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(*b*) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

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(*c*) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;

(*d*) The principle of sovereign equality of States;

(*e*) The duty of States to co-operate with one another in accordance with the Charter;

(*f*) The principle of equal rights and self-determination of peoples;

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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 inter-governmental organizations.

Accordingly, chapters I and II of the present volume—the fourth of the series—contain legislative texts and treaty provisions relating to the legal status of the United Nations and related inter-governmental organizations. With a few exceptions, the legislative texts and treaty provisions which are included in these two chapters entered into force in 1966. Decisions given during 1966 by international and national tribunals relating to the legal status of the various organizations will be found in chapters VII and VIII.

Decisions, recommendations and reports of a legal character which, in the view of the organization concerned, merited reproduction in whole or in part are contained in chapter III. Other documents under this category are simply enumerated in bibliographical form in chapter IX.

Chapter IV is devoted to 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. This criterion has been used in order to reduce in some measure the difficulty created by the sometimes considerable time-lag between the conclusion of treaties and their publication in the United Nations *Treaty Series* following upon entry into force.

The index in chapter IX is designed to provide, together with the texts reproduced in chapter III, as complete a picture as possible of the legal documentation of the United Nations and related inter-governmental organizations. A part of the index has been set aside for each of the organizations, which were requested to present their own documentation in the manner they thought best suited to the material.

Finally, the bibliography in chapter X lists works and articles of a legal character published in 1966 regardless of the period to which they refer. Some works and articles which were not included in the bibliographies of the *Juridical Yearbooks* for 1964 and 1965 have also been listed.

All documents published in the *Juridical Yearbook* were supplied by the organizations concerned, with the exception of the legislative texts and judicial decisions in chapters I and VIII which, unless otherwise indicated, were communicated by Governments at the request of the Secretary-General.

ABBREVIATIONS

BANK	International Bank for Reconstruction and Development
ECLA	Economic Commission for Latin America
FAO	Food and Agriculture Organization of the United Nations
FUND	International Monetary Fund
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
IDA	International Development Association
IFC	International Finance Corporation
ILO	International Labour Organisation
IMCO	Inter-Governmental Maritime Consultative Organization
ITU	International Telecommunication Union
ONUC	United Nations in the Congo
OPEX	Programme for the provision of operational, executive and administrative personnel
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UPU	Universal Postal Union
WHO	World Health Organization
WMO	World Meteorological Organization

Part One

LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

Chapter I

LEGISLATIVE TEXTS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

1. Afghanistan

TAX AND CUSTOMS EXEMPTION REGULATION FOR DIPLOMATIC AND OTHER NON-DIPLOMATIC MISSIONS ENJOYING PRIVILEGES, AND FOR FOREIGN CONSULAR REPRESENTATIONS AND THEIR MEMBERS IN AFGHANISTAN[1]

...

CHAPTER TWO

Immunities of foreign non-diplomatic missions with privileges

Article 10

The Royal Government of Afghanistan in accordance with agreements entered into with international organizations or with friendly countries, grants tax and customs immunity to the officials of such organizations or to members of aid missions of friendly countries whilst serving in Afghanistan.

Such immunities will be clearly defined and limited and shall come into force after gaining the approval of competent Afghan authorities. Immunities so defined, shall be further clarified through agreements or the exchange of formal notes.

...

CHAPTER FOUR

Regulations concerning the import, the purchase and the sale of vehicles

...

Article 15

The United Nations mission and its specialized agencies:

A—Vehicles for the use of the offices of the United Nations mission and its specialized agencies can be imported with the approval of the Ministry for Foreign Affairs of the Royal Government of Afghanistan.

B—For the use of the head of the United Nations mission, and/or for the chief representatives of the specialized agencies and their families, one (1) car each shall be permitted.

C—For the use of each official member, one (1) car shall be permitted.

Note 1: If the head of the United Nations mission is married, permission for the import of a second vehicle will be granted on presentation of a written request stating reasons, and with the approval of the Ministry for Foreign Affairs.

[1] Translation kindly furnished by the Government of Afghanistan.

Note 2: All customs declarations in connexion with the import of vehicles under the provisions of this article, shall be signed by the Head of the United Nations mission, or, in his absence, by his deputy.

...

Article 18

A—Cars which have been imported into Afghanistan under the provisions of articles ... 15, ... of this regulation can be exported from Afghanistan by the owner of the car upon termination of his/her assignment.

B—Cars which have been imported in accordance with ... part A of article 15, ... of this regulation for official use, cannot be sold to persons or organizations lacking privileges, within three (3) years from the date the vehicle first entered the country.

C—Cars which have been imported into Afghanistan in accordance with the terms of ... Note I, article 15 of this regulation under the title of the second car of married persons, cannot be sold to persons or organizations lacking privileges within three (3) years of the said vehicle's first entry into the country, or before termination of the car owner's assignment in Afghanistan.

D—Cars which have been imported in accordance with the provisions of this regulation but not covered by the terms of parts A, B and C of this article, cannot be sold within two (2) years of the said vehicle's first entry into the country or before termination of the car owner's assignment in Afghanistan.

E—A privileged member of [a] ...United Nations mission and its specialized agencies, and other foreign non-diplomatic missions or organizations in Afghanistan, who has served for a period of more than two (2) years in the country, and has sold his first car according to the terms of this regulation, may import a second car in accordance with the provisions of this regulation, provided his assignment in Afghanistan is expected to last for a further period of one (1) year or more.

F—Should a car imported under the provisions of this regulation be totally destroyed through accident or other circumstances, and be thus rendered useless, or should the car be lost, another vehicle may be imported with the approval of the Ministry for Foreign Affairs of the Royal Government of Afghanistan.

Article 19

Cars imported under the provisions of this regulation may be sold to foreign nationals with privileges (in accordance with the terms and restrictions of articles ... 15, ... and 18, above) and to the Government monopolies in Afghanistan.

Note 1: In purchasing such cars, the Government monopolies shall take into account the following considerations:

(1) Model and type of car;

(2) Condition of the vehicle's body;

(3) Condition of the engine and other technical details;

(4) Marketability of the vehicle in Afghanistan, and whether repair facilities for it are available there;

(5) Milage covered by car, and the amount of use to which it has been subjected.

Note 2: Cars sold to the Government monopolies in accordance with the provisions of article 18 above shall be paid for in Afghan currency.

Note 3: If the Government monopolies and the seller fail to reach agreement over the sale of the vehicle concerned, and the said vehicle is sold to a person or organization lacking privileges, the Government monopolies shall collect 5% of the net selling price of the vehicle from the buyer in lieu of their import commission duty.

In addition to the above, the buyer shall also pay the customs duty on the car and the Government monopolies tax in accordance with the provisions of other relevant regulations in force.

Article 20

Foreign nationals and organizations with privileges purchasing cars of other foreign nationals and organizations with privileges, in accordance with the provisions of article 18 above, shall have their respective car import quotas as provided under the terms of articles ... 15, ... above, proportionately decreased.

...

Kabul, 21 July 1966

---

2. Canada

PROVINCE OF QUEBEC ORDER-IN-COUNCIL NO. 1174 OF 20 JULY 1966 CONCERNING CERTAIN FISCAL CONCESSIONS TO NON-CANADIAN REPRESENTATIVES TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION[2]

Whereas representations have been made requesting that representatives of foreign countries to the International Civil Aviation Organization benefit from fiscal concessions;

Whereas it is deemed advisable to give effect to such representations;

Whereas it is in the general interest to replace Order-in-Council No. 172 of 26 January 1965;[3]

Wherefore it is ordered, upon the recommendation of the Minister of Revenue:—

That the Regulations concerning certain fiscal concessions to non-Canadian representatives to the International Civil Aviation Organization, of which the text is attached to this Order-in-Council, be decreed in the French and English languages.

REGULATIONS concerning certain fiscal concessions to non-Canadian representatives to the International Civil Aviation Organization

1. The International Civil Aviation Organization (ICAO), the President of the Organization, the Secretary General, the five Directors of the Organization, as well as the official representatives of each nation member of the said Organization, who are career officers and not nationals of Canada and the Province of Quebec, who do not operate a business or fulfil a function or employment in the Province, other than their appointment on behalf of the nation which they represent, benefit from the hereinafter specified fiscal concessions, under condition that the country represented by such officials grants similar privilege to representatives of the Province in such country:

(*a*) Exemption from Income Tax in accordance with the provisions of sections 12 and 78 of the Provincial Income Tax Act;

(*b*) Exemption from duties prescribed by the Succession Duties Act, on all transmission of assets situated in the Province which were acquired during and on the occasion of their residence in Quebec while discharging the aforesaid functions. The Government of the Province shall not impede the transfer of assets so exonerated if death of said person occurs while discharging the functions mentioned in the first paragraph, or within two years of death;

---

[2] Text kindly furnished by the International Civil Aviation Organization.

[3] See *Juridical Yearbook*, 1964, pp. 3 and 4.

(*c*) Exemption from the duties prescribed by the Succession Duties Act on any transmission of amounts shown in the bank account of a deceased employee while he was employed outside the Province of Quebec for the International Civil Aviation Organization and was not a national of Canada or the Province of Quebec, when such bank account was opened in Montreal, according to the regulations of this Organization and served to deposit the salaries received by such employee.

The amounts thus exempted should not be more than the salaries received by the deceased employee during the six-month period prior to his death.

(*d*) Exemption from the tax payable under the Gasoline Tax Act, by way of refund and pursuant to the procedure to be set by the Minister of Revenue;

(*e*) Exemption from the tax payable under the Retail Sales Tax Act, by way of refund and pursuant to the procedure to be set by the Minister of Revenue;

(*f*) Exemption from payment of the registration fees of a pleasure motor vehicle, as exigible under the Highway Code, pursuant to procedure to be set by the Department of Transportation and Communications concerning the issuing of registration plates and payment of the cost thereof;

(*g*) Exemption from the tax payable under the Telecommunication Tax Act by way of refund and pursuant to the procedure to be set by the Minister of Revenue.

2. The paragraphs (*a*) and (*b*) of the aforesaid section 1 also apply to international employees of ICAO, on condition that said persons are not nationals of Canada and the Province, are not operating a business and do not fulfill a function or employment other than their employment on behalf of this Organization.

3. The aforesaid exemptions are granted as of the date of adoption of this Order-in-Council save that the exemption provided in paragraph (*g*) of section 1 will be retroactive to 1 May 1965.

