proposal concerning the establishment of a permanent convention which had been developed by the members of the *ad hoc* working group within the AUPG.

In addition to the presentation by the IB, [State] presented an alternative proposal concerning the establishment of a permanent convention (document CA C1 AUPG 2015.2-Doc4.Add1).

Following the presentation of the two proposals referred to above, the IB's Legal Affairs Directorate presented its view on the tabled proposals, including certain alternatives to the ones presented. The AUPG discussed the respective proposals and expressed a need for further clarity in terms of the setup and legal implications of the proposals. In this regard, the AUPG members requested the IB to take all relevant comments on board, to clarify the possible implications of the two presented proposals and to suggest a third alternative which might, to the extent possible, incorporate the features of both.

The Chair of the AUPG then requested the IB's Legal Affairs Directorate to submit an explanatory document concerning the requirements and legal consequences of each proposal in order to give a general overview for AUPG members.

In the light of the above, on 23 November 2015, the Regulation, Economics and Markets Directorate asked that the Legal Affairs Directorate undertake such a legal analysis with regard to the establishment of a permanent convention and its associated implications.

B. *Legal considerations pertaining to the AUPG* ad hoc *group proposal (Permanent Convention + Additional Protocol)*

As discussed and presented during the latest AUPG meeting, it is possible for the UPU to convert the Convention (in its current form) into a permanent treaty. In order to achieve this goal, some changes need to be done to the Convention itself, the UPU Constitution and the UPU General Regulations (for specific details, please see document CA C 1 AUPG 2015.2-Doc 4.Rev1), particularly in order to modify the relevant articles which currently set the four-year lifespan of the Convention towards a permanent character.

Most importantly, it needs to be noted that this option would not include any transferral or removal of any provisions currently contained within the Convention, as it simply focuses on a change of the lifespan of the Convention, namely from one Congress cycle to permanent. Evidently, adoption of such a permanent convention at the national level would still be subject to a member country's constitutional process (normally through ratification).

In this scenario, further amendments to provisions contained in a permanent convention (for instance, if amendments are proposed during the 2020 UPU Congress) would be subject to an additional protocol, as per the principles and practice already in place within the UPU for other Acts (UPU Constitution and UPU General Regulations). Once more, given such a scenario, member countries would still need to formally implement any additional protocols *via* their respective constitutional process.[1]

For a graphical illustration of this proposal, see Annex 1 to this note.[2]

C. *Legal considerations pertaining to [State's] proposal (Permanent Convention + Additional Protocol + Additional Annex)*

The [State] proposal goes along the lines of the AUPG *ad hoc* group proposal as it suggests the establishment of a permanent convention and the implementation of any future amendments to this permanent text in subsequent additional protocols.

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[1] By way of comparison, it may be stressed that, even in the case of the UPU Constitution, the same article 22 ("Acts of the Union") underwent three successive changes through the 6th, 7th and 8th Additional Protocols adopted respectively in 1999, 2004 and 2008. In other words, the current UPU legal framework for permanent Acts does not impede the adoption of amendments even in articles which are subject to more regular changes.

[2] Not reproduced in the *United Nations Juridical Yearbook 2015*.

However, the key element of this proposal is the transferral of certain articles of the Convention, such as those regarding remuneration aspects, to an additional annex, itself again being subject to change at every Congress.

Depending on a member country's constitutional process, this option might indeed bring the benefit that the permanent portion of the Convention would only need to be ratified once (provided that the additional annex comprises all elements normally subject to more frequent changes).[3] Nevertheless, just as in the AUPG *ad hoc* group proposal, any future changes to the permanent Convention would still be subject to an additional protocol, which in turn would also be subject to domestic constitutional processes (normally through ratification).

In the light of the foregoing, it is worth noting that the treatment of this proposed additional annex will, once more, depend on the each member country's constitutional process, therefore, while few member countries (such as [State]) may benefit from a simplified approval process for such an additional annex, other member countries will most likely need to ratify that annex at every Congress cycle as well (thus actually adding yet another treaty-based layer for adoption of amendments to a permanent convention).[4]

For a graphical illustration of this proposal, see Annex 2 to this note.[5]

D. *Legal considerations pertaining to a possible "combined" proposal (Permanent Convention + Additional Protocol + transferral of certain provisions to the Regulations)*

In line with documents previously presented to the AUPG *ad hoc* group and in accordance with the aforementioned request for presentation of a combined proposal, the IB's Legal Affairs Directorate elaborated a third possible option aimed at establishing a permanent convention.

This proposal closely relates to the original [State] proposal and suggests the establishment of a permanent convention as well as the adoption of additional protocols in case member countries wish to introduce changes to the permanent text (whereas the approval of additional protocols would be subject to the same constitutional processes currently required for approval of a non-permanent convention, due to the binding force of such additional protocols).

The main difference from [State's] proposal would be that all time-dependent articles defined by member countries as being subject to more frequent changes (such as rules

[3] Since the articles concerning remuneration in the Convention have undergone the most frequent changes in the treaty's recent history, the [State's] proposal seeks to avoid frequent changes to the permanent part of the Convention by the transferral of these articles to the aforementioned Annex. In this regard, it needs to be noted that the individual articles which should be transferred to such Annex still need to be identified—even though one may anticipate difficulties in ascertaining which Convention provisions are regularly adopted to cover only a four-year Congress cycle.

[4] Moreover, it remains questionable whether member countries' parliaments would not need to examine the entire treaty text (permanent part of the Convention as well as Additional Annex) when ratifying changes to the Additional Annex on future Congress occasions.

[5] Not reproduced in the *United Nations Juridical Yearbook 2015*.

dealing with remuneration between designated operators of member countries) would be transferred to the relevant Regulations for decision by the Postal Operations Council.

It may be noted, however, that the transferral of certain technical provisions to the Regulations would not preclude that certain fundamental principles remain in the text of the permanent convention. Therefore, this option would merely focus on more detailed technical provisions currently contained in the convention.

Through this option, the permanent convention would be sheltered from continuous amendments as constantly changing provisions[6] would be transferred to the more easily steerable framework of the Regulations, which can be amended more quickly and efficiently as they normally do not need require ratification by member countries.[7]

In addition, it must be emphasized that approval thresholds in relation to proposed amendments concerning the transferred articles could also be adapted, subject to the relevant decisions taken by member countries.

For a graphical illustration of this proposal, see Annex 3.[8]

E. *Conclusions*

In summary, the following conclusions may be drawn from the brief considerations contained herein:

— The AUPG *ad hoc* group proposal of a permanent convention plus additional protocols follows the same legal principles and practice applied for other permanent Acts of the Union such as the UPU Constitution and the UPU General Regulations;

— [State's] proposal aims at establishing an additional annex which might, at least for some member countries, facilitate the approval of certain, more regularly amended technical provisions which would no longer be included in the main text of the Convention, however, such procedural benefits seem to be limited in nature, particularly considering that, for other member countries, the additional annex would ultimately have the same or similar binding status and legal treatment as an additional protocol;

— The combined proposal presented by the IB's Legal Affairs Directorate reflects the overall legal framework already applied in other permanent Acts of the Union (and replicated by the AUPG *ad hoc* group) while allowing for more frequent amendments to detailed or technical provisions in the Regulations.

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[6] Similarly to the [State's] proposal, the articles which would be transferred to the Regulations would still need to be identified by member countries.

[7] In that regard, the relatively simpler amendment process for the Letter Post and Parcel Post Regulations could potentially be subject to higher approval thresholds or perhaps limitations on the frequency of possible amendments ("Subject to approval by the Council of Administration … ", "amendments allowed only once every six months" *etc.*) as far as some of those transferred provisions are concerned.

[8] Not reproduced in the *United Nations Juridical Yearbook 2015*.

3. International Maritime Organization

(submitted by the Director of the Legal Affairs and External Relations Division of the International Maritime Organization)

Interpretation of the London Convention and Protocol

Legal framework governing sub—Sea disposal of wastes from mining operations—Relationship between the London Convention and London Protocol (LC/LP), the United Nations Convention on the Law of the Sea (UNCLOS) and the Convention for the Prevention of Pollution from Ships (MARPOL)—Distinction between dumping, pollution from vessels and pollution from land-based sources—Definition of dumping draws distinction between MARPOL and LC/LP—Whether sub-sea disposal of wastes from mining operations is included in the definition of dumping under LC/LP to be interpreted by the States parties to LC/LP

1. With regard to the scope of the London Convention and the London Protocol (LC/LP)[1] and its relationship with other international organizations and bodies, one should first consider the relationship of the LC/LP to the United Nations Convention on the Law of the Sea (UNCLOS).[2] Article 194(3)(*a*) of UNCLOS provides that measures to prevent, reduce and control pollution of the marine environment shall include, *inter alia*, those designed to minimize to the fullest possible extent the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping. The obligation on States to adopt laws and regulations and to take other measures that may be needed to prevent, reduce and control pollution of the marine environment by dumping is contained in article 210 of UNCLOS. The definition of "dumping" as provided in article 1(5) of UNCLOS is identical to the definition in LC/LP. 2. Furthermore, article 210(4) of UNCLOS imposes upon States the obligation to endeavour to establish global and regional rules and standards and recommended practices and procedures to prevent, reduce and control pollution by dumping, acting through "competent international organizations or diplomatic conference". Thus, there is a very strong legal connection between LC/LP and UNCLOS. Notably, the reference in the plural to "international organizations" indicates that in this case the task of International Maritime Organization (IMO) at the global level can be complemented by regulatory activities undertaken under the auspices of other organizations. Cooperation between IMO and other organizations has been implemented, especially in connection with the adoption of regional agreements.

3. Article 211 of UNCLOS addresses pollution from ships, and forms the jurisdictional basis in UNCLOS for the International Convention for the Prevention of Pollution from Ships (MARPOL).[3] Importantly, the definition of "dumping" in article 1(5) of UNCLOS, in particular what is dumping and what is not dumping, provides the jurisdictional line between MARPOL and the LC/LP. This definition largely prevents one

[1] Convention on the prevention of marine pollution by dumping of wastes and other matter, United Nations, *Treaty Series*, vol. 1046, p. 138 and Protocol to the Convention on the prevention of marine pollution by dumping of wastes and other matter, 1972, concluded 7 November 1996.

[2] United Nations, *Treaty Series*, vol. 1833, p. 396.

[3] *Ibid*., vol. 1340, p. 61 and 184.

convention from overlapping the other. With regard to land-based pollution, article 207(4) of UNCLOS imposes upon States the obligation to endeavour to establish global and regional rules and standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development, through "competent international organizations or diplomatic conference".

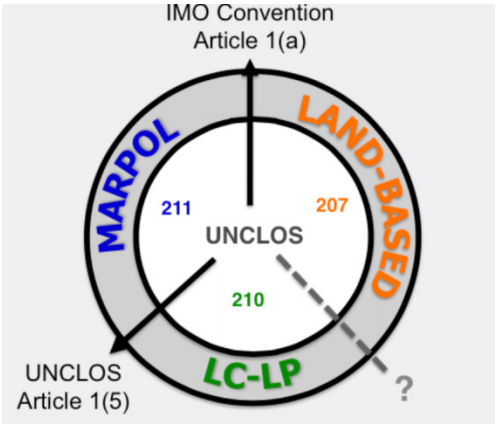
According to article 207(1) of UNCLOS[4] land-based sources include rivers, estuaries, pipelines and outfall structures. Again, the reference in the plural to "international organizations" indicates that at the global level this includes IMO to complement regulatory activities undertaken under the auspices of other organizations, provided those activities are within the remit of the IMO or LC/LP. This is also recognized in the Law of the Sea Bulletin No.31 as published by the Division for Oceans Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations (DOALOS).

4. As described above, the definition of "dumping" provided the jurisdictional "wall" between MARPOL and the LC/LP. Further, the IMO Convention at article 1(*a*), which limits the IMO remit to "the prevention and control of marine pollution from ships" limits MARPOL from overlapping in any significant way with the control of pollution from land-based sources; the regulation of reception facilities for ship's waste being the one slight exception to that jurisdictional "wall". However, the jurisdictional "wall" between the LC/LP and land-based sources is less clear, because UNCLOS offers no similar guidance like that for dumping and ship pollution in article 1(5). Thus, although this issue is one to be decided by the States parties to LC/LP, from a legal point of view there seems no direct borderline between the scope of the definition of dumping as in UNCLOS and LC/LP and the scope of article 207 of UNCLOS. In other words, there is no indication that the scope of articles 207 and 210 of UNCLOS are mutually exclusive. Therefore, the parties to LC/LP could decide that outfall pipes are "other man-made structures at sea" within the meaning of the definition of "dumping" in the LC/LP and take action accordingly, either by amending the Convention to make such a distinction clear, or by a resolution.