4. The present Order-in-Council replaces Order-in-Council No. 172 of 26 January 1965.

---

3. Malta

DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT, 1966

AN ACT[4] to make provision for certain immunities and privileges of diplomatic and consular representatives, international organizations and representatives thereof and certain other persons and for purposes incidental to or connected with the matters aforesaid.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:—

Part I

Preliminary

1. This Act may be cited as the Diplomatic Immunities and Privileges Act, 1966.

[4] No. 1 of 1966. Assented to on 11 January 1966.

2. (I) In this Act, unless the context otherwise requires—

...

"Malta" has the same meaning as is assigned to it in section 126 of the Constitution of Malta;

...

"the Minister" means the Minister for the time being responsible for external affairs;

...

Part III

International organizations and persons connected therewith

5. (1) This Part shall apply to any organization which the Minister may by order declare to be an organization of which Malta or the Government thereof and one or more other States or the government or governments thereof are members.

(2) The Minister may from time to time by order—

(*a*) Provide that any organization to which this section applies (hereinafter referred to as "the organization") shall, to such extent as may be specified in the order, have the immunities and privileges set out in Part I of the Second Schedule to this Act and shall also have the legal capacities of a juridical person;

(*b*) Confer upon—

(i) any persons who are representatives (whether of governments or not) on any organ of the organization or are members of any committee of the organization or of any organ thereof;

(ii) such officers or classes of officers of the organization as may be specified in the order, being the holders of such high offices in the organization as may be so specified; and

(iii) such persons employed on missions on behalf of the organization as may be specified in the order;

to such extent as may be specified in the order, the immunities and privileges set out in Part II of the Second Schedule to this Act;

(*c*) Confer upon such other classes of officers and servants of the organization as may be specified in the order, to such extent as may be so specified, the immunities and privileges set out in Part III of the Second Schedule to this Act;

and Part IV of the Second Schedule to this Act shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in sub-paragraph (i) of paragraph (*b*) of this subsection and to the families of officers of the organization, any immunities and privileges conferred on the representatives, members or officers under that paragraph, except in so far as the operation of the said Part IV is excluded by the order conferring the immunities and privileges.

(3) An order made under this section may, notwithstanding any provision of any written law, including this Act, confer on any organization or person any immunities or privileges which are required to be conferred on that organization or person in order to give effect to any international agreement in that behalf but shall not confer any immunities or privileges greater in extent than those so required as aforesaid or confer any immunity or privilege upon any person as the representative of the Government of Malta or as a member of the staff of such a representative.

6. The Minister may from time to time by order confer on the judges and registrars of the International Court of Justice established by the Charter of the United Nations, and of any other international judicial institution approved by the Minister, and on suitors to

that Court or to any such institution and their agents, counsel and advocates, such immunities, privileges and facilities as may be required to give effect to any resolution of, or convention approved by, the General Assembly of the United Nations or, in the case of any such institution as aforesaid, as the Minister may deem necessary for the proper discharge of its functions.

7. (1) Where a conference is held in Malta and is attended by the representatives of the Government of Malta and the government or governments of one or more other States, the Minister may compile such list of the representatives of the last-mentioned government or governments and of the members of his official staffs as he shall think proper, and shall cause such list and any amendment of such list or amended list to be published by notice in the Government Gazette, and, subject to the provisions of this Act, every representative of the government of such State who is for the time being included in the list shall be entitled to the like immunities as are awarded to a head of mission of a sending State accredited to Malta and to members of the official staff of such a head of mission respectively.

(2) Every list or amendment thereof published under this section shall include a statement of the date from which the list or amendment, as the case may be, takes or took effect.

Part IV

General

8. The Minister shall compile a list of the persons appearing to him to be entitled to immunities or privileges by or under the provisions of this Act, except—

(*a*) children under the age of eighteen years of a person so entitled; and

(*b*) any person whose name appears on a list published under section 7 of this Act, and he shall from time to time amend the list and shall cause the list and any amendment of such list or amended list to be published in the Government Gazette.

9. If in any proceedings any question arises whether or not any person or any organization is entitled to immunities or privileges by or under the provisions of this Act, a certificate issued by or under the authority of the Minister stating any fact relevant to that question shall be conclusive evidence of that fact.

10. ...

(2) Any immunity or privilege conferred under the provisions of sections 5, 6 and 7 of this Act may be waived in such manner as may be prescribed by the Minister in the relative order or notice.

11. (1) Any article which is imported or taken out of bond without payment of customs duty in pursuance of any immunity or privilege conferred by or under the provisions of this Act shall not be sold or otherwise disposed of to a person who is not entitled to the like immunity or privilege except with the consent of the Comptroller of Customs and upon the payment to him of customs duty thereon at the rate required according to the law relating to the payment of customs duty.

(2) Any exemption from customs duty granted to any person by or under this Act shall not be construed as exempting that person from compliance with the formalities in respect of the importation of goods which are prescribed in any law relating to customs or the importation of goods.

(3) Any exemption from taxes, duties, rates, fees or other dues to which this Act relates shall be subject to compliance with such conditions as the Minister responsible for finance or any public officer delegated by him in that behalf may prescribe for the protection of the revenue.

...

Part V

Miscellaneous provisions

13. (1) The Diplomatic Privileges (Extension) Act, 1950, shall be repealed without prejudice to anything done or omitted to be done thereunder.

...

(3) Where there is any conflict or inconsistency between any provision of this Act or of any order or notice made or issued thereunder and any provision of any other written law other than the Consular Conventions Act, 1955, then the provision of this Act or of the order or notice made or issued thereunder shall prevail, and the provision of that written law shall, to the extent of the conflict or inconsistency, have no effect.

SCHEDULES

...

Second Schedule

Section 5

INTERNATIONAL ORGANIZATION AND PERSONS CONNECTED THEREWITH

Part I

Immunities and Privileges of the organization

1. Immunity from suit and legal process.

2. The like inviolability of official archives and premises occupied as offices as is accorded in respect of the official archives and premises of a head of mission of a sending State.

3. The like exemption or relief from taxes, duties, rates and fees other than duties on the importation of goods, as is accorded to a sending State.

4. Exemption from duties on the importation of goods directly imported by the organization for its official use in Malta or for exportation, or on the importation of any publications of the organization directly imported by it, such exemption to be subject to compliance with such conditions as the Minister responsible for finance or any public officer delegated by him in that behalf may prescribe for the protection of the revenue.

5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organization for its official use and in the case of any publications of the organization directly imported or exported by it.

6. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside Malta), of any reduced rates applicable for the corresponding service in the case of press telegrams.

Part II

Immunities and Privileges of high officers, representatives, members of committees and persons on missions

1. The like immunity from suit and legal process as is accorded to a head of mission of a sending State.

2. The like inviolability of residence as is accorded to such a head of mission.

3. The like exemption or relief from taxes, duties, rates and fees as is accorded to such a head of mission.

Part III

Immunities and Privileges of other officers and servants

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

2. Exemption from income tax in respect of emoluments received as an officer or servant of the organization.

Part IV

Immunities and Privileges of official staff and of high officer's family

1. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as a representative on any organ of the organization or a member of any committee of the organization or of an organ thereof, his official staff accompanying him as such a representative or member shall also be entitled to those immunities and privileges to the same extent as the retinue of a head of mission of a sending State is entitled to the immunities and privileges accorded to the head of mission.

2. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as an officer of the organization, that person's wife or husband and children under the age of twenty-one years shall also be entitled to those immunities and privileges to the same extent as the wife or husband and children of a head of mission of a sending State are entitled to the immunities and privileges accorded to the head of mission.

...

---

4. Netherlands

NOTE DATED 1 JUNE 1967 FROM THE PERMANENT REPRESENTATIVE OF THE NETHERLANDS TO THE UNITED NATIONS

...

Referring ... to [a] letter of 29 June 1962 from the Netherlands State Secretary of Finance concerning the levying of taxes from officials and experts of the United Nations and its Specialized Agencies ... the Permanent Representative of the Netherlands wishes to state that on 30 January 1964 a decision was taken by the Netherlands authorities to the effect that point 5 of the letter just mentioned [under which, in the event of such an official or expert being exempt from income tax on his salary and emoluments, that salary and those emoluments shall be disregarded when calculating the amount of income tax payable] was deleted. This implies that if a United Nations official or expert is exempt from income tax on his United Nations salary and emoluments but has additional taxable income, the United Nations salary and emoluments shall be taken into account when calculating the amount of income tax payable. This is consequential to the inclusion of article 12a into the "Uitvoeringsbeschikking Algemene Wet inzake Rijksbelastingen 1962".

...

---

5. New Zealand

(*a*) The World Bank Group Names and Emblems Notice 1966[5]

Bernard Fergusson, Governor-General

Pursuant to the Police Offences Act 1927 and section 38 of the Statutes Amendment Act 1948, His Excellency the Governor-General hereby gives notice as follows.

NOTICE

1. (1) This notice may be cited as the World Bank Group Names and Emblems Notice 1966.

(2) This notice shall come into force on the seventh day after the date of its notification in the *Gazette*.

2. No person shall use in connection with any trade or business—

(*a*) The name of the International Bank for Reconstruction and Development; or

(*b*) The name World Bank; or

(*c*) The official emblem or seal of the International Bank for Reconstruction and Development, the designs whereof are reproduced in the First Schedule to this notice; or

(*d*) Any other name, word, seal, emblem, or device having reference in any way to the International Bank for Reconstruction and Development.

3. No person shall use in connection with any trade or business—

(*a*) The name of the International Finance Corporation; or

(*b*) The official emblem and seal of the International Finance Corporation, the design whereof is reproduced in the Second Schedule to this notice; or

(*c*) Any other name, word, seal, emblem, or device having reference in any way to the International Finance Corporation.

4. No person shall use in connection with any trade or business—

(*a*) The name of the International Development Association; or

(*b*) The official emblem and seal of the International Development Association, the design whereof is reproduced in the Third Schedule to this notice; or

(*c*) Any other name, word, seal, emblem, or device having reference in any way to the International Development Association.

First Schedule

Official emblem of the International Bank for Reconstruction and Development

[Not reproduced]

Official seal of the International Bank for reconstruction and Development

[Not reproduced]

Second Schedule

Official emblem and seal of the International Finance Corporation

[Not reproduced]

[5] Issued under the authority of the Regulations Act 1936. Date of notification in the *Gazette*: 24 February 1966.

THIRD SCHEDULE

Official emblem and seal of the International Development Association
[Not reproduced]

As witness the hand of His Excellency the Governor-General this 1st day of February 1966.

Keith HOLYOAKE
Minister of External Affairs

(*b*) THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION NAME AND EMBLEM NOTICE 1966[6]

Bernard FERGUSSON, Governor-General

PURSUANT to the Police Offences Act 1927 and section 38 of the Statutes Amendment Act 1948, His Excellency the Governor-General hereby gives notice as follows.

NOTICE

1. (1) This notice may be cited as the United Nations Educational, Scientific and Cultural Organization Name and Emblem Notice 1966.

(2) This notice shall come into force on the seventh day after the date of its notification in the *Gazette*.

2. No person shall use in connexion with any trade or business—

(*a*) The name of the United Nations Educational, Scientific and Cultural Organization; or

(*b*) The word UNESCO; or

(*c*) The official emblem and seal of the United Nations Educational, Scientific and Cultural Organization, the design whereof is reproduced in the Schedule to this notice; or

(*d*) Any other name, word, seal, emblem, or device having reference in any way to the United Nations Educational, Scientific and Cultural Organization.

SCHEDULE

Official emblem and seal
[Not reproduced]

As witness the hand of His Excellency the Governor-General this 1st day of February 1966.

Keith HOLYOAKE
Minister of External Affairs

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6. Rwanda

LEGISLATIVE ORDINANCE OF 23 OCTOBER 1964 DETERMINING THE RULES GOVERNING DIPLOMATIC IMMUNITIES IN TAX AND CUSTOMS MATTERS AND THE RULES GOVERNING RELATED MATTERS[7]

We, Grégoire KAYIBANDA, President of the Republic,

[6] Issued under the authority of the Regulations Act 1936. Date of notification in the *Gazette*: 24 February 1966.

[7] Translation by the Secretariat of the United Nations.

Considering the Constitution of the Republic, particularly articles 63, 64, 75, third paragraph, and 82, first and second paragraphs;

Considering the Act of 17 January 1964 deciding on the accession of Rwanda to the Vienna Convention on Diplomatic Relations of 18 April 1961 and approving the accession of Rwanda to the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies, and the Agreement on the Privileges and Immunities of the International Atomic Energy Agency;

Considering the decrees in force on the personal tax;

Considering the decrees in force on customs rules;

Considering international law, doctrine, and custom practised by the community of nations;

Considering the advice of the Council of Ministers;

Considering the urgency of the matter;

On the proposal of our Minister for Foreign Affairs and our Minister of Finance and Foreign Trade,

Order:

CHAPTER I

DUES AND TAXES ON IMMOVABLE PROPERTY

Section 1

Embassies and legations

Article 1

The premises, buildings and other appurtenances owned or leased by foreign States for the exclusive needs (1) of their diplomatic services and for the accommodation of their diplomatic agents (2) and chancery agents (3) shall be exempt, on condition of reciprocity, from all registration fees and related taxes which would normally be due in that case.

Article 2

The premises, buildings and other appurtenances owned or leased by foreign States and made available by them free of charge to their diplomatic and chancery agents for the purposes of their personal residence shall be exempt, on condition of reciprocity, from the personal tax and related taxes. This exemption shall also cover premises and appurtenances leased by diplomatic and chancery agents for the purposes of their personal residence.

Article 3

The exemptions referred to in articles 1 and 2 shall apply only to the extent that these premises and appurtenances are used concomitantly for the purposes which were the grounds for their exemption.

Article 4

The exemptions referred to in articles 1 and 2 shall not apply to dues and taxes in respect of which some other person is legally liable and which are paid by the foreign State only by way of agreement or incidentally.

Article 5

The exemptions referred to in articles 1 and 2 shall not apply to dues and taxes which represent payment for specific services rendered.

...

CHAPTER II

DUES AND TAXES ON THE PERSON AND PROPERTY OF AGENTS AND EMPLOYEES OF EMBASSIES, LEGATIONS AND CONSULATES

Section 1

Embassies and legations

Article 7

Diplomatic agents accredited to Rwanda and chancery agents of embassies and legations accredited to Rwanda (6) shall be exempt from all dues and taxes, direct or indirect, personal or real, national, regional or municipal, except:

(*a*) Indirect taxes of a kind which are normally incorporated in the price of goods or services;

(*b*) Dues and taxes on private immovable property situated in the territory of Rwanda, unless the agent concerned holds it in the name of and on behalf of the sending State for the purposes of the diplomatic mission;

(*c*) Registration court or record fees and mortage dues, with respect to immovable property covered under (*b*);

(*d*) Dues and taxes on all private income having its source in Rwanda;

(*e*) Charges levied for specific services rendered.

This exemption shall be accorded to the persons concerned only if they are not nationals of or permanently resident in Rwanda, and do not practise any activity in Rwanda other than their official activities.

Article 8

In the event of the death of one of the agents referred to in article 7, first paragraph, the withdrawal of all the movable property of the deceased shall be permitted free of charge, with the exception of any property acquired in the country the export of which was prohibited at the time of his death.

Article 9

The members of the families of the agents referred to in article 7 forming part of their respective households shall, if they are not nationals of Rwanda and if they do not practise any activity in Rwanda other than official activity at their embassy or legation, enjoy the exemptions specified in articles 7 and 8.

In the case referred to in article 8, the permit for withdrawal without charge shall cover movable property the presence of which in Rwanda is due solely to the presence there of the deceased as a member of the family of one of the agents referred to in article 7.

...

CHAPTER III

CUSTOMS DUTIES AND TAXES ON IMPORTED ARTICLES

The list of exemptions in this chapter is exhaustive. Consequently it is not in derogation of health regulations, plant disease control, narcotics control, weapons control, etc.

Section 1

Foreign Heads of State and persons in their suite. Luggage and means of transportation

Article 12

Luggage (8) accompanying foreign Heads of State and the persons in their suite travelling with them shall always be admitted to Rwanda without inspection or formalities even if the journey is made *incognito*.

...

Section 2

Heads of Government and Foreign Ministers on official business

...

Articles for personal use

Article 15

Articles imported for personal use by Heads of Government and Foreign Ministers shall be accorded the treatment prescribed in article 18 below.

Section 3

Diplomatic agents

...

Articles for personal use

Article 18

A foreign diplomatic agent forming part of a mission accredited to Rwanda shall enjoy, subject to the provisions of article 21, total exemption from customs duties, taxes and related charges other than charges for storage, cartage and similar services, on articles for his personal use, including use by the members of his family forming part of his household.

This exemption, which shall be enjoyed *ex officio* by the heads of diplomatic missions, including the Resident Representative of the United Nations in Rwanda, shall be accorded to other diplomatic agents only on condition of reciprocity.

Quotas may be fixed by the Minister of Finance for the importation of certain articles.

Article 19

The articles referred to in articles 15 and 18 must be cleared at the Kigali custom-house.

The articles may be cleared at another custom-house only upon authorization of the Customs Service of the Ministry of Finance.

In the event that this authorization is not issued, the articles should be reshipped to the Kigali custom-house under cover of a "declaration of transfer of custom-house". And if it appears from the documents produced that the consignee belongs to the category of persons who may enjoy exemption, the statement "Diplomatic immunities — Exempt from inspection" shall be endorsed on the "declaration of transfer of custom-house", and the packages shall be sealed without inspection. The importer shall be invited to submit the articles again to the Kigali custom-house for the purpose of complying with the formalities of admission free of duty.

Article 20

In the event that the articles referred to in articles 15 and 19 are imported with the personal luggage of the diplomatic agents concerned, they may be cleared on the spot under cover of a release not entailing any levy and bearing the statement "Diplomatic immunities".

Article 21

The exemption specified in articles 15 and 18 shall apply only if an authorization from the Customs Service of the Ministry of Finance has been obtained before the importation of the articles (10).

Except for the case referred to in article 19, this authorization may be accorded only upon presentation of a "declaration of consumption" including a description of the articles.

This declaration should bear the signature of the interested person, the signature of the head of the diplomatic mission, and the seal of the mission.

...

Article 23

Articles which have been or may be exempted in accordance with articles 15 and 18 shall, to the same extent and on the same conditions, be exempt from excise duties, consumption duties, and transfer and luxury taxes, which would normally be due by reason of their importation.

These articles shall also be exempt from import licence or notice requirements.

...

Section 6

Diplomatic couriers

Article 26

The packages constituting the diplomatic bag, whether or not accompanied by a diplomatic courier, shall not be opened, detained, or subjected to any customs duties.

These packages must either be stamped with the seal of a Ministry of Foreign Affairs and bear the address of the embassy or legation of the corresponding country, or be stamped with the seal of an embassy or legation and bear the address of the Ministry of Foreign Affairs of the corresponding country.

Article 27

The immunity prescribed in article 26 shall extend to diplomatic bags exchanged by embassies or legations of a foreign country accredited to Rwanda, on the one hand, and to one of the neighbouring countries, on the other hand, provided that these embassies or legations are served by a single head of mission or share joint services for the administration of technical assistance which are essential to their proper functioning.

Article 28

The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected in the performance of his functions, whether he is Rwandese or an alien. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of the preceding paragraph shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 29

The packages constituting a diplomatic bag sent by post or by air must be withdrawn from customs by a person authorized for that purpose, as a diplomatic courier, by a passport, a way-bill, a courier's letter or a letter of accompaniment.

Article 30

Packages which are sealed but are not mentioned in the official documents of accompaniment, passports of way-bills shall be sent by declaration of transfer of custom-house to the Kigali custom-house.

The head of the custom-house may leave the packages duly sealed if it is apparent that they contain only diplomatic documents.

Article 31

Where the number or volume of the packages of a foreign diplomatic courier is such as to give rise to suspicion of abuse, the local head of customs shall nonetheless allow them to pass but he shall immediately and directly notify the Customs Service of the Ministry of Finance, so that it may take the measures it deems appropriate.

In any case, official seals must be respected by customs agents.

Article 32

A diplomatic courier shall remain subject, in respect of his personal luggage, to the ordinary regulations unless his official functions confer certain immunities on him.

Section 7

Articles for the official needs of embassies and legations

Article 33

Articles for official needs, including construction and repair of embassies and legations, shall be exempt, on condition of reciprocity, from customs duties, taxes, and charges other than charges for storage, cartage and similar services.

Importation of such articles shall be subject to compliance with the formalities prescribed in articles 19 to 21, and shall enjoy the exemptions specified in article 23, likewise on condition of reciprocity.

Quotas may be fixed by the Minister of Finance for the importation of certain articles.

...

CHAPTER IV

TAXES AND DUTIES ON VEHICLES

Article 36

Subject to reciprocity, motor vehicles imported either by diplomatic missions or by diplomatic agents accredited to Rwanda for their official use or for their personal use shall be admitted to Rwanda free of customs duties or taxes under the cover of transit papers valid for the current fiscal year.

Transit papers issued at the time of the admission of such vehicles shall be renewed thereafter at the beginning of each fiscal year on presentation of the vehicles at the customhouse.