Conclusions

5. LC/LP or IMO may in the framework of UNCLOS complement regulatory activities undertaken under the auspices of other organizations that are involved in the issue of sub-sea disposal of wastes from mining operations. In this respect each and every organization has to assess its own competence. The issue whether sub-sea disposal of wastes from mining operations is included in the definition of dumping under LC/LP has to be interpreted by the States parties to LC/LP. From a legal point of view there seems no direct borderline between the scope of the definition of dumping as in UNCLOS and LC/LP and the scope of article 207 of UNCLOS and therefore there is no indication that the scope of articles 207 and 210 of UNCLOS are mutually exclusive. In case merely guidance is requested this could be feasible by way of a non-binding resolution or similar instrument.

[4] Article 207(1), Pollution from land-based sources: "1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures."



4. United Nations Industrial Development Organization

(submitted by the Legal Adviser and Director of the Office of Legal Affairs of the United Nations Industrial Development Organization)

(*a*) Internal email message to the UNIDO consultant concerning disclosure of a UNIDO-[national entity] project in [State A]

Application of the Convention on privileges and immunities of the specialized agencies to email attachments—Disclosure provisions in other legal instruments—Reputational risk—Request for comment in case of disclosure

Kindly refer to your email of [date] concerning the disclosure of information relating to a [national entity]-funded project in [State A]. … I wish to comment as follows.

The Convention on the Privileges and Immunities of the Specialized Agencies, 1947,[1] which [State B] has undertaken to apply to UNIDO, provides in section 6, article III, that "[t]he archives of the specialized agencies, *and in general all documents belonging to them or held by them, shall be inviolable, wherever located*" [emphasis supplied]. I would say that all the attachments in your email fall under this provision. In other words, the freedom of information request, which I assume is made pursuant to the laws of [State B], may not be applied in such a way as to result in [State B]'s breach of its international obligations in respect of UNIDO.

In any event, UNIDO is within its rights to disclose its documents when considered appropriate. Moreover, UNIDO can commit to the disclosure of certain information in agreements or similar instruments.

For example, the legal instruments relating to the project, whether with the donor or the recipient country (*i.e.*, the trust fund agreement with [national entity] and the project document between UNIDO and [State A]), may contain clauses relating to the disclosure of information. I would therefore advise the project manager to review these documents

[1] United Nations, *Treaty Series*, vol. 33, p. 261.

for any guidance that they may contain. For your information, I have not seen such clauses in our standard forms of funding agreements or prodoc templates.

Apart from the above legal considerations, the project manager should review the four attachments to your email to see whether they contain information the disclosure of which to a journalist may pose a reputational risk to UNIDO, [State A], or [State B]. As an example, I have noted that one of the attachments contains a communication between the UNIDO office and the [State B] Embassy in the country. Normally, such communications should not be shared with external parties, including journalists, without consulting the parties who authored the communications.

Should the project manager decide to allow the disclosure of the documents in question to the journalist, the latter should also be requested to provide his/her report to UNIDO for comment.

…

6 January 2015

(*b*) Interoffice memorandum to the UNIDO Director General concerning his membership in an alumni network

Membership of the UNIDO Director General in alumni network for former trustees of a foundation—No formal role in decision-making organs of the foundation—Non-remunerated participation unproblematic from a legal perspective

1. Kindly refer to an email dated [date] from [Name], Executive Assistant to the Executive Director and Chair of Trustees, [Foundation], received in the Legal Office for review on [date].

2. The email informs you of an alumni network that is being set up for former Trustees of the [Foundation]. The purpose of the network is "to encourage informal dialogue between the Foundation and former trustees that want to remain involved in its activities, for example, by attending stakeholder events in home or regional jurisdictions, supporting engagement with home jurisdiction or regional stakeholders or facilitating any other activities that alumni may think would support the [Foundation]." At this stage, [Foundation] proposes to issue business cards for those who wish to be actively involved in the network identifying them as an [Foundation] alumnus. It also proposes to add your contact details to its distribution list to receive the [Foundation] Monthly Update. You have the option to decline these offers.

3. The question that has been presented to me for advice appears to be whether your membership in the future alumni network poses a conflict of interest with your responsibilities as the Director General of UNIDO. Based on the limited information thus far made available concerning the alumni network's future activities, it seems that alumni network members will not play a formal role in the decision-making organs of the Foundation and will not be remunerated. If my understanding is correct, then your association with the [Foundation] Trustees Alumni Network is unproblematic from the legal perspective.

15 January 2015

(*c*) Internal email message to the UNIDO Director of the Policymaking Organs concerning possible shortening of the duration of the General Conference in 2015

Shortening of the duration of the General Conference of UNIDO—Duration to be set at the beginning of the session—General Conference not bound by earlier decisions on the expected duration of the session

I refer to your email of [date] requesting my legal advice on whether the duration of the sixteenth session of the General Conference (GC) of UNIDO could be shortened. You added that the Conference, at its last session, decided to hold the sixteenth session in Vienna from 30 November to 4 December 2015 (decision GC.15/Dec.20). There is otherwise no provision of the Constitution or the rules of procedure stipulating that the Conference needs to take place over five days.

I wish to inform you that rule 10 of the rules of procedure of the GC[1] provides that on the recommendation of the General Committee, the GC must set the closing date for each session at the beginning of the session. In setting the closing date under rule 10, the GC is not bound by earlier decisions on the expected duration of the session. The Policymaking Organs' proposed course of action is therefore consistent with the rules of procedure and fine from a legal perspective, on the assumption that the requirements of other rules such as rule 12(2), rule 13(1)(*s*) and rule 42(3)(*c*) will be met.

27 January 2015

(*d*) Internal email message to the UNIDO Industrial Development Officer concerning the review of the Memorandum of Understanding with [company]

Reference to general principles of law in Memorandum of understanding with corporate party—Examples of general principles of law—Application of general principles of law to international disputes—UNITDROIT Principles 2004—United Nations Juridical Yearbook

I refer to your email of [date] enclosing version [date] of the draft MOU with [company], [State]. The company has proposed some changes to the latest draft.

I wish to inform you that the proposed changes to article 3, article 4, article 5 and article 8(6) are acceptable. I assume that changes proposed to article 8 (9) have been checked with the Evaluation Branch. As to the proposed language for article 9 (1) dealing with the governing law and settlement of disputes, the idea is generally acceptable; however, I would recommend revising the wording of para. 9.1 as follows:

> "The present Memorandum will be construed in accordance with general principles of law, to the exclusion of any single national system of law. *Without prejudice to the generality of the foregoing, the Partners may designate the applicable rules of law to the substance of any dispute, controversy or claim arising out of or relating to this Memorandum.*"

[1] Rule 10. Closing dates of sessions: "On the recommendation of the General Committee, the Conference shall, at the beginning of each session, fix a closing date for the session."

The highlighted wording is based on article 35, paragraph 1, of the UNCITRAL Rules (2010).[1]

The [Company] is of the view that "general principles of law" is too vague. As to what is meant by general principle of law, I can offer the following. The starting point for answering this question is Article 38(1)(*c*) of the Statute of the International Court of Justice.

General principles of law are one of the sources of international law. Based on leading cases from the Permanent Court of International Justice, the International Court of Justice and international arbitrations, general principles of law may include the following: *pacta sunt servanda*; good faith; estoppel; *res judicata*; respect for acquired rights; right to compensation for actual loss (*damnum emergens*) and lost profits (*lucrum cessans*).[2]

To the extent that the reference to 'general principles of law' may invite indeterminacy, this can be addressed through a more specific reference to, *e.g.*, the UNIDROIT Principles, 2004,[3] which, even in the absence of an express reference, some legal commentators (and international arbitral panels) have concluded do represent general principles of law applicable to international disputes.[4]

The Preamble to the UNIDROIT Principles, 2004, also provide that the Principles may be applied when the parties have agreed that their contract shall be governed by general principles of law. The United Nations Judicial Yearbooks also contain some opinions on "general principles of law".[5]

11 February 2015

(*e*) Internal email message to the UNIDO Director of the Programme Development and Technical Cooperation Branch concerning a sponsorship framework for the Vienna Energy Forum

Voluntary contributions to the Organization—Requirements as set out in the UNIDO Constitution and Financial Regulations—Funding agreement—Contributions to be consistent with the objectives, policies and activities of UNIDO and not to entail a financial liability to the Organization—Use of the United Nations and UNIDO logo

1. I refer to your memorandum of [date], received in LEG on [date], concerning the above-mentioned subject. You informed me that your service wishes to seize the opportunity of the fourth edition of the global Vienna Energy Forum (VEF) "to explore possibilities to receive funds from other potential donors, *i.e.* private sector and other nongovernmental entities". The text of the relevant decision of the Executive Board on [date] reads:

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[1] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), annex I.

[2] See generally Malcom N. Shaw, *International Law* (Cambridge University Press, 5th ed. 2003), pp. 92–99.

[3] See *UNIDROIT Principles of International Commercial Contracts 2004* (UNIDROIT, 2004).

[4] See generally Michael Joachim Bonell, "The UNIDROIT Principles and Transnational Law", *Uniform Law Review/Revue de droit uniforme*, 2 (2000) pp. 199–218.

[5] See http://legal.un.org/unjuridicalyearbook.

"In view of the limited UNIDO resources available, and also noting that UNIDO's share has been progressively increasing, the EB approved €250,000 from [budget]-resources. The remaining funds should be explored from all potential donors (private sector and other non-Governmental entities in Austria, including [global initiative]), *in close cooperation with the Strategic Donor Relations Unit*." (Emphasis added)

2. You added that "since UNIDO does not yet dispose of a sponsorship policy, we would like to obtain your approval on the attached proposal that outlines possible sponsorship packages, and the way forward to handle subsequently related agreements."

3. As far as the legal aspects of the fund-raising activity are concerned, I wish to inform you that voluntary contributions to UNIDO are governed in the first place by the following basic rule contained in the Constitution of UNIDO:

"Article 16. *Voluntary contributions to the Organization*

Subject to the financial regulations of the Organization, the Director-General, on behalf of the Organization, may accept voluntary contributions to the Organization, including gifts, bequests and subventions, made to the Organization by governments, intergovernmental or non-governmental organizations or other non-governmental sources, provided that the conditions attached to such voluntary contributions are consistent with the objectives and policies of the Organization."

4. In addition, Financial Regulation 6.1 states:

"Regulation 6.1: Voluntary contributions, whether or not in cash, may be accepted by the Director-General on behalf of the Organization, provided that the purposes for which the contributions are made are consistent with the policies of the Organization. The acceptance of such contributions, which directly or indirectly involve additional financial liability for the Organization, shall require the consent of the appropriate governing bodies of the Organization."

5. Similarly, Financial Rules 106.1.1 to 106.1.9 regulate voluntary contributions requiring also that they can be accepted only if the conditions attached thereto are consistent with the objectives and policies of the Organization and do not involve additional financial liabilities for the Organization that would exceed the contribution accepted. Finally, the Director-General's Bulletin UNIDO/DGB(E).74 of 25 September 1997 contains the Guidelines on Voluntary Contributions, implementing the above-mentioned rules.

6. Consequently, the Director-General may accept a voluntary contribution from the potential donors subject to the requirements established by the Constitution. UNIDO should propose the conclusion of a Trust Fund Agreement following the model of the agreement provided in DGB(E).54 (ex DGB.18/Rev.1) of 15 May 1992 also available in the Intranet Legal Resources pages.

7. As you will note in two relevant administrative issuances[1] on procedures to conclude funding agreements and on voluntary contributions, the Legal Office—a legal advisory service—is not mandated to approve in principle requests for fund-raising. The service that manages UNIDO's fund-raising activities at UNIDO is the Strategic Donor Relations Unit and the Executive Board has rightly directed your service to engage in this

[1] See DGB(E).54 (ex DGB.18/Rev.1) of 15 May 1992 (Model agreements and related guidelines for projects financed from trust funds, special purpose contributions to the Industrial Development Fund, the general pool of the Industrial Development Fund, or the regular budget); and UNIDO/DGB(E).74 of 27 September 1997 (Guidelines on voluntary contributions).

particular fund-raising in "close cooperation with the Strategic Donor Relations Unit". In the case under discussion, your service in coordination with Strategic Donor Relations Unit, should ensure that the purpose of each contribution is consistent with the objectives, policies and activities of UNIDO and that it would not entail a financial liability to the Organization.