The Minister for Foreign Affairs and the Minister of Finance may jointly fix a quota of vehicles to be admitted free of duties and taxes for each diplomatic mission and for each category of diplomatic agents.

Article 37

Subject to reciprocity, the owners of the motor vehicles referred to in article 36 shall be exempt from the personal tax (road tax).

Such vehicles must be registered by the General Tax Service in a numerical series reserved for this purpose; the costs of this formality shall be borne by the mission or the agent concerned.

...

CHAPTER V

TAXES ON EMPLOYMENT

Article 41

Embassies, legations and consulates shall be exempt, on condition of reciprocity, from the personal tax and related taxes on employees, servants and workmen whom they employ to ensure the proper exercise of their official activities.

CHAPTER VI

SOCIAL SECURITY OBLIGATIONS

Article 42

An embassy, legation or consulate shall be exempt from social security obligations in force in Rwanda with respect to the members of the staff in its employ provided that they are not nationals of or permanently resident in Rwanda, and are covered by the social security provisions in force in the sending State or in a third State.

The exemption referred to in the preceding paragraph shall apply on the same conditions to private servants who are in the sole employ of diplomatic agents.

CHAPTER VII

SPECIAL RULES FOR THE UNITED NATIONS AND THE SPECIALIZED AGENCIES

Article 43

Privileges and immunities concerning the United Nations, the Specialized Agencies and the International Atomic Energy Agency shall be determined by the provisions of the Con-

vention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies, and the Agreement on the Privileges and Immunities of the International Atomic Energy Agency respectively, mentioned in the preamble to this Legislative Ordinance. In so far as a provision of this Legislative Ordinance and a provision of any one of the said Conventions deal with the same question, the two provisions shall be considered complementary and both shall apply, without one limiting the effects of the other. In the event of absolute incompatibility, however, the provisions of the Conventions shall prevail.

Section 1

Dues and taxes on immovable property

Article 44

The premises, buildings and other appurtenances owned or leased by the United Nations or by a Specialized Agency for the exclusive needs (1) of their permanent office and for the accommodation of the head of their permanent office shall be exempt from all registration fees and related taxes which would normally be due in that case.

Article 45

The premises, buildings and other appurtenances owned or leased by the United Nations or by a Specialized Agency and made available by it free of charge to its "experts on mission" or its officials exercising functions at least equivalent to those of a principal adviser for the purposes of their personal residence shall be exempt from the personal tax and related taxes.

Article 46

The provisions of articles 3, 4 and 5 shall apply with respect to the exemptions specified in this section.

Section 2

Dues and taxes on persons and property

Article 47

"Experts on mission" and officials of the United Nations and of the Specialized Agencies exercising their functions in Rwanda shall enjoy the exemptions referred to in article 7, first paragraph, article 8 and article 9 to the extent and on the conditions specified in those articles.

Section 3

Customs duties and taxes on imported articles

Article 48

The Secretary-General, Assistant Secretaries-General, directors, the Resident Representative and "experts on mission" of the United Nations and of the Specialized Agencies, on mission in Rwanda, shall enjoy exemption from inspection of their personal luggage to the extent and on the conditions specified in article 17 of this Legislative Ordinance, provided that they establish their official position by means of a passport or a United Nations *laissez-passer*.

Article 49

An "expert on mission" or official of the United Nations or of a Specialized Agency exercising his functions in Rwanda shall enjoy exemption from customs duties, taxes and charges other than charges for storage, cartage and similar services, on articles imported at the time of first installation for his personal use, including use by the members of his family forming part of his household.

The importation of these articles shall be subject to compliance with the formalities prescribed in articles 19, 20 and 21 and shall enjoy the exemptions specified in article 23 of this Legislative Ordinance.

Section 4

Couriers or bags

Article 50

The permanent representative of the United Nations or of a Specialized Agency and "experts on mission" of the United Nations and of such Specialized Agencies as shall be later designated jointly by the Minister for Foreign Affairs and the Minister of Finance shall, exercising their functions in Rwanda, have the right, with respect to their communications with the organizations to which they are responsible, to send and receive documents and correspondence by couriers or sealed bags.

These couriers and bags shall be assimilated to diplomatic couriers and bags and shall enjoy, to the same extent and on the same conditions, the benefits of articles 26 to 32 of this Legislative Ordinance.

Section 5

Articles for official needs

Article 51

Articles and publications for the official needs of the permanent offices of the United Nations and of the Specialized Agencies in Rwanda shall be accorded the treatment prescribed in article 33 of this Legislative Ordinance to the extent and on the conditions specified in that article.

Section 6

Taxes and duties on vehicles

Article 52

The exemptions referred to in articles 36 and 37 of this Legislative Ordinance shall apply to motor vehicles imported by the permanent office in Rwanda of the United Nations or of a Specialized Agency, by their "experts on mission" or by their officials exercising functions at least equivalent to those of a principal adviser for their official use or for personal use.

The importation of these vehicles shall be subject to the special provisions of articles 36 and 37 concerning transit papers, registration, and quotas.

Article 53

The Protocol Office of the Ministry of Foreign Affairs shall issue to the offices of the United Nations and of the Specialized Agencies plates bearing the initials of those organiza-

tions for the official vehicles specified by the Ministry, as well as for the personal vehicles of the persons referred to in article 52, first paragraph.

These plates must be turned to the Ministry of Foreign Affairs as soon as an official vehicle ceases to be used for the purposes of the office or as soon as a person referred to in article 52, first paragraph, ceases to exercise his functions in Rwanda.

Section 7

Taxes on employment

Article 54

The offices of the United Nations and of the Specialized Agencies shall enjoy the exemption referred to in article 41 of this Legislative Ordinance.

Section 8

Social security obligations

Article 55

The offices of the United Nations and of the Specialized Agencies, their "experts on mission" and their officials shall enjoy the exemptions referred to in article 42, to the extent and on the conditions specified in that article.

CHAPTER VIII

OTHER SPECIAL RULES

Article 56

Special rules concerning tax and customs privileges and immunities for officials of international organizations, institutions or associations, and special rules for categories of foreign technicians working in Rwanda shall be determined by separate conventions entered into for that purpose.

Article 57

This Legislative Ordinance shall come into force on the date of its signature.

Kigali, 23 October 1964

Annex

(1) These premises therefore remain subject to taxes under the ordinary law if they are assigned to uses which do not fall within the definition of normal diplomatic activity.

(2) i.e., the head of the diplomatic mission, minister counsellors, secretaries and attachés.

(3) i.e., members of the official staff of embassies and legations other than diplomatic agents; the members of this staff, whose names shall be notified to the Minister for Foreign Affairs by the State concerned, may include chancery secretaries, clerks, typists, stenographers, etc.; interpreters; couriers; chaplains; physicians; legal advisers. The persons in the last three categories, however, are considered as forming part of the official staff only if they genuinely form part of the diplomatic mission and belong exclusively or at least mainly to it, and not if they are normally resident in the country and exercise functions in the mission only as a subordinate or incidental activity.

...

(6) The service staff of diplomatic missions and the service staff of members of missions are exempt from dues and taxes on the emoluments they receive by reason of their employment, provided that they are not nationals of or permanently resident in Rwanda.

...

(8) The notion of "luggage" is defined by Ordinance 33/9 of 6 January 1950 (art. 130 *ter*), as amended on this date, in the following terms: Travellers' luggage is admitted free of import duties and without documents if it corresponds to the social status of the traveller in question, it is not imported in abnormal quantity, and the customs authorities have no reason to suspect fraud.

Nevertheless, this exemption may be accorded to the crews of vessels, aircraft and other means of public transportation only with respect to clothing, personal linen and toilet articles. (Decree of 10 June 1952, paragraph 3, amended by Decree of 30 July 1957.)

The luggage of travellers includes:

(*a*) Clothing, personal linen and toilet articles, new or used, in the luggage accompanying the traveller;

(*b*) The articles listed hereunder, if the traveller carries them on his person or in the luggage accompanying him at the time of his passage through customs:

one camera and normal accessories with no more than twelve plates or six rolls of film;
one miniature cinematograph camera and normal accessories with no more than thirty metres of film;
sports equipment excluding firearms;
one portable musical instrument;
one portable gramophone with no more than ten records;
one portable wireless receiving set, excluding sets for installation in automobiles;
one pair of binoculars;
one portable typewriter;
minor camping equipment (small tent, sleeping bag, a few cooking utensils, etc.);
one portable sewing machine;
one portable sound-recording apparatus (dictaphone, etc.) of small size, using tape, wire or disks, with no more than two rolls of tape or wire, or ten disks;
the following portable machines normally used by the traveller: an iron, an electric razor, medical electrical apparatus, etc.; travelling rugs; small toys; one perambulator.

Exemption shall also be accorded for a quantity of tobacco, cigars and cigarettes not exceeding one kilogramme in all. This exemption shall apply, however, only to travellers more than ten years of age, excluding the crews of vessels, aircraft, and other means of public transportation.

The articles listed above shall not be considered as travellers' luggage if they are imported for commercial or professional purposes.

If travellers established outside Rwanda import temporarily articles listed in paragraph (*b*) above, the nature, quantity or value of which gives reason to fear abuse, the removal of a tourist transit permit accompanied by the deposit of a bond shall be a prerequisite for the importation of those articles free of duties.

With respect to travellers who have recently settled or established their residence in Rwanda for the first time, exemption shall be granted for the articles listed in paragraph (*b*) above only if it is proved to the satisfaction of the customs authorities that they are used personally by the traveller and that they bear patent traces of use, or, if not, that the traveller has owned and used them for at least six months. This latter fact may be proved by means of a bill of sale signed by the seller or any other equivalent document.

As for travellers established in Rwanda who return there after a visit abroad, exemption shall be granted for the articles listed in paragraph (*b*) above, excluding cameras and cinematograph cameras, only if they bear traces of use or, if not, if it is proved that they were exported from Rwanda while they were *en libre pratique.*

As for cameras, exemption shall be accorded only upon submission of a certificate of identity issued by customs.

...

(10) In no event, therefore, can the restitution of import duties on goods already imported *en libre pratique* be considered.

---

7. Sweden

ACT OF 16 DECEMBER, 1966 (NO. 664) WITH CERTAIN STIPULATIONS ON IMMUNITY AND PRIVILEGES[8]

...

Article 2

Notwithstanding what may be otherwise stipulated by law or by special ordinance, the following international organizations shall enjoy immunity and privileges in accordance with the stipulations of any constitution or any agreement to which Sweden has adhered:

(1) The United Nations;
(2) The Specialized Agencies of the United Nations;
(3) The Council of Europe;
(4) The Customs Cooperation Council;
(5) The International Atomic Energy Agency;
(6) The European Free Trade Association;
(7) The Organisation for Economic Co-operation and Development;
(8) The European Space Research Organization;
(9) The International Court of Justice;
(10) The European Court of Human Rights;
(11) The International Centre for Settlement of Investment Disputes;
(12) The Asian Development Bank.