8. I also refer to a subsequent email dated [date] from [UNIDO staff] in your Office suggesting the logo of a sponsoring partner may be used in combination with the UNIDO logo.

9. For your reference, the authorization regarding the use of the name and logo of the United Nations or UNIDO is based on several principles:

(*a*) The use of the name and emblem must be expressly approved in advance in writing and upon such terms and conditions as may be specified.

(*b*) The principal purpose of the use of name and the logo is to show support for the activities and objectives of UNIDO.

(*c*) The use of the name and logo for commercial purposes, including fund-raising for a business entity, will not be authorized. The name and logo may not be used on any product or its packaging, or in any manner that could imply or suggest the endorsement or promotion by the UNIDO of the commercial entities concerned, their products or services.

(*d*) The use of name and the emblem cannot be authorized if it may create the misleading impression that the activity in question is supported or sponsored by UNIDO, if this is not in fact the case.

(*e*) The use of the name and logo in connection with conferences, festivals and related events, UNIDO's input or support must be clear and substantial.

(*f*) The authorization to use the name and logo does not permit the user of the name and logo to sub-license or to further authorize the use of the name and logo to any other entities.

(*g*) Assurances should be obtained that misuse of UNIDO's emblem will be prevented.

(*h*) The use of name and logo for educational and informational purposes by UNIDO Offices, United Nations departments and offices, United Nations Funds and Programmes, United Nations agencies, and Member States is uniformly encouraged.

(*i*) The use of the name and logo for educational and informational purposes by NGOs other than United Nations agencies and national committees is subject to prior written authorization of UNIDO.

(*j*) When the use of name and logo in publications and/or any other forms of presentation are authorized, the following guidelines apply:

- The UNIDO's name and logo should be properly displayed and given equal typographical prominence if employed in conjunction with other emblems/logos of other cooperating (United Nations) organizations and institutions.
- A way should be found to clearly separate the UNIDO's name and emblem from emblems and names of commercial companies.
- The UNIDO logo is reproduced in blue, black or gold.

(*k*) In connection with an event organized by several intergovernmental organizations, should any other co-sponsoring organization refuse permission to use its name and/or emblem in the event announcement, UNIDO reserves the right to reconsider its position.

10. Any document containing the logos of UNIDO and a partner should be reviewed/approved in advance by Advocacy and Communications Unit in accordance with the UNIDO visual identity guidelines.

19 February 2015

(*f*) Internal email message to the UNIDO Director of the Programme Development and Technical Cooperation Branch concerning the compliance with the European Commission (EC) sanctions on the [company] Group in [State A]

Application of European Commission sanction regulations to UNIDO—UNIDO not bound by non-United Nations sanctions as long as there is no mandate from the General Conference—Possible exceptions in light of donor terms and conditions

1. I refer to your memorandum of [date], which was received in the Office of Legal Affairs on [date]. You informed me that UNIDO is implementing a regional project on green industry for low carbon growth in [State B], [State C] and [State A]. The project is funded by the Government of [State D]. At the suggestion of the [State A] Rice Association, [Name] Company has expressed strong interest in participating in the project as demonstration enterprise. [Name B] is a fully owned subsidiary of the [company] Group, which is one of the largest business conglomerates in [State A] with interest in construction, agro/food, trading/retail and hotels. It has since been brought to your attention that the [company] Group appears on the list of sanctioned commercial entities in [State A], as per the European Commission (EC) [regulation] which took effect on [date]. You requested my opinion on whether UNIDO should comply with the above-referenced EC regulation.

2. I wish to inform you that UNIDO is bound by the sanctions regime that is established in accordance with United Nations Security Council decisions, as such sanctions take their authority from the relevant provisions of the Charter of the United Nations. The UNIDO Secretariat is not, however, bound automatically by non-United Nations sanctions, such as those imposed on individuals, entities, *etc*. by a State, a regional and an international organization.

3. The Secretariat of UNIDO cannot take instructions from any member State, a regional or an international organization, as all the activities of the Secretariat should be in accordance with the legal framework of the Organization. In this regard, the "guiding principles and policies of the Organization" are determined by the General Conference of UNIDO, in accordance with article 8, paragraph 3(*a*), of the Constitution of UNIDO. If a member State sees a gap in a certain policy/practice of the Organization, such as non-compliance with non-United Nations sanctions, that Member State may address a concrete proposal to the General Conference of UNIDO for consideration.

4. The only exception to the above is when UNIDO is expected to use the funding of a certain State, a regional or an international organization to procure goods/services

from an individual or company that is under the sanctions of that State or regional or international organization. In such cases, we may negotiate the donor's terms and conditions, decline the voluntary contribution, or, in critical cases, seek the guidance of the Policymaking Organ of the Organization.

5. In the case that you brought to my attention, I note that the donor is the Government of [State D] and not the European Commission. So the Secretariat is not bound by the terms of the EC regulation. Having said that, as the Secretariat has every interest to maintain transparent and smooth relations with the Member States of the Organization, you may bring the EC regulation to the attention of the donor ([State D]) for information/consideration along with all business considerations that you indicated in your memorandum to me, such as the importance of re-engaging [State A] in UNIDO's activities. At the same time, you should unequivocally inform [State D] that UNIDO is not bound by non-United Nations sanctions as long as there is no mandate from the principal Policymaking Organ of the Organization, *i.e.*, the General Conference. As to compliance with the EC Regulation in respect of the [company] Group in [State A], the UNIDO Secretariat could have potentially complied with it if the EC provided funding to the regional project in [State B], [State C] and [State A].

23 February 2015

(*g*) Internal email message to a UNIDO Programme Officer concerning reservations of [State] to 1947 Convention on the Privileges and Immunities of Specialized Agencies

Reservation to the Convention on Privileges and Immunities of the Specialized Agencies, 1947—Reservation not to take effect as long as any agency objects to it—Procedure for objection to reservation—Convention on the Privileges and Immunities of the United Nations, 1946, applies until State accedes to Convention on the Privileges and Immunities of the Specialized Agencies, 1947

1. I refer to your email of [date] and the enclosed background information concerning the above-mentioned subject. You asked me to advise you on the UNIDO position regarding a draft law on accession of the [State] to the Convention on the Privileges and Immunities of the Specialized Agencies, 1947. It is my understanding that, pursuant to this law, the [State]'s accession would include certain reservations to the 1947 Convention, namely, to paragraph (*b*) of section 19 (exemption from taxation of United Nations staff members of the [State] nationality) and to section 20 (exemption of United Nations staff members of the [State] nationality from national service obligations). You also asked me to advise you on an email dated [date] from [Name], Senior Legal Officer, Office of the Legal Counsel, United Nations, which addresses a few relevant questions from the United Nations Resident Coordinator in that country.

2. I wish to inform you that [Name] has summarized clearly the position of the United Nations and the Specialized Agencies on reservations filed by acceding States to the 1947 Convention. Such reservations, once filed with the Secretary-General, in his capacity as depositary, will not take effect as long as a single Agency objects to them. This has been a long-standing practice of the United Nations Secretary-General with respect to the 1947 Convention, which is fully endorsed by UNIDO.

3. I note that United Nations Funds, Programmes and Agencies represented in the [State] have already made their point and communicated it officially through the United Nations Resident Coordinator. Continuous protestations and communications, however, are not advisable from a diplomatic perspective as it may disrupt the internal law-making of a sovereign State.

4. The reason for my reservation is that once the [State] finalizes the law and deposits an instrument of accession with the United Nations Secretary-General, in his capacity as depositary, then, at that point, the Legal Advisers of the Specialized Agencies will be invited by the Chief of the Treaty Section, the Office of Legal Affairs, United Nations, to react to the instrument of accession. As I indicated earlier, an instrument of accession will not take effect as long as all the United Nations Specialized Agencies have not agreed to it. Often a reserving State ends up modifying its reservation(s) in response to formal objections by Specialized Agencies.

5. In so far as the substance of the [State]'s proposed reservations is concerned, I do not consider it necessary or appropriate at this stage to express my views on the matter. I do not wish to pre-empt the valuable process of inter-agency dialogue and discussion which may follow the deposit of an instrument of accession with reservations to the 1947 Convention.

6. Further, UNIDO should not be overly concerned by the possibility of such reservations, because the Government of the [State] has acceded without reservation to the 1946 Convention on the Privileges and Immunities of the United Nations, 1946.[1] Pursuant to article 21 of the Constitution of UNIDO, the provisions of the 1946 Convention shall apply to UNIDO in the territory of the [State] until such time as the [State] has acceded to the 1947 Convention in respect of UNIDO. As noted earlier, the [State]'s accession to the 1947 Convention, including accession in respect of UNIDO, may run into trouble if the Government maintains the reservations in question.

7. Further to my email of 16 May 2014, the Head of UNIDO Operations in the [State] may use this email and the email of [date] from [Name] as his guide and, if necessary, support the position of the United Nations on the matter.

26 February 2015

(*h*) Internal email message to the Officer-in-Charge of Human Resource Management Branch concerning [Bureau] (State)'s request for personal details of all project staff

Request by state for personal details of all project staff—Privileges and immunities under relevant conventions apply to UNIDO officials but not to national and international consultants—Cooperation in providing information is without prejudice to the privileges and immunities of the Organization

1. I refer to your email of [date] concerning the above-mentioned subject. You were informed by the UNIDO Country Office in [city] that the [Bureau] of the Government of [State] had requested the UNIDO Office "to provide personal details of all project staff

[1] United Nations, *Treaty Series,* vol. 1, p. 15 and vol. 90, p. 327.

working on the Sustainable Livelihood Programme for [nationality] Refugees in [State]". [Bureau] has provided a Personal Details template (two pages in [language]) which refers to personal identification, nationality, family details, contact details, educational and professional background, previous employers and language skills (not very different from a CV). [Bureau] is UNIDO's counterpart in the above-mentioned project.

2. You asked me to advise you on "whether UNIDO may be obliged, under any of the existing bilateral or multilateral agreements, to provide information about its international and national personnel in [State] to the host country authorities and, if so, what information."

3. I wish to inform you that both the Convention on the Privileges and Immunities of the United Nations (1946) and the Convention on the Privileges and Immunities of the Specialized Agencies (1947) are applicable to UNIDO, its officials and experts in [State A]. Under section 18(*d*) of the 1946 Convention, officials of UNIDO "shall be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration". Section 19(*c*) of 1947 Convention has an identical provision.

4. [State] has yet to formally undertake to apply the provisions of the 1947 Convention to UNIDO except as set out in article 2(2) of the Memorandum of Understanding of 1 December 1999 regulating the establishment of the UNIDO Country Office in [State]:

> 2. The Government shall apply to UNIDO, including its property, funds, assets and its officials and experts during official missions, the privileges and immunities in accordance with the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations in 1947.

5. The legal context clause of the project provides for *mutatis mutandis* application of the provisions of the Revised Standard Technical Assistance Agreement concluded between the United Nations and the Specialized Agencies and the Government of [State] on [date].

> 6. Under Article V of this Agreement,
>
> > 1. The Government, insofar as it is not already bound to do so, shall apply to the Organizations, their property, funds and assets, and to their officials including technical assistance experts, the provisions of the Convention of the Privileges and immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies.
> >
> > 2. The Government shall take all practicable measures to facilitate the activities of the Organizations under this Agreement and to assist experts and other officials of the Organizations in obtaining such services and facilities as may be required to carry on these activities. When carrying out their responsibilities under this Agreement, the Organizations, their experts and other officials shall have the benefit of the most favourable legal rate of conversion of currency.

Conclusions

7. As can be seen from the above, the national and international consultants associated with the project do not enjoy explicit immunity from immigration restrictions and alien registration, which is reserved for officials under the 1946 and 1947 Conventions. Nor can a convincing case be made for such an exemption pursuant to the bilateral agreements

between UNIDO and [State]. The UNIDO Country Office should therefore ask the national and international consultants to fill out the [Bureau] forms to the extent possible. Subsequently, the Country Office should send the forms to [Bureau] under cover of a note verbale, which should include a statement to the effect that UNIDO is proving the information without prejudice to any privileges, immunities, courtesies and facilities that the Organization, its officials and experts may enjoy under the relevant legal instruments.

13 March 2015

(*i*) Internal email message to the Director of Partnerships and Results Monitoring Branch concerning the draft Memorandum of Understanding with the [national bank] of [State]

Privileges and immunities applicable on the basis of article 21 of the Constitution of UNIDO—All agreements concluded by UNIDO to be registered in accordance with Article 102 of the Charter of the United Nations

I refer to your emails of 27 February and 16 March 2015 concerning the above-mentioned subject. The [national bank] of [State] has amended articles VI and VII of the draft MOU and you requested me to advise you if the proposed changes may be accepted.

Article VI (Privileges and Immunities)

The [national bank] of [State] asks: do the privileges and immunities of UNIDO only refer to those stipulated by Convention on the Privileges and Immunities of the Specialized Agencies?

I wish to inform you that [State] has yet to apply the Convention on the Privileges and Immunities of the Specialized Agencies, 1947, to UNIDO. According to article 21 of the Constitution of UNIDO, the privileges and immunities of UNIDO, its officials and experts in [State] are regulated by the Convention on the Privileges and Immunities of the United Nations, 1946, and such other bilateral legal instruments which may contain provisions on privileges and immunities.

Article VIII (Confidentiality)

The [national bank] of [State] has reinserted the problematic paragraphs 8.02 and 8.03. I should reiterate again that it is against the policy of UNIDO as a public intergovernmental organization and a specialized agency of the United Nations to conclude "secret" legal instruments. Every agreement we conclude must be registered with the United Nations and made available to the public pursuant to Article 102 of the Charter of the United Nations. Whatever information is exchanged pursuant to the MOU, it should be assumed to be free of confidentiality restrictions. If information is deemed confidential, it should not be shared with the other party. The proposed paragraphs 8.02 and 8.03 cannot therefore be accepted by UNIDO.

18 March 2015

(*j*) Internal email message to the UNIDO Representative and Regional Director concerning dispute settlement with private/local staff in [State]

Resolution of disputes arising out of contracts or disputes of a private law character to which UNIDO is a party—Immunity from jurisdiction—Amicable settlement—Arbitration—Resolution of labour disputes with UNIDO staff and locally recruited employees—Labour disputes subject to employment contract of staff member—Application of staff regulations and rules—Resolution of disputes relating to pensions—Locally recruited personnel considered staff members—Individual service agreements—Individual service providers considered contractors, not staff members—UNIDO code of ethical conduct—Whistle-blower protection—Fraud awareness and protection

Kindly refer to your email, dated [date], which forwarded a note verbale from the Legal Section of the [State] Ministry for Foreign Affairs. In its note, the Government wishes to be informed of the established procedures in UNIDO for the resolution of disputes arising out of contracts or other disputes of a private law character to which UNIDO is a party. In addition, the Government requests to be informed of the established procedures in UNIDO for handling and resolving labour disputes between UNIDO and its officials or locally recruited employees. You request the support of this Office to enable you to draft a reply to the Government. I wish to comment as follows.

Please refer to the attached note, which replies to the Government's queries. It is suggested that the attached note be officially translated into [language] and forwarded by your Office to the Legal Section of the Ministry for Foreign Affairs under cover of a note verbale.

…

Attached note

The present note has been prepared in response to the request from the Legal Section of the Ministry for Foreign Affairs of [State] (hereinafter, the "Government"), which wishes to be informed of the established procedures in UNIDO for the resolution of disputes arising out of contracts or other disputes of a private law character to which UNIDO is a party. In addition, the Government requests to be informed of the established procedures in UNIDO for handling and resolving labour disputes between UNIDO and its officials or locally recruited employees.

I. *Disputes arising out of contracts or other disputes of a private law character to which UNIDO is a party*

The Government should be informed that disputes arising out of contracts to which UNIDO is a party are normally subject to arbitration. The *clause compromissoire* in UNIDO's standard contract documents refers the parties, in the event that a dispute cannot be settled amicably, to binding arbitration pursuant to the UNCITRAL Arbitration Rules. Another standard term in UNIDO's contracts provides that nothing contained in the contract shall be deemed a waiver, express or implied, of UNIDO's privileges and immunities.

As concerns other disputes of a private law character to which UNIDO is a party, the Government should be informed that it is the established policy and practice of UNIDO

to (*a*) preserve and maintain its immunity from jurisdiction; (*b*) seek amicable settlement; and (*c*) failing amicable settlement, refer the dispute to binding arbitration or some other mode of dispute settlement as may be agreed by the parties to the dispute.

II. *Labour disputes between UNIDO and its officials*

The Government should be informed that labour disputes between UNIDO and its officials are subject to the terms and conditions of the official's employment contract. In accordance with the employment contract, such contract shall be subject to the Staff Regulations and Rules of UNIDO. Such an official is hereinafter referred to as a "staff member".

Pursuant to the Staff Regulations and Rules of UNIDO, a staff member's grievance is first referred to the Director General for decision. If the staff member is not satisfied with the decision, he has the right to submit his grievance to an internal review body, which is established pursuant to the Staff Regulations and Rules of UNIDO, for consideration of the merits of his grievance. The internal review body is mandated to prepare a report with recommendations for final decision by the Director General. If the staff member is dissatisfied with the Director General's final decision, he has the right to further appeal the matter to the Administrative Tribunal of the International Labour Organization for final resolution of the dispute.

Unless participation in the United Nations Joint Staff Pension Fund is excluded by the terms of the staff member's contract, pension-related matters are further subject to the Regulations and Rules of the United Nations Joint Staff Pension Fund. The United Nations Joint Staff Pension Fund is a subsidiary body of the General Assembly of the United Nations in accordance with Article 22 of the Charter of the United Nations. It establishes a pension regime that includes disability and survivor benefits. Claims or disputes under this regime are first reviewed by an internal review body, which is established pursuant to the Regulations and Rules of the United Nations Joint Staff Pension Fund. In the event that the staff member is dissatisfied with the decision of said review body, she may further appeal the matter to the United Nations Joint Staff Pension Board and, thereafter, to the United Nations Appeals Tribunal, for final resolution of the dispute.

III. *Disputes between UNIDO and locally recruited employees*

The Government should be informed that disputes between UNIDO and locally recruited employees are subject to the terms and conditions of the employee's contract. Locally recruited employees whose employment contracts are subject to the Staff Regulations and Rules of UNIDO are staff members. Therefore, a dispute between UNIDO and locally recruited staff members will follow the procedures described in point II, above.

The Government should, further, be informed that UNIDO regularly concludes agreements (hereinafter, "individual service agreements") with individuals who provide services to the Organization (hereinafter, "individual service providers"). Individual service providers are engaged by UNIDO for the performance of specific tasks, such as providing expertise, advisory services, skills or knowledge in a substantive or support capacity, during an established period of time. An individual service provider's engagement

shall be strictly limited to the terms and conditions of the individual service agreement. The terms and conditions of the individual service agreement provide that the individual service provider shall have the legal status of an individual contractor, and that she shall not, for any purpose, be considered a staff member of UNIDO. As a result, the established procedures for resolving disputes between UNIDO and staff members, as summarized in point II, above, are not applicable to individual service providers. However, in accordance with the standard *clause compromissoire* of the individual service agreement, a dispute between the individual service provider and UNIDO shall, if attempts at settlement by negotiation have failed, be submitted to binding arbitration for final resolution of the dispute. Finally, the individual service agreement provides that its provisions shall not constitute or imply a waiver by UNIDO of its privileges and immunities.

IV. *Code of ethical conduct, protection of whistle-blowers and fraud*

The scope of the Government's request for information should also cover established procedures for addressing allegations of wrongdoing on the part of UNIDO personnel. In this regard, the Government should be informed that UNIDO maintains the following policies: (*a*) the UNIDO Code of Ethical Conduct; (*b*) procedures for the protection of whistle-blowers; and (*c*) fraud awareness and prevention. Allegations of wrongdoing in terms of the aforementioned policies may be referred, as the case may be, to the following offices in the UNIDO Secretariat: the Ethics Office; the Human Resource Management Branch; or the Office of Internal Oversight Services. For further information, the Government may wish to consult the following UNIDO web site page http://www.unido.org/wrongdoing.html.

9 April 2015

(*k*) Interoffice memorandum to the Officer-in-Charge of Human Resource Management Branch concerning the possibility of recognizing a staff member's sisters as her dependent children for the purposes of entitlements under the staff regulations and rules

Dependency status of siblings—Staff Rules and administrative circulars—Sibling as "dependent child"—Sibling can be primary dependent/dependent child if legally adopted—Conditions for primary dependency when adoption is not possible—Sibling cannot be considered primary dependent if adoption is not possible

1. I refer to the email from [Name], Senior Human Resource Specialist, [date], requesting advice concerning the request of a staff member at Headquarters to have her sisters, who live with their parents in the [State], recognized as her dependent children.

2. In her initial query to HRM, dated [date], the staff member asked whether one of her sisters, who is currently recognized as a secondary dependent, could "graduate into a primary dependent". By email dated [date], the responsible Human Resource Assistant referred the staff member to staff rule 106.15[1] and Administrative Circular

[1] In relevant parts, staff rule 106.15 (Definition of dependency) stipulates that:

"For the purpose of the Staff Regulations and Staff Rules, dependency shall be defined as follows:

(*a*) …

UNIDO/DA/PS/56 of 3 March 1989.[2] The staff member was advised that the sister in question could only be recognized as her primary dependent if she were legally adopted by the staff member or if a [State] court recognized the customary or *de facto* adoption. On [date], the staff member reiterated her request that the Organization

> … consider my new role being the eldest child, as head of the family, since both my parents have retired and are no longer employed as of [date], and for my minor and

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(*b*) A "dependent child" shall be any of the following children under the age of 18 years or, if the child is in full-time attendance at a school or university (or similar educational institution), under the age of 21 years, for whom the staff member provides main and continuing support, *i.e.* more than one half of the total support:

(i) The staff member's natural or legally adopted child;

(ii) The staff member's stepchild, if residing with the staff member;

(iii) Where adoption is not possible, a child for whom the staff member assumes legal responsibility as a member of the family.

If a child over the age of 18 years is physically or mentally incapacitated for substantial gainful employment, either permanently or for a period expected to be of long duration, the requirements as to age and school attendance shall be waived.

(*c*) A staff member claiming a child as dependent must certify that he or she provides main and continuing support. Such certification must be supported by documentary evidence satisfactory to the Director-General, if the child:

(i) Does not reside with the staff member because of the divorce or legal separation of the staff member;

(ii) Is married; or

(iii) Is recognized as a dependant under subparagraph (*b*)(iii) above.

(*d*) A secondary dependant shall be the father, mother, brother or sister of a staff member for whom the staff member provides one half or more of the total support and in any case at least twice the amount of the dependency allowance, provided that the brother or sister fulfills the same age and school attendance requirements established for a dependent child. If the brother or sister is physically or mentally incapacitated for substantial gainful employment, either permanently or for a period expected to be of long duration, the requirements as to age and school attendance shall be waived."

[2] In relevant parts, paragraph 6 of Administrative Circular UNIDO/DA/PS/56 (Definitions of dependency and benefits), dated 3 March 1989, provides that:

"6. Dependent children. A dependent child is any of the following children under 18 years of age or, if the child is in full-time attendance at a school or university (or similar educational institution), under 21 years of age, for whom the staff member provides main and continuing support, *i.e.* more than one half of the total support:

…

(*d*) Where the adoption of the child is not possible because there is no statutory provision for adoption nor any prescribed court procedure for formal recognition of customary or *de facto* adoption in the staff member's home country or country of permanent residence, then a child in respect of whom the following conditions are met:

(i) The child resides with the staff member;

(ii) The child is not a brother or sister of the staff member;

(iii) The staff member can be regarded as having established a parental relationship with the child;

(iv) The number of children for whom dependency benefits are claimed by the staff member in such cases does not exceed three."

university-attending siblings to be recognized as my primary dependents in respect to the provision of benefits to me as UNIDO staff member.

3. HRM wishes to confirm that the request does not meet the requirements of staff rule 106.15 and the applicable administrative circular. A draft email prepared by HRM states, *inter alia*, that:

– In the definition of dependents in the Staff Rules, siblings fall under the category "secondary dependents" (SR 106.15, para (*d*));

– In addition, in the circular, in para. 6(*d*), where adoption is not possible (as is the issue in your case), the paragraph refers to four conditions:

(i) The child resides with the staff member;

(ii) The child is not a brother or sister of the staff member;

(iii) The staff member can be regarded as having established a parental relationship with a child;

(iv) The number of children for whom dependency benefits are claimed by the staff member in such cases does not exceed three.