Article 3

Furthermore, the following persons shall be entitled to immunity and privileges in accordance with a constitution or an agreement referred to in article 2:

(1) The representatives of the members of the organizations enumerated in article 2 under (1)-(8), (11) and (12) as well as persons in the service of or persons carrying out missions for these organizations;

(2) The Judges of the International Court of Justice and its personnel as well as those who otherwise take part in proceedings before the Court;

(3) The members of the European Commission of Human Rights;

(4) The Judges of the European Court of Human Rights as well as the Registrar and the Deputy Registrar of the Court;

(5) The Judges of the Tribunal established by the Convention on the Establishment of a Security Control in the field of Nuclear Energy as well as those who otherwise take part in proceedings before the Tribunal;

(6) Members of a conciliation commission, an arbitral tribunal or a committee set up in accordance with the Convention on the Settlement of Investment Disputes between States and nationals of other States as well as those who otherwise take part in proceedings in accordance with the Convention.

Article 4

Having concluded an agreement with an organization referred in article 2 under (1)-(8) and (12), the King-in-Council may in specific cases accord immunity and privileges also to other persons than those referred to in article 3 under (1) to the extent necessary to meet the purposes of the organization.

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[8] By the entry into force of this Act, on 1 January 1967, the Act of 28 June 1962 (No. 371) concerning special privileges for certain international organizations, etc. ... (see *Juridical Yearbook*, 1963, pp. 14 and 15) was repealed. Translation kindly furnished by the Government of Sweden.

The King-in-Council may also accord a person, who has been commissioned an arbitrator in a dispute between States, and assistants to such an arbitrator immunity and privileges to the extent necessary for the carrying out of the mission.

Article 5

The King-in-Council may issue specific regulations for the application of this Act.

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8. Union of Soviet Socialist Republics

STATUTE[9] ON DIPLOMATIC AND CONSULAR MISSIONS OF FOREIGN STATES ON THE TERRITORY OF THE UNION OF SOVIET SOCIALIST REPUBLICS[10]

...

Final Provisions

Article 29

The privileges and immunities of members of the diplomatic staff of missions provided for in this Statute shall be extended to representatives of foreign States, members of parliamentary and government delegations and, on a basis of reciprocity, to members of delegations of foreign States visiting the USSR to take part in international negotiations, conferences and meetings or on other official business.

Any such persons who are in transit through the territory of the USSR for the same purposes shall enjoy the personal inviolability and other immunities necessary for transit.

The foregoing shall apply to members of the families of the persons referred to in this article who accompany them if these members of their families are not Soviet citizens.

Article 30

The privileges and immunities to be granted to international intergovernmental organizations on the territory of the USSR and to foreign States' missions to such organizations and their staff shall be governed by the relevant international agreements to which the USSR is party.

Article 31

The fact that a person is entitled to the privileges and immunities set forth in this Statute, except in the case of the persons mentioned in articles 9, 18 and 29, shall be established by means of documents issued by the Ministry of Foreign Affairs of the USSR.

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9. Venezuela

DECISION BY THE MINISTRY OF FOREIGN AFFAIRS CONCERNING THE GRANTING OF PRIVILEGES AND IMMUNITIES TO TECHNICAL ASSISTANCE EXPERTS[11]

REPUBLIC OF VENEZUELA—MINISTRY OF FOREIGN AFFAIRS
DIRECTORATE-GENERAL—No. 81
Caracas, 28 February 1966—156 and 108

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[9] Published in *Vedomosti Verkhovnogo Soveta SSSR*, No. 22, of 1 June 1966.

[10] Translation by the Secretariat of the United Nations.

[11] Translation by the Secretariat of the United Nations.

It is hereby decided:

By order of the President of the Republic, in accordance with article 10 of the Act concerning the Immunities and Prerogatives of Foreign Diplomatic Officers of 13 August 1945 and article V of the Agreement concerning Technical Assistance concluded between the National Government and the United Nations and its specialized agencies on 23 August 1954, the experts listed below shall be entitled to the privileges and immunities set forth in the Ministry's Decision No. 124 of 24 May 1963, published in the *Gaceta oficial*, No. 27,159, of 1 June 1963.

[Names follow]

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10. Yugoslavia

(*a*) ARTICLE 8, PARAGRAPH 4, OF THE BASIC LAW ON INSTITUTIONS [12]

International organizations, foreign citizens and foreign legal persons may establish an institution-undertaking when this is provided for by international agreements or approved by the Federal Executive Council.

(*b*) PARAGRAPH 1, ITEM 5, OF THE RULE ON THE CONDITIONS FOR EXEMPTION OF GIVING GUARANTEES FOR TEMPORARY IMPORTED GOODS [13]

[Are exempted from giving guarantees for temporary imported goods]

...

Experts of technical assistance engaged on an assignment in Yugoslavia for more than a year when temporary importing passenger cars or motorcycles—provided they submit a certificate issued by the Institute for International Cooperation to the effect that they are working on an assignment in Yugoslavia under a technical assistance programme.

(*c*) ARTICLE 3 OF THE BASIC LAW ON CONTRIBUTION FOR THE USE OF BUILDING SITE [14]

Contribution for the use of a building site cannot be prescribed for... buildings of international and inter-State organizations serving for the needs of these organizations and as apartments of their staff, unless otherwise provided under an international agreement.

(*d*) ARTICLE 20 OF THE BASIC LAW ON DISABILITY INSURANCE [15]

Foreign citizens who, within the territory of Yugoslavia, are engaged by international organizations or institutions, foreign diplomatic or consular missions or in similar service with foreign citizens enjoying diplomatic immunity, are insured under the provisions of this law only if this is prescribed by an international agreement.

(*e*) ARTICLE 15 OF THE REGULATION GOVERNING THE CALCULATION AND PAYMENT OF CONTRIBUTION FROM PERSONAL INCOME [16]

Persons employed within the territory of Yugoslavia by diplomatic or consular missions or by foreign and international organizations, if they come under the category of those making obligatory contributions, keep accounts and make payments themselves....

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[12] Official Gazette of the Socialist Federal Republic of Yugoslavia, 5/1965, p. 59. Translation kindly furnished by the Government of Yugoslavia.

[13] *Ibid.*, 8/1965, p. 200.

[14] *Ibid.*, 10/1965, p. 254.

[15] *Ibid.*, 10/1965, p. 296.

[16] *Ibid.*, 11/1965, p. 361.

(*f*) ARTICLE 5 OF THE BASIC LAW ON TAX ON IMMOVABLE PROPERTY AND RIGHTS[17]

Tax on sale of immovable property and rights is not charged ... when the right to ownership over the immovable property is transferred to a foreign mission—on condition of reciprocity.

(*g*) ARTICLE 36 OF THE BASIC LAW ON ADMINISTRATIVE TAXES[18]

Foreign citizens, organs, institutions and organizations of foreign states are exempt from taxes under items 1, 3 and 5, paragraph 1, of this Article, on condition of reciprocity.

(*h*) ARTICLE 25, PARAGRAPH 1, OF THE LAW ON GENERAL LEGAL PROCEDURE[19]

With respect to the competence of domestic organs in matters in which the party is a foreigner enjoying immunity in Yugoslavia, a foreign State or an international organization, the regulations of international law recognized by the Socialist Federal Republic of Yugoslavia are applicable.

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[17] *Ibid.*, 12/1965, p. 423.
[18] *Ibid.*, 14/1965, p. 587.
[19] *Ibid.*, 18/1965, p. 857.

Chapter II

TREATY PROVISIONS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

A. Treaty provisions concerning the legal status of the United Nations

1. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS.[1] APPROVED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 13 FEBRUARY 1946

The following States acceded to the Convention on the Privileges and Immunities of the United Nations in 1966:[2]

State	*Date of receipt of instrument of accession*[3]
Gambia	1 August 1966[d]
Malawi	17 May 1966
Singapore	18 March 1966[d]

This brought up to 95 the number of States parties to this Agreement.

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2. AGREEMENTS RELATING TO MEETINGS AND INSTALLATIONS

(*a*) Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations. Signed at Lake Success on 26 June 1947[4]

(*i*) Supplemental Agreement[5] between the United Nations and the United States of America regarding the Headquarters of the United Nations. Signed at New York on 9 February 1966.

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[1] United Nations, *Treaty Series*, vol. 1, p. 15.

[2] The Convention is in force with regard to each State which deposited an instrument of accession with the Secretary-General of the United Nations as from the date of its deposit.

[3] The symbol "d" immediately following the date appearing opposite the name of a State denotes a declaration by that State recognizing itself bound, as from the date of its independence, by the Convention, the application of which had been extended to its territory by a State then responsible for the conduct of its foreign relations. The date shown is the date of receipt by the Secretary-General of the notification to that effect.

[4] United Nations, *Treaty Series*, vol. 11, p. 12.

[5] Came into force on the date of signature.

The United States of America and the United Nations:

Considering that the office space available within the Headquarters District as defined in Annex 1 to the Agreement Regarding the Headquarters of the United Nations signed at Lake Success on 26 June 1947 is inadequate and it has become necessary for units of the Secretariat of the United Nations to be provided with other premises outside the area so delineated;

Considering that, for this purpose, the United Nations has acquired the building and long-term lease to the land known as 805-7 First Avenue (801 United Nations Plaza) and 343 East 45th Street in the Borough of Manhattan and has also acquired a five-year lease of certain office space in the Alcoa Plaza Associates Building in New York City;

Considering that it is desirable that, with respect to those premises, the United Nations, officials of the United Nations, and Representatives of the Members of the United Nations be accorded the necessary privileges and immunities as envisaged in Article 105 of the Charter of the United Nations and in the Headquarters Agreement; and

Desiring to conclude a supplemental agreement, in accordance with Section 1 (*a*) of the Headquarters Agreement, in order to include those premises within the Headquarters District in addition to the area defined in Annex 1 to the Headquarters Agreement;

Have agreed as follows:

Article I

The Headquarters District. within the meaning of Section 1 (*a*) of the Agreement between the United States of America and the United Nations Regarding the Headquarters of the United Nations, signed at Lake Success on 26 June 1947, shall include, in addition to the area defined in Annex 1 to that Agreement, the following premises:

(1) All of the office building known as 805-7 First Avenue (801 United Nations Plaza) and 343 East 45th Street, located on a parcel of land in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

> "Beginning at a point formed by the inter-section of the Westerly side of First Avenue and the Northerly side of 45th Street; running thence Westerly along the Northerly side of 45th Street 100 feet; thence Northerly parallel with First Avenue and part of the way through a party wall 80 feet; thence Easterly parallel with 45th Street 20 feet; thence Southerly parallel with First Avenue 39 feet 7 inches; thence again Easterly parallel with 45th Street and part of the way through another party wall 80 feet to the Westerly side of First Avenue; thence Southerly along the Westerly side of First Avenue 40 feet 5 inches to the point or place of beginning."