You indicated that both your parents are alive and retired; that the child does not reside with you, and the child is your sister. Three out of four conditions are not met. The fourth is not relevant to the case.

4. The questions forwarded to this Office in connection with the staff member's request are whether the provisions of paragraph 6(*d*) of Administrative Circular UNIDO/DA/PS/56 are consistent with staff rule 106.15(*b*)(iii), and whether the staff member's younger sister can be considered her dependent child.

5. A "dependent child" is defined in staff rule 106.15(*b*)(iii) to include, "[w]here adoption is not possible, a child for whom the staff member assumes legal responsibility as a member of the family". As explained in the draft reply quoted above, paragraph 6(*d*) of the administrative circular sets out four conditions for recognition of a child as a dependent child under staff rule 106.15(*b*)(iii). One of these conditions is that "[t]he child is not a brother or a sister of the staff member". The conditions listed in the circular are identical to those found in the relevant administrative instructions of the United Nations.[3]

6. Paragraph 6(*d*) of Administrative Circular UNIDO/DA/PS/56 provides a reasonable interpretation of staff rule 106.15(*b*)(iii) that is consistent with the staff rules. The dependency status of siblings is governed by staff rule 106.15(*d*), which makes express provision for a brother or a sister of a staff member to be recognized as a secondary dependent. In view of the provisions of staff rule 106.15(*d*), dependent siblings are implicitly excluded from the scope of staff rule 106.15(*b*)(iii) and are accordingly precluded from becoming primary dependents pursuant to that rule.

7. It is doubtful that the staff member's claim is assisted by the references to national legislation in her email of [date]. For example, even if the sisters cannot be considered "legally available for adoption" in terms of the [domestic adoption act], this does not satisfy the stipulation in staff rule 106.15(*b*)(iii) that "adoption is not possible": in fact, adoption

[3] The latest United Nations administrative instruction is ST/AI/2011/5 of 2 June 2011. Earlier instructions include ST/AI/278/Rev.1 (quoted in *United Nations Juridical Yearbook 1992* (Sales No. E.97.V.8), p. 452) and ST/IC/1996/40 (quoted in *United Nations Juridical Yearbook 2000* (Sales No. E.04.V.1), p. 336).

is possible in the [State], provided the requirements of the law are fulfilled. Likewise, the staff member fails to show that she has assumed "legal responsibility" for her sisters. In this regard, we do not see how the staff member can be exercising "substitute parental authority" over her sisters in accordance with the provisions of the Family Code, given that the sisters reside with their parents, who are still alive.

8. In conclusion, there is no basis for recognizing the staff member's sisters as her dependent children under staff rule 106.15(*b*)(iii) or for proposing an exception to the staff rule. We agree with HRM that the staff member's request should be denied.

5 June 2015

(*l*) Interoffice memorandum to the Director General concerning his membership at the advisory council of the [University]

Membership of the UNIDO Director General in advisory council of a university—Distinction official and personal capacity—Compatibility with the official functions and status of the Director General—Director General to work solely for benefit of UNIDO and to be solely responsible and accountable to UNIDO's member States—Commercial activities, including fundraising, not appropriate—Policy decision rather than legal matter

1. I refer to the letter dated [date] from [Name], Head of the [University] Department of International Development (the "Department"), to the Director General, which invites the Director General to join the Advisory Council of the Department. The Department is described as the main centre for teaching and research on development at the [University]. Your Office sent the letter to the Legal Office for advice on [date]. The Terms of Reference and Standing Orders (TOR) of the Department were sent to LEG on [date].

2. Under article 2 of the TOR, the Advisory Council is responsible "to support the Department in outreach and fundraising activities, and to give guidance on research directions. The Council is expected to offer advice on the relationship between [University] research and its "users" in government and civil society … ". In addition, "[t]he Council has representation from the University, international agencies, NGOs and government and thus reflects a broad spectrum of authoritative opinion and practical experience … ".

3. I note that the main mandate of the Advisory Council (the relationship between [University] research and its "users" in government and civil society) is somewhat removed from UNIDO's mandate. Further, the functions of the Advisory Council are not international in character and are akin to those of a national committee. Its present membership does not include any Executive Head of the United Nations agencies, funds and programmes. Based on the information that has been provided to me, you will be the only Executive Head of a United Nations agency sitting in the Advisory Council.

4. The members of the Advisory Council do not appear to be serving in an official capacity. Before the Director General decides whether to accept the invitation, the Director General may wish to clarify whether the members of the Advisory Council are expected to serve in their personal or official capacities. If a member is supposed to serve in her official capacity, only the Director General can decide whether the activity falls within the scope of UNIDO's programme of work and his functions as Director General of UNIDO—much

like any decision he might take on, for example, whether to participate at a United Nations conference on climate change as UNIDO's Director General.

5. I suspect, however, that membership in the Advisory Council is expected to be in a personal capacity, *i.e.*, Advisory Council members will be speaking solely on behalf of themselves and not, in the Director General's case, on behalf of UNIDO. If this is, indeed, the case, it is necessary to look at the nature and extent of the outside activity and whether such a role would be compatible with the official functions and status of the Director General. As a legal matter, the Director General should work exclusively for the benefit of UNIDO and be responsible and accountable solely to UNIDO's Member States for his actions. See article 11(4) of the UNIDO Constitution. For example, commercial activities, including fundraising, in support of the Department, would not be appropriate. As another example, activities that are closely affiliated with a political party may also draw undesirable attention and concerns from Member States, who may question the Director General's impartiality or independence.

6. Based on the information at my disposal about the Advisory Council's role, it would seem that membership in the Advisory Council would not require much of the Director General's time (a half-day meeting, once a year). Although the members of the Advisory Council are supposed to "support the Department in outreach and fundraising activities", I understand this primarily in the context of the Advisory Council's role "to give guidance on research directions … ". Some degree of discretion is required, therefore, and it would be up to each Advisory Council member to decide on the level and scope of her support activities.

7. In conclusion, whether or not to accept the invitation is mainly a policy decision for the Director General. I have endeavoured to outline some of the issues that he should take into consideration when making his decision.

3 July 2015

(*m*) External email message to the Legal Adviser of [a United Nations Specialized Agency] concerning policy formulation in a public international organization

No formal distinction between "policies" and "administrative instructions"—Powers of governing bodies and Director General set out in UNIDO's Constitution—General Conference determines guiding principles and policies—Director General overall responsibility for work of the Organizations and staff matters—In practice Director General promulgates policies without explicit approval—Disputes to be resolved by General Conference—Staff members' right to appeal administrative action

I refer to your email of [date] seeking my views on the distinction between "policies" that require the approval of a governing body and "administrative instructions" issued by an executive head that do not require such approval. You also ask for copies of formal guidelines or reference materials, if any, that we have used in this regard.

1. As far as UNIDO is concerned, the respective powers of the governing bodies and the Director General are set out in the Constitution of the Organization.[1] While the General Conference determines the guiding principles and policies of the Organization (article 8(3)(*a*) of the Constitution), the Director General has the overall responsibility and authority to direct the work of the Organization, subject to general or specific directives of the Conference (article 11(3)). Under the authority and subject to the control of the Industrial Development Board (IDB), the Director General is also responsible for the appointment, organization and functioning of the staff (article 11(3)).

2. UNIDO has no formal guidelines extrapolating on the meaning of these provisions. There is likewise no definition of the expression "guiding principles and policies of the Organization".

3. Practice shows that, while the General Conference adopts overarching policies (*e.g.* the staff regulations and the organizational business plan), the Director General also promulgates many policies of his own pursuant to article 11(3) of the Constitution, without seeking the approval of the governing bodies. The policies promulgated by the Director General, which may generally be said to complement or amplify those approved by the General Conference, include—to quote the titles of the bulletins in question—the Field Mobility Policy; the Policy on Learning; the UNIDO Policy for Financial Disclosure and Declaration of Interests; the Policy on Fraud Awareness and Protection; the Enterprise Risk Management Policy; the Official Travel Policy; the UNIDO Policy on Business Partnerships; the Evaluation Policy; and the Policy on Gender Equality and the Empowerment of Women.

4. As far as I am aware, the Director General's constitutional authority to issue such policy bulletins has never been questioned. In the event of a dispute regarding the scope of a particular bulletin, the matter could be resolved by decision of the General Conference or the IDB, as the case may be (*e.g.* by instructing that the bulletin in question be withdrawn or modified). However, if the decision of the General Conference or the IDB resulted in administrative action that breached the rights of a staff member, he or she would naturally still have the right of appeal.

9 July 2015

(*n*) Interoffice memorandum to the Director General concerning his membership on the ambassadorial board of the [NGO]

Membership of the UNIDO Director General in ambassadorial board of an NGO—Distinction official and personal capacity—Staff regulations—Director General to work solely for benefit of UNIDO and to be solely responsible and accountable to UNIDO's member States—Need to guarantee the independence and impartiality of the Director General as an international civil servant—Difficulty to distinguish between official and private capacity

1. I refer to a letter dated [date] from the [NGO] inviting the Director General to become a member of the ambassadorial board of the [NGO]. According to its website, the [NGO] seeks to strengthen cooperation in the area of global security, with the overall

[1] Available at https://www.unido.org/overview/legal-resources/basic-legal-documents-unido.

objective of identifying policy proposals that enhance the ability of the multilateral system to respond to existing and evolving global challenges and to support their implementation.

2. On [date], your Office requested the Legal Office to advise on the appropriateness of accepting the [NGO]'s invitation.

3. First, I note that the governance structure of the [NGO] is as follows:

1. An Advisory Council of Eminent Persons
2. A Ministerial-level Board
3. An Ambassadorial-level Board

4. It is questionable that the Director General is being asked to participate on the ambassadorial-level board when he is a former vice-minister and current executive head of a specialized agency.

5. As a legal matter, the Director General should work exclusively for the benefit of UNIDO and be responsible and accountable solely to UNIDO's Member States for his actions. See article 11(4) of the UNIDO Constitution.

6. Regardless of the terms of reference of the [NGO], it cannot be excluded that the [NGO] will formulate proposals and policies that conflict with the interests of Member States and/or UNIDO. Staff regulations 1.1 and 1.3, which apply to the Director General, provide that:

> Regulation 1.1
>
> Staff are international civil servants. Their responsibilities are not national but exclusively international. By accepting appointment, they pledge themselves to discharge their functions and to regulate their conduct with only the interests of the Organization in view.

> Regulation 1.3
>
> Staff shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organization. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status.

7. In view of the provisions of the staff regulations, I think it would not be appropriate or advisable for the Director General to accept the [NGO]'s invitation. Appointment to the governing structures of an NGO such as the [NGO] will risk compromising, or appearing to compromise, the independence and impartiality required of the Director General as an international civil servant. Even if membership of the ambassadorial-level board would theoretically be in a personal capacity, it would be all but impossible to distinguish personal from official capacities in practice. At any rate, no distinction is made between personal and official capacities under staff regulations 1.1 and 1.3.

8. In conclusion, should the Director General decide to decline the invitation, he may thank the [NGO] for its invitation and add that, while the rules of UNIDO prevent him from sitting on the board, he would be interested in exploring other avenues for co-operation, such as the possibility of a speaking engagement.

10 July 2015

(*o*) Internal email message to the Officer-in-Charge of the Human Resource Management Branch concerning Appendix D coverage issue of home-based project staff

Entitlements of home-based office staff—Obligation to provide coverage under Appendix D of the Staff Rules and Regulations (compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of UNIDO)—Staff entitled to coverage under Appendix D regardless of place of work—Coverage as limit on UNIDO's liability—Entitlement to office space—Informal rental agreement inadequate—Written rental agreement required

1. This is with reference to your email of [date] to [Name A] concerning the question of renting office space for [Name B], who has been re-employed under the 200-series of the Staff Rules and authorized to work from the premises of the [University], [State]. You indicate that the next step is for the Programme Development and Technical Cooperation Division to decide whether [Name B] must be provided with a proper office or not. You also indicate that Human Resource Management Branch (HRM) views the renting of office space as a necessary condition for UNIDO to extend Appendix D coverage to [Name B] and that, for now, Appendix D coverage has been excluded from the terms of his appointment.

…

Entitlement to Appendix D coverage

4. In your email of [date], you correctly point out that UNIDO is obliged to provide its staff members with insurance coverage for service-related injuries and illnesses. This obligation exists by virtue of the provisions of staff regulation 8.2[1] and, in the case of project staff such as [Name B], staff rule 208.06.[2] Moreover, Appendix D coverage (in other words, the right to compensation under Appendix D) is not simply a one-way benefit provided to staff. Appendix D also operates so as to protect the financial interests of UNIDO by setting reasonable limits on the liabilities of UNIDO in the event of death, injury or illness attributable to the performance of official duties on behalf of the Organization. In other words, without Appendix D, claims for compensation could be higher.

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[1] Staff Regulation 8.2: "The Director-General shall establish a scheme of social security for the staff, including provisions for health insurance, sick leave and maternity leave, and reasonable compensation in the event of illness, injury or death attributable to the performance of official duties on behalf of the Organization."

[2] Staff Rule 208.06, Compensation for death, injury or illness attributable to service: "Project personnel shall be entitled to compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the Organization, in accordance with the rules set forth in appendix D to the Staff Rules."

5. In terms of the staff regulations and rules, all staff members are entitled to coverage under Appendix D regardless of where they are assigned or authorized to work. Given the mandatory nature of staff regulation 8.2 and staff rule 206.06, there is a high risk that the special condition in [Name B]'s letter of appointment, which purports to exclude the application of Appendix D, is *ultra vires* and unenforceable. At any rate, even if Appendix D could be excluded as such, the staff member could still institute a claim for reasonable compensation on the basis of staff regulation 8.2, although in that case the limits established by Appendix D would not necessarily apply.

Renting of office space

6. Your email of [date] also states that UNIDO is obliged to provide its staff members with safe and healthy working conditions, which include a proper office, and that if the staff member works from home, UNIDO will not be able to ensure these obligations. As an interpretation of the duty of care, this statement seems to be quite far-reaching. Nonetheless, it is of course possible for the Organization to rent office space on a commercial basis when that space is needed for project purposes.

7. In the present case, [Name B] has already been authorized to work from the university, an authorization that presupposed the consent of the university or some form of agreement with the university regarding office space. In its letter of [date] to [Name B], the university confirmed that the annual rent for the office would be [amount, currency]. In my email of [date] to [Name A], I advised that the letter was inadequate to establish a contractual relationship between UNIDO and the university and that the usual procurement process should be followed if UNIDO wished to rent office space from the university.

8. As concerns the question of continuing to use the office space without a written agreement, it is not advisable for the Organization to occupy and rent, or appear to rent, an office from a third party without a proper contractual basis. It is true that the circumstances of the case are somewhat unusual and that the legal situation has not always been clear. However, if the matter is left unresolved, an undocumented contractual obligation may come into existence, resulting in a clear contravention of the internal control framework of UNIDO as set out in article IX of the Financial Regulations and Rules.

9. Nonetheless, I do not necessarily share your view that, in the absence of a contract, "if [Name B] creates an accident there, [the] University will not be able to hold him or UNIDO liable for it". In such circumstances, the university may still have a claim for damages based on local law.

Conclusions

10. In order to ensure that [Name B] enjoys the required Appendix D coverage, HRM should waive the exclusion of Appendix D in his letter of appointment and/or amend the letter of appointment when the opportunity arises.

11. If [Name B] continues to occupy an office at the university for which rent is to be paid, the project manager should regularize the situation as soon as possible and if need be consult Procurement Services on an appropriate procurement modality and contract.

16 July 2015

(*p*) Internal note for the file prepared by the UNIDO Legal Office concerning Appendix D coverage of home-based project staff

Obligation to provide coverage under Appendix D of the Staff Rules and Regulations—Absence of written policy on home-based staff not relevant—Analogy with official travel in private motor vehicle—Private transportation exception excludes presumption of attributability, not coverage—Analogy cannot be applied to coverage under Appendix D—Exclusion of Appendix D coverage contrary to UNIDO's obligations as employer—Coverage under Appendix D inherent to employment relationship

1. By email dated [date], the Officer-in Charge of the Human Resource Management Branch (HRM) calls into question the advice provided by the Legal Adviser in his email of the same date to the effect that Appendix D coverage is mandatory regardless of where a staff member is assigned or authorized to work. The purpose of this note is to assess whether there is a need for this Office to reconsider its advice on the matter.

2. HRM again raises the point that UNIDO has no written policy allowing staff to work from home. However, UNIDO also has no written policy allowing staff to be assigned or authorized to work from an office belonging to a third party, as happened in this case. At any rate, it is doubtful that the absence of a written policy on working from home is relevant to the question of Appendix D coverage for a staff member who is assigned or authorized to work from an office.

3. The argument advanced by HRM to justify departing from the staff regulations and rules in this case is an analogy, namely "a precedent of Appendix D exclusion in connection with official travel, when the travel is done by a personal car at the request of and for the convenience of the staff member". The argument is that "the principle is already in the staff rules and we simply extended it now to a different area". This interpretation of Appendix D and of the powers of HRM is mistaken.

4. First, the provisions on which HRM relies do not have the effect of excluding Appendix D coverage. Article 2(*b*) of Appendix D[1] sets out circumstances in which death,

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[1] In relevant part, Article 2 (Principles of award) of Appendix D provides as follows: The following principles and definitions shall govern the operation of these rules:

(*a*) Compensation shall be awarded in the event of death, injury or illness of a staff member which is attributable to the performance of official duties on behalf of the Organization, except that no compensation shall be awarded when such death, injury or illness has been occasioned by:

(i) The wilful misconduct of any such staff member; or

(ii) Any such staff member's wilful intent to bring about the death, injury or illness of himself or another;

(*b*) *Without restricting the generality of paragraph (a), death, injury or illness of a staff member shall be deemed to be attributable to the performance of official duties on behalf of the Organization in the absence of any wilful misconduct or wilful intent when*:

(i) The death, injury or illness resulted as a natural incident of performing official duties on behalf of the Organization; or

(ii) The death, injury or illness was directly due to the presence of the staff member, in accordance with an assignment by the Organization, in an area involving special hazards to the staff member's health or security, and occurred as the result of such hazards; or

(iii) *The death, injury or illness occurred as a direct result of travelling by means of transportation furnished by or at the expense or direction of the Organization in connection with the performance of*

injury or illness will be deemed to be attributable to the performance of official duties on behalf of the Organization. One such circumstance, defined in subparagraph (iii) of article 2(*b*), is travel by means of transportation furnished by or at the expense or direction of the Organization in connection with the performance of official duties. However, pursuant to the proviso in subparagraph (iii), the usual presumption of attributability will not extend to private motor vehicle transportation sanctioned or authorized by the Organization solely on the request and for the convenience of the staff member. What is excluded, therefore, is a presumption of attributability of death, injury or illness to the performance of official duties, not Appendix D coverage per se.

5. Second, the limitation on the presumption of attributability contained in subparagraph (iii) of article 2(*b*) is very narrow and very specific. It applies to private motor vehicle transportation sanctioned or authorized by the Organization solely on the request and for the convenience of the staff member. In interpreting legal texts, the principle is *inclusio unius est exclusio alterius*, not *inclusio unius est inclusio alterius*. Accordingly, subparagraph (iii) cannot be extended to a completely different situation (*i.e.* assignment to an office in the staff member's home country), nor used to justify a completely different result (*i.e.* cancellation of Appendix D coverage for some 50 per cent of work time).

6. Third, the analogy to subparagraph (iii) of article 2(*b*) is, in any event, deeply flawed. In the present case, the staff member has not, upon his request or for his own convenience, chosen to work at home instead of a UNIDO office. Indeed, it is clear that the staff member is prepared to work at such an office; if the office is not established by UNIDO, this can hardly be due to the staff member's convenience.

7. The exclusion of Appendix D coverage is thus unsupported by UNIDO's internal law and devoid of any proper legal basis. The Appendix D exclusion is contrary to UNIDO's obligations as an employer. In a legal opinion to the Under-Secretary-General for Administration, Finance and Management, the Office of Legal Affairs of the United Nations Secretariat described Appendix D as a "social security benefit […] which should be provided routinely as a matter of moral obligation". The opinion also stated that Appendix D "is provided on the theory that such compensation represents a social security benefit which should be made available by all employers".[2] In a more recent legal opinion, this time to the Chief of Personnel of the International Trade Centre, UNCTAD/WTO, the Office of Legal Affairs of the United Nations Secretariat wrote that the responsibility for compensating service incurred injury, illness or death is "inherent" in the employment relationship. The legal opinion also referred to the precedent of the United Nations Administrative Tribunal, according to which "even if an individual consents to the Organization breaking one of its own rules this does not enable the Organization to use that consent to defend a claim by the staff member based on the rule". (relying on Judgment No. 508, Rosetti (1991), para. XV). [3] The same could be said to apply in the case of Appendix D coverage, which is mandated by Staff Regulation 8.2.

8. There is consequently no need to revise the legal advice provided to HRM on [date].

23 July 2015

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official duties; provided that the provisions of this subparagraph shall not extend to private motor vehicle transportation sanctioned or authorized by the Organization solely on the request and for the convenience of the staff member; [Emphasis added]

[2] See *United Nations Juridical Yearbook 1979* (Sales No. E.82.V.1), pp. 187–88.

[3] See *United Nations Juridical Yearbook 1996* (Sales No. E.82.V.1), pp. 461–462.

(*q*) Internal email message to the UNIDO Unit Chief of the Accounts and Payments Unit concerning VAT reimbursement on official purchases of the Staff Council

Official activities of Staff Council to be considered activities of the Organization—Tax status of Staff Council in the host country the same as that of the Organization—VAT reimbursements to be made through UNIDO to the Staff Council

This is with reference to your email of [date] requesting my opinion on the status of the Staff Council for the purposes of claiming reimbursement of VAT on official purchases. My replies to your questions are as follows:

1. Do the activities of the Staff Council fall under the activities of UNIDO?

The Staff Council is established pursuant to the Staff Regulations and Rules of UNIDO and operates under a Statute approved by the Director General. As executive organ of the Staff Union, the Staff Council is entrusted with a number of important official functions, including participation on the Joint Advisory Committee. Broadly speaking, the official activities of the Staff Council should be considered to be activities of the Organization or activities that fall under the auspices of the Organization.

2. Is an invoice indicating "UNIDO Staff Council" equivalent to an invoice indicating "UNIDO"?

As you know, the Headquarters Agreement of UNIDO confers the right to exemption from VAT in [Host country] on UNIDO. Narrowly interpreted, this right suggests that the [Host country] authorities could require that invoices submitted for the purposes of claiming VAT should identify the recipient of the goods or services as the Organization. We are accordingly unsure whether variations such as "UNIDO Staff Council" would be acceptable, particularly if not submitted previously, as your email suggests.

In our view, it is not unreasonable to take the position that, since the Staff Council is part of UNIDO, its tax status should be the same as that of the Organization. Provided the purchases are for official use, you could submit invoices issued to the "UNIDO Staff Council" along with those issued to "UNIDO" when claiming reimbursement of VAT. This naturally implies that any refunded amount would be paid out to UNIDO as well, after which it could be transferred to the Staff Council. If the authorities have any questions regarding the invoices, they could be dealt with as and when they arise.

27 October 2015

(*r*) Internal email message to the UNIDO Unit Chief of the Strategic Donor Relations Unit concerning use of the regular budget to support the attendance of [State] representative to the 16th session of the General Conference

Use of regular budget to cover delegate's travel expenses—UNIDO Constitution articles 12 and 13(3)—Members of the General Conference to bear their own expenses—Expenses only covered if invitation or request explicitly provides for it

1. I refer to your email of last evening asking me whether the regular budget of UNIDO could be used to cover the travel expenses of the [State]'s delegate to the 16th session of UNIDO General Conference. …

2. According to article 13, paragraph 3, of the Constitution, the regular budget "shall provide for expenditures for administration, research, other regular expenses of the Organization and for other activities, as provided for in Annex II". Annex II, part A, states that "[a]dministration, research and other regular expenses of the Organization shall be deemed to include … (*c*) [m]eetings, including technical meetings, provided for in the programme of work financed from the regular budget of the Organization". Meetings of the Governing Bodies, including the Conference, are indeed provided for in the programme of work financed from the regular budget of UNIDO.

3. However, article 12 of the Constitution provides that, "[e]ach Member and observer shall bear the expenses of its own delegation to the Conference, to the Board or to any other organ in which it may participate".

4. Both articles, when read together, would forbid the use of regular budget resources to support the attendance of a Member's delegation to the Conference.

5. A Member has the right to be represented at the Conference (see Constitution, article 8); such Member's attendance, however, is not mandatory. When the Member decides to attend the Conference, article 12 of the Constitution expressly provides that it shall bear the expenses of its own delegation. It matters not that the Member has been invited or requested to attend the Conference to play a "special" role. Unless the invitation expressed otherwise, as a legal matter the invitation was extended with the constitutionally mandated understanding that the Member bear the expenses of its delegation to the Conference.