Provided, however, that the foregoing shall not include those parts of the building on the street floor and basement which are sublet to the Ninth Federal Savings and Loan Association of New York City and to the Radnor Delicatessen, Inc. (with an assignment to Deli-Napoli, Inc.) until such time as the United Nations shall occupy and use those parts for offices of the Secretariat.

(2) That part of the Alcoa Plaza Associates Building located at 866 United Nations Plaza, New York City, as identified by the cross-hatching on the plan annexed hereto [Not reproduced]. Said premises shall include all offices, rooms, halls and corridors located on the third floor of said building within the space identified by said cross-hatching. These premises shall further include the remainder of the third floor from the date that the United Nations takes possession thereof. Said premises shall not, however, include any stairways and elevators giving public access to other floors.

Article II

The Secretary-General of the United Nations shall notify the Permanent Representative of the United States to the United Nations immediately should any of the premises described in Article I, or any part of such premises, cease to be used for offices by the Secretariat of the United Nations. Such premises, or such part thereof, shall cease to be a part of the Headquarters District from the date of such notification.

Article III

The Secretary-General of the United Nations shall notify the Permanent Representative of the United States to the United Nations immediately of the termination of any subleases of parts of the premises described in Article I and of the possession of such parts by the United Nations. Such parts of such premises shall become a part of the Headquarters District from the date of such occupation.

Article IV

This Supplemental Agreement shall enter into force upon its signature.

IN WITNESS WHEREOF the respective representatives have signed this Supplemental Agreement.

DONE in duplicate, in the English language, at New York this ninth day of February, 1966.

For the Government
of the United States of America
Arthur J. GOLDBERG
Permanent Representative
of the United States of America
to the United Nations

For the United Nations
U THANT
Secretary-General

(*ii*) Exchange of notes constituting an agreement[6] between the United Nations and the United States of America amending the Supplemental Agreement reproduced above. New York, 8 December 1966.

I

The Secretary-General

8 December 1966

Sir,

I have the honour to propose that the Supplemental Agreement between the United States of America and the United Nations regarding the Headquarters of the United Nations, concluded on 9 February 1966 in pursuance of Section 1 (*a*) (2) of the Headquarters Agreement of 26 June 1947, be amended by adding to the end of Article I of the said Supplemental Agreement the following paragraph:

"(3) That part of the sixth floor of the Alcoa Plaza Associates Building located at 866 United Nations Plaza, New York City, as indicated on the plan annexed hereto [Not reproduced]. Said premises shall include all offices, rooms, halls and corridors located on the sixth floor of said building within the space identified on said plan. These premises shall further include additional parts of the sixth floor from the date that the

[6] Came into force on 8 December 1966.

United Nations takes possession thereof. Said premises shall not, however, include any stairways and elevators giving public access to other floors."

I further propose that this note and your reply accepting the terms thereof be considered as constituting an amendment to the Supplemental Agreement between the United States of America and the United Nations regarding the Headquarters of the United Nations of 9 February 1966, and that this amendment enter into force on the date of your reply.

Accept, Sir, the assurances of my highest consideration.

U THANT
Secretary-General

His Excellency
Mr. Arthur J. GOLDBERG
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the United States
of America to the United Nations
New York, N.Y.

II

The Permanent Representative of the United States of America to the United Nations

December 8, 1966

Excellency:

I have the honor to acknowledge the receipt of your note of this date proposing that the Supplemental Agreement between the United States of America and the United Nations regarding the Headquarters of the United Nations, concluded on February 9, 1966 in pursuance of Section 1 (*a*)(2) of the Headquarters Agreement of June 26, 1947, be amended by adding to the end of Article I of the said Supplemental Agreement the following paragraph:

[See note I]

The Government of the United States of America considers, in accordance with your proposal, that your note and this note in reply constitute an amendment to the Supplemental Agreement between the United States of America and the United Nations regarding the Headquarters of the United Nations of February 9, 1966, and that this amendment enters into force on the date of this reply note.

Accept, Excellency, the renewed assurances of my highest consideration.

Arthur J. GOLDBERG

His Excellency U THANT
Secretary-General
United Nations
New York, N.Y.

(*b*) Agreement between the United Nations and Brazil concerning the seminar on apartheid, to be held in Brasilia from 23 August to 5 September 1966.[7] Signed at New York on 24 March 1966.

Article V

Facilities, privileges and immunities

1. The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the seminar. Accordingly, officials of the United Nations performing

[7] Came into force on the date of signature.

functions in connexion with the seminar shall enjoy the privileges and immunities provided under articles V and VII of the said Convention.

2. Officials of the specialized agencies attending the seminar in pursuance of paragraph 1 (c) of article II [on participation in the seminar] of this Agreement shall be accorded the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies.

3. Without prejudice to the provisions of the Convention on the Privileges and Immunities of the United Nations, all participants and all persons performing functions in connexion with the seminar shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connexion with the seminar.

4. All participants and all persons performing functions in connexion with the seminar, who are not nationals of Brazil, shall have the right of entry into and exit from Brazil. They shall be granted facilities for speedy travel. Visas, entry and exit permits, where required, shall be granted free of charge.

(*c*) Agreement between the United Nations and Senegal relating to a United Nations seminar on human rights in developing countries to be held at Dakar from 8 to 22 February 1966.[8] Signed at New York on 12 January 1966.

Article V

Facilities, privileges and immunities

[Similar to article V in (*b*) above, with the omission of the words "entry and exit permits" after "visas" in the last sentence of paragraph 4]

(*d*) Agreement between the United Nations and Hungary concerning the seminar on participation in local administration as a means of promoting human rights to be held at Budapest from 14 to 27 June 1966.[9] Signed at New York on 4 March 1966.

Article V

Facilities, privileges and immunities

[Similar to article V in (*b*) above]

(*e*) Agreement between the United Nations and the Philippines relating to the seminar on measures required for the advancement of women with special reference to the establishment of a long-term programme.[10] Signed at New York on 5 April 1966.

Article V

Facilities, privileges and immunities

[Similar to article V in (*b*) above]

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[8] Came into force on the date of signature.

[9] Came into force on the date of signature.

[10] Came into force on the date of signature.

(*f*) Agreement between the United Nations and Jamaica relating to a United Nations seminar on the effective realization of civil and political rights at the national level, to be held at Kingston from 25 April to 8 May 1967.[11] Signed at Kingston on 24 November 1966 and at New York on 6 December 1966.

Article V

Facilities, privileges and immunities

[Similar to article V in (*b*) above]

(*g*) Agreement between the United Nations and Italy regarding the arrangement for the second session of the Governing Council of the United Nations Development Programme.[12] Signed at Geneva and Rome, on 23 May 1966.

I. *Premises, equipment, utilities and stationery supplies*

...

7. Any damage to the premises in the Conference area or injury to persons using such premises or damage to furniture or equipment provided by the Government shall be made good at the expense of the Government without prejudice to the Government's right of recourse as long as such right is not contrary to the present Agreement.

...

II. *Transportation*

The Government shall provide at its expense three chauffeur-driven cars and one chauffeur-driven station-wagon for use by the officers and staff of the Conference and shall ensure adequate car service between the Fiera Milano and their hotels for staff members working during the evening. Any damage to persons or property caused or suffered in using transportation referred to in this section shall be made good at the expense of the Government, without prejudice to the Government's right of recourse as long as such right is not contrary to the present Agreement.

...

IV. *Local personnel for the Conference*

...

3. The Government agrees to indemnity and save harmless the United Nations from any and all actions, causes of actions, claims or other demands arising out of the employment for the United Nations of the personnel referred to in this section.

...

VI. *Privileges and immunities*

1. The Convention on the Privileges and Immunities of the United Nations, to which the Republic of Italy is a party, shall be applicable with respect to the Conference and, in particular, officials of the United Nations connected with the Conference shall be accorded the privileges and immunities specified therein.

2. Representatives of States non-members of the United Nations attending the Conference shall enjoy the same privileges and immunities as accorded representatives of States Members of the Organization by the Convention on the Privileges and Immunities of the United Nations.

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[11] Came into force on 6 December 1966.

[12] Came into force on the date of signature.

3. Representatives of the specialized agencies and other intergovernmental organizations invited to the Conference shall enjoy the same privileges and immunities as accorded to officials of comparable rank of the United Nations.

4. For the purpose of this Conference, the area designated under article I, section 1, shall be deemed to constitute United Nations premises, within the meaning of the provisions of article II, section 2, of the Convention on the Privileges and Immunities of the United Nations, of 13 February 1946, so that the United Nations shall enjoy the privileges and immunities provided thereby. Access to the Conference area and to the Office space therein shall be under control and authority of the United Nations.

5. The Government shall in particular impose no impediment to transit to and from the Conference of any persons whose presence at the Conference is authorized by the United Nations and of any persons of their immediate families, and shall grant any visa required for such persons promptly and without charge.

VII. *Import duties and taxes*

The Government shall allow the temporary importation duty-free of all equipment and supplies and shall waive import duties and taxes with respect to supplies necessary for the Conference. It shall issue without delay to the United Nations any necessary import and export permits.

(*h*) Agreement between the United Nations and Tunisia regarding the organization of the Second United Nations Regional Cartographic Conference for Africa.[13] Signed at Addis Ababa on 4 August 1966.

II. *Premises, equipment, utilities and stationery supplies*

...

7. [Similar to article I, paragraph 7, in (*g*) above]

...

IV. *Transportation*

...

2. [Similar to the second sentence of article II in (*g*) above]

...

5. [Similar to article IV, paragraph 3, in (*g*) above]

...

VIII. *Privileges and immunities*

1. The Convention on the Privileges and Immunities of the United Nations, to which the Tunisian Government is a party, shall be fully applicable for the purposes of the Conference. Consequently, officials of the United Nations working for the Conference shall enjoy the privileges and immunities specified in articles V and VII of that Convention.

2. Officials of the specialized agencies working for the Conference shall enjoy the privileges and immunities which are accorded by virtue of the Convention on the Privileges and Immunities of the Specialized Agencies.