18 November 2015

(*s*) Internal email message to the UNIDO Senior Human Resource Specialist concerning the interpretation of staff rule on travel expenses to the eligible family members

Official travel for eligible family members—Travel entitlement for a child beyond the age of dependency to his or her home country upon completion of continuous full-time university attendance—Attendance may be completed at a university other than at which attendance had commenced

This is with reference to your email of [date] requesting an interpretation of staff rule 109.03(*b*).

In terms of staff rule 109.03(*b*), the travel expenses of a child may be authorized for one trip to the staff member's duty station or to his or her home country beyond the age when the dependency status of the child would otherwise cease under staff rule 106.15(*b*). Staff rule 109.03(*b*) stipulates that the trip must take place,

> "… either within one year or upon completion of the child's continuous full-time attendance at a university, when the attendance at the university commenced during the period of recognized dependency status."

At issue is the meaning of the phrase of "upon completion of the child's continuous full-time attendance at a university". Your email notes two possibilities: (*a*) that eligibility

for the one-way travel entitlement depends on attendance at the same university for the full four years of post-secondary studies, and (*b*) that full-time attendance at more than one university is allowed.

From a grammatical perspective, the phrase in question leaves open the possibility of a change in university at some point during the child's studies. The formulation "upon *completion* of the child's continuous full-time attendance at a university" suggests that the focus of the rule is the university at which attendance is completed, while use of the indefinite article—as in "*a* university"—implies that attendance may be completed at any university, which may or may not be the university at which attendance commenced.

We have accordingly concluded that staff rule 109.03(*b*) should not be interpreted in a manner that makes the one-way travel entitlement conditional on a dependent child's attendance at the same university throughout his or her studies. Interpreting the rule so as to permit a change in university conforms to the reality that a child may switch universities for any number of legitimate reasons. The latter interpretation will also avoid the unequal treatment of a staff member on the arbitrary basis that his or her dependent child happens to attend more than one university.

23 December 2015

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[1]

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*) *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua); Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)*, Judgment, 16 December 2015.

(*b*) *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste* v. *Australia)*, Order, Removal from List, 11 June 2015.

(*c*) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, Judgment, 3 February 2015.

2. Advisory Opinions

No advisory opinions were delivered by the International Court of Justice in 2015.

3. Pending cases and proceedings as at 31 December 2015

(*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–).

[1] 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 Report of the International Court of Justice, *Official Records of the General Assembly, Seventieth Session, Supplement No. 4* (A/70/4) and Seventieth-first Session, Supplement No. 4 (A./71/4), for the periods of 1 August 2014 to 31 July 2015 and 1 August 2015 to 31 July 2016, respectively.

(*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–).

(*e*) *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica* v. *Nicaragua)* (2014–).

(*f*) *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua* v. *Colombia)* (2013–).

(*g*) *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua* v. *Colombia)* (2013–).

(*h*) *Obligation to Negotiate Access to the Pacific Ocean (Bolivia* v. *Chile)* (2013–).

(*i*) *Certain Activities carried out by Nicaragua in Border Area (Costa Rica* v. *Nicaragua)* (2010–).

(*j*) *Armed Activities on the Territory of the Congo (Democratic Republic of Congo* v. *Uganda)* (1999–).

(*k*) *Gabčíkovo-Nagymaros Project (Hungary* v. *Slovakia)* (1993–).

B. International Tribunal for the Law of the Sea[2]

The International Tribunal for the Law of the Sea is an independent permanent tribunal established by the United Nations Convention on the Law of the Sea, 1982.[3] The Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea,[4] signed by the Secretary-General of the United Nations and the President of the Tribunal on 18 December 1997, establishes a mechanism for cooperation between the two institutions.

1. Judgments and Orders

(*a*) *Case No. 24—The "Enrica Lexie" Incident (Italy* v. *India)*, Order, Request for the prescription of provisional measures, 24 August 2015.

(*b*) *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–), Order, Request for the prescription of provisional measures, 25 April 2015.

(*c*) *Case No. 21—Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*, Advisory Opinion, 2 April 2015.

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[2] For more information about the Tribunal's activities, including relating to orders and judgments rendered in 2015, see the Annual report of the International Tribunal for the Law of the Sea for 2015 (SPLOS/294) and the Tribunal's website at http://www.itlos.org.

[3] United Nations, *Treaty Series*, vol. 1833, p. 3.

[4] *Ibid.*, vol. 2000, p. 468.

2. Pending cases and proceedings as at 31 December 2015

(*a*) *Case No. 25—The M/V "Norstar" Case (Panama* v. *Italy)* (2015–).

(*b*) *Case No. 24—The "Enrica Lexie" Incident (Italy* v. *India)* (2015–).

(*c*) *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–).

C. International Criminal Court[5]

The International Criminal Court is an independent permanent court established by the Rome Statute of the International Criminal Court, 1998.[6] 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.[7]

In 2015, the following situations were under investigation by the Office of the Prosecutor: Uganda,[8] Democratic Republic of the Congo,[9] Central African Republic,[10] Darfur (the Sudan),[11] Kenya,[12] Libya,[13] Côte d'Ivoire,[14] Mali,[15] and Central African Republic II.[16]

Additionally, in 2015 the Office of the Prosecutor opened a preliminary examination of the situation in the State of Palestine and continued its preliminary examinations in Afghanistan, Colombia, Guinea, Iraq, Nigeria, and Ukraine. It concluded its preliminary examinations in Georgia, requesting authorization to open an investigation, and Honduras, in which case it decided not to proceed with an investigation.

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[5] For more information about the Court's activities, see Report of the International Criminal Court, for the period 1 August 2014 to 31 July 2015 (A/70/350) and the period 1 August 2015 to 31 July 2016 (A/71/342), as well as the Court's website at http://www.icc-cpi.int.

[6] United Nations, *Treaty Series*, vol. 2187, p. 3.

[7] *Ibid*., vol. 2283, p. 195.

[8] The situation was referred to the Court by Uganda in January 2004.

[9] The situation was referred to the Court by the Democratic Republic of the Congo in April 2004.

[10] 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.

[11] 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.

[12] On 31 March 2010, Pre-Trial Chamber II granted the Prosecutor's request to open an investigation *proprio motu* into the situation in Kenya.

[13] On 26 February 2011, the Security Council referred the situation in Libya to the Prosecutor of the Court by Security Council resolution 1970 (2011), adopted on 26 February 2011.

[14] 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.

[15] The situation was referred to the Court by Mali in July 2012.

[16] 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.

On 16 July 2015, following a request for review presented by the Government of the Union of the Comoros, Pre-Trial Chamber I requested the Prosecutor to reconsider her decision, dated 6 November 2014, to close the preliminary examination regarding the situation on Registered Vessels of Comoros, Greece and Cambodia, due to the lack of a reasonable basis to proceed with an investigation.[17] On 6 November 2015, the Appeals Chamber of the International Criminal Court (ICC) decided by majority to dismiss, *in limine* and without discussing its merits, the Prosecutor's appeal against the decision of Pre-Trial Chamber I requesting the Prosecutor to reconsider the decision.[18]

1. Situations and cases before the Court as at 31 December 2015

(*a*) Situation in Uganda

Pending case and proceeding

(*a*) *The Prosecutor* v. *Joseph Kony and Vincent Otti*, Case No. ICC-02/04-01/05.

(*b*) *The Prosecutor* v. *Dominic Ongwen*, Case No. ICC-02/04-01/15.

(*b*) Situation in the Democratic Republic of the Congo

(i) *Judgments delivered by the Appeals Chamber*

The Prosecutor v. *Mathieu Ngudjolo Chui*, Case No. ICC-01/04-02/12, Judgment on the Prosecutor's appeal against the decision of Trial Chamber II entitled "Judgment pursuant to article 74 of the Statute", 27 February 2015.

(ii) *Pending cases and proceedings*

(*a*) *The Prosecutor* v. *Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06.

(*b*) *The Prosecutor* v. *Bosco Ntaganda*, Case No. ICC-01/04-02/06.

(*c*) *The Prosecutor* v. *Germain Katanga*, Case No. ICC-01/04-01/07.

(*d*) *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.

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[17] *Situation on Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia*, Pre-Trial Chamber I, Decision on the request of the Union of the Comoros to review the Prosecutor's decision not to initiate an investigation, 16 July 2015, No. ICC-01/13-34.

[18] *Situation on Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia*, Appeals Chamber, Decision on the admissibility of the Prosecutor's appeal against the "Decision on the request of the Union of the Comoros to review the Prosecutor's decision not to initiate an investigation", 6 November 2015, No. ICC-01/13 OA.

(*b*) *The Prosecutor* v. *Omar Hassan Ahmad Al Bashir*, Case No. ICC-02/05-01/09.

(*c*) *The Prosecutor* v. *Abdallah Banda Abakaer Nourain*, Case No. ICC-02/05-03/09.

(*d*) *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

(*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.

(*c*) *The Prosecutor* v. *Paul Gicheru and Philip Kipkoech Bett*, Case No. ICC-01/09-01/15.

(*f*) Situation in Libya

Pending case and proceeding

The Prosecutor v. *Saif Al-Islam Gaddafi*, Case No. ICC-01/11-01/11.

(*g*) Situation in Côte d'Ivoire

(i) *Judgment delivered by the Appeals Chamber*

The Prosecutor v. *Simone Gbagbo*, Case No. ICC-02/11-01/12, Judgment on the appeal of Côte d'Ivoire against the decision of Pre-Trial Chamber I of 11 December 2014 entitled "Decision on Côte d'Ivoire's challenge to the admissibility of the case against Simone Gbagbo", 27 May 2015.

(ii) *Pending cases and proceedings*[19]

(*a*) *The Prosecutor* v. *Laurent Gbagbo and Charles Blé Goudé*, Case No. ICC-02/11-01/15.

(*b*) *The Prosecutor* v. *Simone Gbagbo*, Case No. ICC-02/11-01/12.

[19] On 11 March 2015, Trial Chamber I joined the Gbagbo case (ICC-02/11-01/11) and the Blé Goudé case (ICC-02/11-02/11).

(*h*) Situation in Mali

The Prosecutor v. *Ahmad Al Faqi Al Mahdi*, Case No. ICC-01/12-01/15.

D. International Criminal Tribunal for the former Yugoslavia[20]

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.[21]

1. Judgements delivered by the Appeals Chamber

(*a*) *Prosecutor* v. *Jovica Stanišić and Franko Simatović*, Case No. IT-05-88/2-A, Judgement, 9 December 2015.

(*b*) *Prosecutor* v. *Zdravko Tolimir*, Case No. IT-05-88/2-A, Judgement, 8 April 2015.

(*c*) *Prosecutor* v. *Vujadin Popović, Ljubiša Beara, Drago Nikolić, Radivoje Miletić and Vinko Pandurević*, Case No. IT IT-05-88-A, Judgement, 30 January 2015.

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 2015.

3. Pending cases and proceedings as at 31 December 2015

(*a*) *Prosecutor* v. *Goran Hadžić*, Case No. IT-04-75 (2004–).

(*b*) *Prosecutor* v. *Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pusić*, Case No. IT-04-74 (2004–).

(*c*) *Prosecutor* v. *Vojislav Šešelj*, Case No. IT-03-67 (2003–).

(*d*) *Prosecutor* v. *Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91 (1999–).

(*e*) *Prosecutor* v. *Ratko Mladić*, Case No. IT-09-92 (1995–).

(*f*) *Prosecutor* v. *Radovan Karadzić*, Case No. IT-95-5/18 (1995–).

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[20] 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 the Twenty-second and Twenty-third annual reports 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, for the periods from 1 August 2014 to 31 July 2015 (A/70/226–S/2015/585) and from 1 August 2015 to 31 July 2016 (A/71/263–S/2016/670), respectively.

[21] 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).

E. International Criminal Tribunal for Rwanda[22]

The International Criminal Tribunal for Rwanda was a subsidiary body of the United Nations Security Council, established by Security Council resolution 955 (1994), adopted on 8 November 1994.[23] The Tribunal closed on 31 December 2015.[24] In line with Security Council resolution 1966 (2010), the International Residual Mechanism for Criminal Tribunals continued its jurisdiction, rights and obligations and essential functions.

Judgements delivered by the Appeals Chamber

The Prosecutor v. *Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi, and Élie Ndayambaje,* Case No. ICTR-98-42-A, Judgement, 14 December 2015.

F. Mechanism for International Criminal Tribunals[25]

The Mechanism for International Criminal Tribunals was established in 2010 by Security Council resolution 1966 (2010), adopted on 22 December 2010.[26] 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.

No judgements were delivered by the Mechanism for International Criminal Tribunals in 2015.

Pending cases and proceedings as at 31 December 2015

Prosecutor v. *Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96 (2015–).

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[22] The texts of the orders, decisions and judgements are published in the *Recueil des ordonnances, decisions 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.unictr.org. For more information about the Tribunal's activities, see, 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/2015/557).

[23] The Statute of the Tribunal is in the annex to the resolution.

[24] See Report on the completion of the mandate of the International Criminal Tribunal for Rwanda as at 15 November 2015 (S/2015/884).

[25] 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 Third and Fourth annual reports of the International Residual Mechanism for Criminal Tribunals, for the period 1 July 2014 to 30 June 2015 (A/70/225–S/2015/586) and 1 July 2015 to 30 June 2016 (A/71/262–S/2016/669), respectively.

[26] The Statute of the Mechanism is contained in the annex to the resolution.

G. Extraordinary Chambers in the Courts of Cambodia[27]

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,[28] entered into force on 29 April 2005 and established the Extraordinary Chambers in the Courts of Cambodia to prosecute crimes committed during the period of Democratic Kampuchea.

No judgements were delivered by the Extraordinary Chambers in the Courts of Cambodia in 2015.

Pending cases and proceedings as at 31 December 2015

(*a*) *Khieu Samphân and Nuon Chea*, Case No. 002/01 (2010–).

(*b*) *Khieu Samphân and Nuon Chea*, Case No. 002/01 (2010–).

(*c*) *Meas Muth*, Case No. 003 (2009–).

(*d*) *Ao An, Yim Tith and Im Chaem*, Case No. 004 (2009–).

H. Special Tribunal for Lebanon[29]

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,[30] 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. Judgements delivered by the Contempt Judge

Al Jadeed [CO.] S.A.L./NEW T.V. S.A.L. (N.T.V.) and Ms Karma Mohamed Tahsin Al Khayat, Case No. STL-14-05/T/CJ, Judgment, 18 September 2015.

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[27] 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 30 September 2015 (A/70/403).

[28] United Nations, *Treaty Series*, vol. 2329, p. 117.

[29] 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 the Sixth and Seventh Annual Reports of the Special Tribunal for Lebanon, for the periods 1 March 2014 to 28 February 2015 and 1 March 2015 to 29 February 2016, respectively, available from https://www.stl-tsl.org/en/documents/president-s-reports-and-memoranda.

[30] United Nations, *Treaty Series*, vol. 2461, p. 257.

2. Pending cases and proceedings as at 31 December 2015

(*a*) *Salim Jamil Ayyash, Mustafa Amine Badreddine, Hassan Habib Merhi, Hussein Hassan Oneissi and Assad Hassan Sabra*, Case No. STL-11-01 (2011–).

(*b*) *Al Jadeed [CO.] S.A.L./NEW TV S.A.L. and Karma Mohamed Tahsin Al Khayat*, Case No. STL-14-05 (2014–).

(*c*) *Akhbar Beirut S.A.L. and Ibrahim Mohamed Ali Al Amin*, Case No. STL-14-06 (2014–).

I. Residual Special Court for Sierra Leone[31]

The Special Court for Sierra Leone[32] 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.[33] 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,[34] 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 2015.

[31] 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.

[32] 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, available from http://www.rscsl.org/Documents/AnRpt11.pdf.

[33] 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.

[34] The Agreement and the Statute of the Residual Special Court were registered with the United Nations under No. 50125 (see also S/2012/741).

Chapter VIII

DECISIONS OF NATIONAL TRIBUNALS

A. United States of America

Decision of the Superior Court for the District of Columbia

In 2009, the DC Office of Tax and Revenue (OTR) began applying a restrictive interpretation of domicile to individuals who sought a property tax deduction for residing in a home in Washington, DC. The DC government's interpretation disqualified virtually all G-4 visa holders from this valuable property tax deduction. The International Monetary Fund viewed this as legally incorrect and supported a lawsuit brought by individual Fund staff against the DC government. In September 26, 2014, the Superior Court for the District of Columbia ruled that G-4 visa holders can form the intent to be domiciled in the District and are therefore eligible for the homestead deduction. The DC government chose not to appeal the decision, and it became final in 2015.

Part Four

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A. International organizations in general

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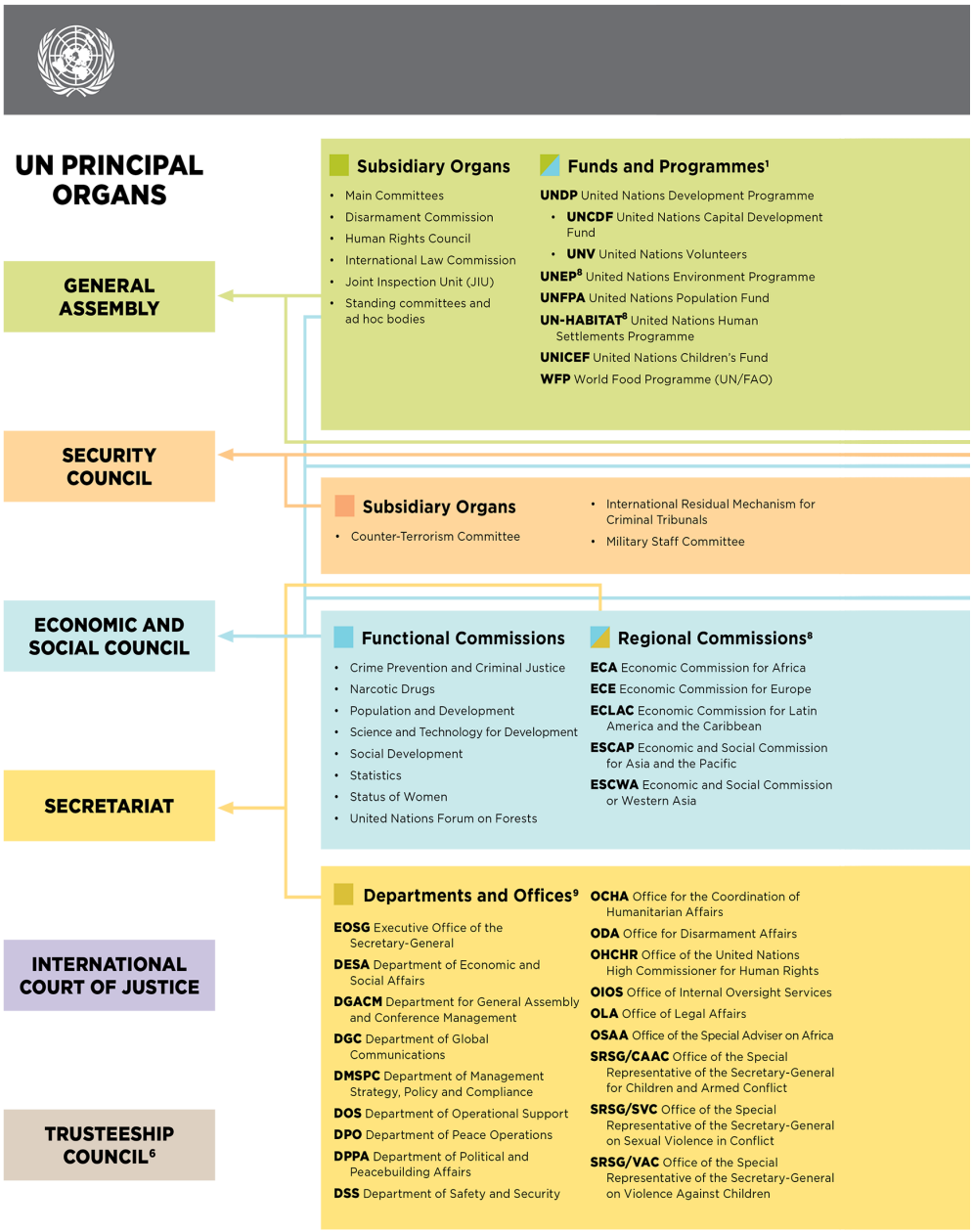
UN PRINCIPAL ORGANS
GENERAL ASSEMBLY
SECURITY COUNCIL
ECONOMIC AND SOCIAL COUNCIL
SECRETARIAT
INTERNATIONAL COURT OF JUSTICE
TRUSTEESHIP COUNCIL[6]
Subsidiary Organs
Main Committees
Disarmament Commission
Human Rights Council
International Law Commission
Joint Inspection Unit (JIU)
Standing committees and ad hoc bodies
Funds and Programmes[1]
UNDP United Nations Development Programme
UNCDF United Nations Capital Development Fund
UNV United Nations Volunteers
UNEP[8] United Nations Environment Programme
UNFPA United Nations Population Fund
UN-HABITAT[8] United Nations Human Settlements Programme
UNICEF United Nations Children's Fund
WFP World Food Programme (UN/FAO)
Subsidiary Organs
Counter-Terrorism Committee
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[8]
ECA Economic Commission for Africa
ECE Economic Commission for Europe
ECLAC Economic Commission for Latin America and the Caribbean
ESCAP Economic and Social Commission for Asia and the Pacific
ESCWA Economic and Social Commission or Western Asia
Departments and Offices[9]
EOSG Executive Office of the Secretary-General
DESA Department of Economic and Social Affairs
DGACM Department for General Assembly and Conference Management
DGC Department of Global Communications
DMSPC Department of Management Strategy, Policy and Compliance
DOS Department of Operational Support
DPO Department of Peace Operations
DPPA Department of Political and Peacebuilding Affairs
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
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

The United Nations System

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[1,8] United Nations Conference on Trade and Development

UNHCR[1] Office of the United Nations High Commissioner for Refugees

UNOPS[1] United Nations Office for Project Services

UNRWA[1] United Nations Relief and Works Agency for Palestine Refugees in the Near East

UN-WOMEN[1] 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[1,3] International Atomic Energy Agency

ICC International Criminal Court

IOM[1] International Organization for Migration

ISA International Seabed Authority

ITLOS International Tribunal for the Law of the Sea

OPCW[3] Organization for the Prohibition of Chemical Weapons

WTO[1,4] World Trade Organization

- Peacekeeping operations and political missions
- Sanctions committees (ad hoc)
- Standing committees and ad hoc bodies

Peacebuilding Commission

HLPF High-level political forum on sustainable development

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

UNISDR United Nations Office for Disaster Risk Reduction

UNODC[1] United Nations Office on Drugs and Crime

UNOG United Nations Office at Geneva

UN-OHRLLS 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[2] United Nations Office for Partnerships

UNOV United Nations Office at Vienna

Specialized Agencies[1,5]

FAO Food and Agriculture Organization of the United Nations

ICAO International Civil Aviation Organization

IFAD International Fund for Agricultural Development

ILO International Labour Organization

IMF International Monetary Fund

IMO International Maritime Organization

ITU International Telecommunication Union

UNESCO United Nations Educational, Scientific and Cultural Organization

UNIDO United Nations Industrial Development Organization

UNWTO World Tourism Organization

UPU Universal Postal Union

WHO World Health Organization

WIPO World Intellectual Property Organization

WMO World Meteorological Organization

WORLD BANK GROUP[7]

- **IBRD** International Bank for Reconstruction and Development
- **IDA** International Development Association
- **IFC** International Finance Corporation

Notes:

1 Members of the United Nations System Chief Executives Board for Coordination (CEB).
2 UN Office for Partnerships (UNOP) is the UN's focal point vis-a-vis the United Nations Foundation, Inc.
3 IAEA and OPCW report to the Security Council and the General Assembly (GA).
4 WTO has no reporting obligation to the GA, but contributes on an ad hoc basis to GA and Economic and Social Council (ECOSOC) work on, inter alia, finance and development issues.
5 Specialized agencies are autonomous organizations whose work is coordinated through ECOSOC (intergovernmental level) and CEB (inter-secretariat level).
6 The Trusteeship Council suspended operation on 1 November 1994, as on 1 October 1994 Palau, the last United Nations Trust Territory, became independent.
7 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.
8 The secretariats of these organs are part of the UN Secretariat.
9 The Secretariat also includes the following offices: The Ethics Office, United Nations Ombudsman and Mediation Services, and the Office of Administration of Justice.

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.

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