3. Without prejudice to the provisions set forth in the preceding paragraphs, all participants and all persons working for the Conference shall enjoy the privileges and immunities

[13] Came into force on the date of signature.

and shall be entitled to the facilities and courtesies necessary for the independent exercise of the functions entrusted to them for the purposes of the Conference.

4. The representatives of Member States or associate members of the United Nations Economic Commission for Africa and the representatives or observers of other States members of the United Nations or of the specialized agencies shall enjoy the privileges and immunities set forth in article IV of the Convention on the Privileges and Immunities of the United Nations.

5. All participants and all persons working for the Conference other than Tunisian nationals shall be free to enter and leave the country. Facilities shall be granted to them for speedy travel. Should they require visas, these shall be issued to them rapidly and free of charge.

(*i*) Agreement between the United Nations and the Sudan relating to the conduct of a pilot course in photoprocessing and photogrammetry.[14] Signed at Addis Ababa on 8 November 1966.

Article III

Co-operation of the Government

...

6. (*a*) The Government undertakes to bear full responsibility and shall indemnify the United Nations, and the internationally recruited personnel of the Pilot Course against any third party demands or obligations resulting from activities undertaken in the country in the implementation of their technical functions connected with the present agreement. It is understood that the responsibility of the Government shall not be deemed to include claims arising from wilful or reckless acts or omissions, attributable to the internationally recruited personnel of the Pilot Course.

6. (*b*) The Government shall not hold the United Nations liable for any damage to facilities, furnishings, services, supplies and equipment provided for the Pilot Course, nor for injury sustained by persons participating in the Pilot Course or using the facilities of the Course.

Article IV

Privileges and immunities

1. The Convention on the Privileges and Immunities of the United Nations to which the Government of the Sudan is a party shall be fully applicable with respect to the Pilot Course. Accordingly, officials of the United Nations performing functions in connexion with the Pilot Course shall enjoy the privileges and immunities provided in articles V and VII of the said Convention.

2. Without prejudice to the provisions of the preceding paragraph, all trainees and all persons performing functions in connexion with the Pilot Course shall enjoy such privileges and immunities, facilities and courtesies, as are necessary for the independent exercise of their functions in connexion with the Pilot Course.

3. Trainees and persons performing functions in connexion with the Pilot Course who are not nationals of the Sudan shall have the right of entry into and exit from the country. They shall be granted facilities for speedy travel. Visas, where required, shall be granted promptly and free of charge.

[14] Came into force on the date of signature.

3. AGREEMENTS RELATING TO THE UNITED NATIONS CHILDREN'S FUND: REVISED MODEL AGREEMENT CONCERNING THE ACTIVITIES OF UNICEF[15]

Article VI

Claims against UNICEF

[See *Juridical Yearbook*, 1965, pp. 31 and 32]

Article VII

Privileges and immunities

[See *Juridical Yearbook*, 1965, p. 32]

(*a*) Agreements between UNICEF and the Governments of Bulgaria, Liberia and Indonesia concerning the activities of UNICEF.[16] Signed respectively at Neuilly-sur-Seine on 23 December 1965, at Dakar on 8 June 1966 and at Djakarta on 17 November 1966.

These agreements contain articles similar to articles VI and VII of the revised model agreement.

(*b*) Revised Agreement between UNICEF and Guinea concerning the activities of UNICEF in Guinea.[17] Signed at Conakry on 14 December 1966 and at Dakar on 22 December 1966.

Article VI

Claims against UNICEF

1. The Government shall assume, subject to the provisions of this article, full responsibility in respect of claims resulting from the execution of Plans of Operations within the territory of the Republic of Guinea.

2. The Government shall accordingly defend, indemnify and hold harmless UNICEF and its employees or agents against all liabilities, suits, actions, demands, damages, costs or fees on account of death or injury to persons or property resulting from anything done or omitted to be done in the execution within the territory of the Republic of Guinea of Plans of Operations made pursuant to this Agreement, not amounting to misconduct or negligence on the part of such employees or agents.

3. In the event of the Government making any payment in accordance with the provisions of paragraph 2 of this article, the Government shall be entitled to exercise and enjoy the benefit of all rights and claims of UNICEF against third persons.

4. This article shall not apply with respect to any claim against UNICEF for injuries incurred by a staff member of UNICEF.

5. UNICEF shall place at the disposal of the Government any information or other assistance required for the handling of any case to which paragraph 2 of this article relates or for the fulfilment of the purposes of paragraph 3.

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[15] UNICEF *Field Manual*, vol. II, part IV-2, Appendix A (1 October 1964).

[16] Came into force on the respective dates of signature.

[17] Came into force on 22 December 1966.

Article VII

Privileges and immunities

1. The Government shall apply to UNICEF, as an organ of the United Nations, to its property, funds and assets, and to its officials, the provisions of the Convention on the Privileges and Immunities of the United Nations.

2. No taxes, fees, tolls or duties shall be levied on supplies and equipment furnished by UNICEF so long as they are used in accordance with the Plans of Operations.

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4. AGREEMENTS RELATING TO TECHNICAL ASSISTANCE: REVISED STANDARD AGREEMENT CONCERNING TECHNICAL ASSISTANCE[18]

Article I

Furnishing of Technical Assistance

...

6. [See *Juridical Yearbook*, 1963, p. 27, with the substitution of the words "the Administrator of the United Nations Development Programme" for "the Executive Chairman of the Technical Assistance Board".]

Article V

Facilities, privileges and immunities

[See *Juridical Yearbook*, 1963, pp. 27 and 28]

(*a*) Revised Standard Agreement between the United Nations, ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and Singapore concerning technical assistance.[19] Signed at Singapore on 23 September 1966.

This agreement contains articles similar to article I, paragraph 6, and article V of the revised standard agreement.

(*b*) Revised Standard Agreement between the United Nations, ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO and the Democratic Republic of the Congo concerning technical assistance.[20] Signed at Kinshasa on 6 August 1966.

Article I

Furnishing of Technical Assistance

...

6. [Similar to article I, paragraph 6, of the revised standard agreement]

Article V

Facilities, privileges and immunities

This article is similar to article V of the revised standard agreement, with the addition of the following paragraph:

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[18] Revised May 1966.

[19] Came into force on the date of signature.

[20] Came into force on the date of signature.

"3. The Government shall furthermore apply to the various organizations, their property, funds and assets, and to their officials, including technical assistance experts, the provisions of articles II, III, IV, V, VII, VIII, X, XI and XII of the Agreement between the Government of the Democratic Republic of the Congo and the United Nations concerning the United Nations administrative centre at Kinshasa and the privileges and immunities of the Organization and its staff throughout the territory of the Democratic Republic of the Congo."

This agreement is accompanied by the following exchange of letters:

I

Letter from the Minister of Foreign Affairs of the Democratic Republic of the Congo

Kinshasa, 6 August 1966

Sir,

I have the honour to refer to the Revised Standard Agreement concerning technical assistance concluded this day between the United Nations and its specialized agencies and the Government of the Democratic Republic of the Congo.

In view of the expressed desire of the United Nations to maintain the traditional clauses of the Revised Standard Agreement, the Congolese Government wishes to state the following as regards the interpretation of the provisions below:

1. ...

2. The final clause of article V, paragraph 2, shall apply only if a preferential rate for the purchase or sale of currency is established.

Please inform me of your agreement to the foregoing and accept, Sir, the assurances of my highest consideration.

J. M. BOMBOKO
Minister for Foreign Affairs

Mr. OSORIO-TAFALL
Resident Representative, United Nations

II

Letter from the Resident Representative of the United Nations Development Programme

6 August 1966

Sir,

I have the honour to acknowledge receipt of your letter No. 13142/10078/66 of 6 August concerning the Revised Standard Agreement.

I have taken note of the statements in your letter applying to the Agreement, as follows:

[See letter I]

I hereby signify my agreement to this interpretation of the two provisions referred to above and ask you to accept, Sir, the assurances of my highest consideration.

B. F. OSORIO-TAFALL
Resident Representative

H.E. Mr. Justin Marie BOMBOKO
Minister for Foreign Affairs
Central Government
Kinshasa

5. AGREEMENTS RELATING TO THE UNITED NATIONS DEVELOPMENT PROGRAMME (SPECIAL FUND): MODEL AGREEMENT CONCERNING ASSISTANCE FROM THE UNITED NATIONS DEVELOPMENT PROGRAMME (SPECIAL FUND)

Article VIII

Facilities, privileges and immunities

[See *Juridical Yearbook*, 1963, p. 31]

Article X

General provisions

...

4. ... [See *Juridical Yearbook*, 1963, p. 32]

Agreements between the United Nations Development Programme (Special Fund) and the Governments of Mongolia, Bulgaria and Singapore concerning assistance from the United Nations Development Programme (Special Fund).[21] Signed respectively at New York on 26 January 1966, at Sofia on 26 May 1966 and at Singapore on 23 September 1966.

These agreements contain articles similar to article VIII and article X, paragraph 4, of the model agreement.

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6. AGREEMENTS RELATING TO OPERATIONAL ASSISTANCE: STANDARD AGREEMENT ON OPERATIONAL ASSISTANCE[22]

Article II

Functions of the officers

...

3. [See *Juridical Yearbook*, 1965, p. 37]

Article IV

Obligations of the Government

...

5. [See *Juridical Yearbook*, 1965, pp. 37 and 38]

6. [See *Juridical Yearbook*, 1965, p. 38, with the substitution of the words "the Administrator of the United Nations Development programme" for "the Executive Chairman of the Technical Assistance Board".]

Standard agreements between the United Nations, the ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and the Governments of the Congo (Brazzaville), Malta and Singapore on operational assistance.[23] Signed respec-

[21] Came into force on the respective dates of signature.

[22] UNDP, *Field Manual*, Edition II (1 May 1966), section IX-C.

[23] Came into force on the respective dates of signature.

tively at Brazzaville on 5 July 1965, at Malta on 12 May 1966 and at Singapore on 23 September 1966.

These agreements contain articles similar to article II, paragraph 3, and article IV, paragraphs 5 and 6, of the model standard agreement.

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7. AGREEMENTS RELATING TO THE SETTLEMENT OF CLAIMS FILED AGAINST THE UNITED NATIONS IN THE CONGO

(*a*) Exchange of letters constituting an agreement between the United Nations and Greece relating to the settlement of claims filed against the United Nations in the Congo by Greek nationals.[24] New York, 20 June 1966.

I

Letter from the Secretary-General

20 June 1966

Sir,

A number of Greek nationals have lodged with the United Nations claims for damage to persons and property arising from the operations of the United Nations Force in the Congo, particularly those which took place in Katanga. The claims in question have been examined by United Nations officials assigned to assemble all the information necessary for establishing the relevant facts submitted by the claimants or their beneficiaries and any other available information.

The United Nations has agreed that the claims of Greek nationals who may have suffered damage as a result of harmful acts committed by ONUC personnel, and not arising from military necessity, should be dealt with in an equitable manner.

It has stated that it would not evade responsibility where it was established that United Nations agents had in fact caused unjustifiable damage to innocent parties.

It is pointed out that, under these principles, the United Nations does not assume liability for damage to persons or property which resulted solely from military operations or which, although caused by third parties, has given rise to claims against the United Nations; such cases are therefore excluded from the proposed compensation.

Consultations have taken place with the Greek Government. The examination of the claims having now been completed, the United Nations shall, without prejudice to its privileges and immunities, pay to the Greek Government the sum of one hundred thousand United States dollars in outright and final settlement of all claims arising from the causes mentioned in the first paragraph of this letter.

The distribution of the sum referred to in the preceding paragraph shall be effected by the Greek Government. The United Nations shall supply to the Greek Government all information at its disposal which might be useful in effecting the distribution of the sum in question, including the list of individual cases in which the United Nations has considered that it must bear financial responsibility, and any other information relevant to the determination of such responsibility.

Acceptance of the above-mentioned payment shall constitute the outright and final settlement between Greece and the United Nations of all the claims referred to in this letter. It is understood that this settlement does not affect any claims arising from contractual

[24] Came into force on 20 June 1966.

relationships between the claimants and the United Nations or those which are at present still handled by United Nations administrative departments, such as ordinary requisitions.

Accept, Sir, the assurances of my highest consideration.

U THANT
Secretary-General

His Excellency Mr. Alexis S. LIATIS
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Greece to the United Nations
New York, N.Y.

II

Letter from the Permanent Representative of Greece to the United Nations

20 June 1966

Sir,

I have the honour to acknowledge receipt of your letter of 20 June 1966 concerning the settlement of the problem of claims lodged with the United Nations by Greek nationals or their beneficiaries who suffered damage arising from the operations carried out by the United Nations Force in the Congo, particularly those which took place in Katanga.

I have the honour to inform you that the Greek Government has decided to accept the outright and final settlement which you have proposed. This decision was taken bearing in mind the financial burdens of the Organization in the present situation.

Your letter of 20 June 1966 and my reply constitute an agreement between the United Nations and the Greek Government which takes effect this day.

Accept, Sir, the assurances of my highest consideration.

Alexis S. LIATIS
Ambassador, Permanent Representative of Greece to the United Nations

The Secretary-General
of the United Nations
New York, N.Y.

(*b*) Exchange of letters constituting an agreement between the United Nations and Luxembourg relating to the settlement of claims filed against the United Nations in the Congo by Luxembourg nationals.[25] New York, 28 December 1966.

I

Letter from the Secretary-General

This letter is similar to letter I in (*a*) above, except for the fourth and fifth paragraphs, which read as follows:

"It is pointed out that, under these principles, the United Nations does not assume liability for damage to persons or property which resulted solely from military operations or which were caused by third parties, such as the Baluba refugees; cases based on such claims are therefore excluded from the proposed compensation.

"Consultations have taken place with the Luxembourg Government. The examination of the claims having now been completed, the United Nations shall, without prejudice to its privileges and immunities, pay to the Luxembourg Government the sum of fifteen thousand United States dollars in outright and final settlement of all claims arising from the causes mentioned in the first paragraph of this letter."

[25] Came into force on 28 December 1966.

II

Letter from the Permanent Representative of Luxembourg to the United Nations

This letter is similar to letter II in (*a*) above, except that the second paragraph reads as follows:

"I have the honour to inform you that the Luxembourg Government has decided to accept the outright and final settlement which you have proposed."

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8. AGREEMENTS CONCERNING THE SERVICE WITH THE UNITED NATIONS PEACE-KEEPING FORCE IN CYPRUS OF THE NATIONAL CONTINGENTS PROVIDED BY GOVERNMENTS

(*a*) Exchange of letters constituting an agreement between the United Nations and the United Kingdom of Great Britain and Northern Ireland concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of the United Kingdom of Great Britain and Northern Ireland.[26] New York, 21 February 1966.

I

Letter from the Secretary-General

21 February 1966

Sir,

1. I have the honour to refer to the resolution adopted by the Security Council on 4 March 1964 (S/5575) by which it *inter alia*:

"*Recommends* the creation, with the consent of the Government of Cyprus, of a United Nations peace-keeping force in Cyprus. The composition and size of the force shall be established by the Secretary-General, in consultation with the Governments of Cyprus, Greece, Turkey and the United Kingdom. The commander of the force shall be appointed by the Secretary-General and report to him. The Secretary-General, who shall keep the Governments providing the force fully informed, shall report periodically to the Security Council on its operation;

"*Recommends* that the function of the force should be, in the interest of preserving international peace and security, to use its best efforts to prevent a recurrence of fighting and, as necessary, to contribute to the maintenance and restoration of law and order and a return to normal conditions;

"*Recommends* that the stationing of the force shall be for a period of three months, all costs pertaining to it being met, in a manner to be agreed upon by them, by the Governments providing the contingents and by the Government of Cyprus. The Secretary-General may also accept voluntary contributions for that purpose;".

Subsequent resolutions of the Security Council have extended the mandate of the force for successive three-month periods.

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[26] Deemed to have taken effect as from 27 March 1964, the date that the national contingent provided by the Government of the United Kingdom of Great Britain and Northern Ireland departed from its home country to assume duties with the United Nations Peace-Keeping Force in Cyprus, in accordance with paragraph 14.

2. Pursuant to the resolution of 4 March 1964 the United Nations Force in Cyprus was established operationally on 27 March 1964. By an exchange of letters dated 31 March 1964 an Agreement (S/5634)[27] was concluded with the Republic of Cyprus concerning the Status of the Force. Regulations (ST/SGB/UNFICYP/1) for the Force have been issued on 25 April 1964....

3. I wish to express my appreciation to your Government for making available a contingent to serve with the United Nations Force in Cyprus. I should like to take this opportunity to bring to your attention the following considerations relating to the Force, and to propose the conclusion herewith of an agreement concerning the services of your national contingent with the Force.

4. The Regulations referred to above affirm the international character of the Force as a subsidiary organ of the United Nations and define the conditions of service for the members of the Force. National contingents provided for the Force serve under these Regulations.

5. The Regulations and the Agreement referred to in paragraph 2 of this letter also secure to the Force and its individual members the privileges and immunities necessary for the independent exercise of its functions. I should like to direct your attention to the provisions of the Regulations and of the Agreement which provide these privileges and immunities and particularly to article 29 of the Regulations and to paragraphs 10, 11 and 12 of my letter to the Minister of Foreign Affairs of Cyprus. It will be noted that paragraph 11 of this letter states that "Members of the Force shall be subject to the exclusive jurisdiction of their respective national States in respect of any criminal offences which may be committed by them in Cyprus". This immunity from the jurisdiction of Cyprus is based on the understanding that the authorities of the participating States would exercise such jurisdiction as might be necessary with respect to crimes or offences committed in Cyprus by any members of the Force provided from their own military services. It is assumed that the participating States will act accordingly.

6. I should also like to direct your attention to article 2 of the Regulations concerning their authority and to article 13 of the Regulations concerning "Good order and discipline". These articles provide:

> "2. *Authority of regulations.* The present Regulations and supplemental instructions and orders issued pursuant thereto shall be binding upon all members of the Force. Contravention thereof shall constitute an offence subject to disciplinary action in accordance with the military laws and regulations applicable to the national contingent to which the offender belongs.
>
> "...
>
> "13. *Good order and discipline.* The Commander shall have general responsibility for the good order and discipline of the Force. He may make investigations, conduct inquiries and require information, reports and consultations for the purpose of discharging this responsibility. Responsibility for disciplinary action in national contingents provided for the Force rests with the commanders of the national contingents. Reports concerning disciplinary action shall be communicated to the Commander who may consult with the commander of the national contingent and, if necessary, through the Secretary-General with the authorities of the Participating State concerned."

7. In view of the considerations set out in paragraphs 5 and 6 above, I should appreciate your assurance that the commander of the national contingent provided by your Government will be in a position to exercise the necessary disciplinary authority. I should also appreciate

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[27] See *Juridical Yearbook*, 1964, pp. 40-50.

your assurance that your Government will be prepared to exercise firm and effective jurisdiction with respect to any crime or offence which might be committed by a member of such national contingent and to report to the United Nations in each case on the action taken.

8. The effective functioning of the Force requires that some continuity of service of units with the Force be ensured in order that the Commander may be in a position to plan his operations with knowledge of what units will be available. I should, therefore, appreciate your assurance that the national contingent provided by your Government will not be withdrawn without adequate prior notification to the Secretary-General, so as to avoid the impairment of the ability of the Force to discharge its functions. Likewise, should circumstances render the service of your national contingent with the Force no longer necessary, the Secretary-General undertakes to consult with your Government and to give adequate prior notification concerning its withdrawal.

9. Reference is also made to articles 11 and 12 of the Regulations which deal with " Command authority" and "Chain of command and delegation of authority". Article 12 provides, *inter alia*, that changes in commanders of national contingents which have been made available by participating Governments should be made in consultation among the Secretary-General, the Force Commander, and the appropriate authorities of the participating Government.

10. I should also like to refer to article 40 of the Regulations concerning "Observance of Conventions" which provides:

"The Force shall observe the principles and spirit of the general international Conventions applicable to the conduct of military personnel".

11. The international Conventions referred to in this Regulation include, *inter alia*, the Geneva (Red Cross) Conventions of 12 August 1949 to which your Government is a party and the UNESCO Convention on the Protection of Cultural Property in the event of armed conflict, signed at the Hague on 14 May 1954. In this connexion, and particularly with respect to the humanitarian provisions of these Conventions, it is requested that the Governments of the participating States ensure that the members of their contingents serving with the Force be fully acquainted with the obligations arising under these Conventions and that appropriate steps be taken to ensure their enforcement.

12. (*a*) Authorities of the participating State will, in accordance with and within their domestic legislation, use their best efforts to bring about settlement of claims and compliance with awards made by a Cypriot court or by the Claims Commission against a member of the contingent of the State with respect to acts committed outside the scope of his official functions.

(*b*) In addition to the undertaking in subparagraph (*a*) above, the participating States will, as appropriate, enter into supplementary agreements with the United Nations concerning the settlement of claims arising out of acts committed by a member of their national contingent either within or outside the scope of his official functions.

13. Finally, I suggest that questions involving expenses should be dealt with, in the light of the resolution of the Security Council, in a supplemental agreement. Such other supplementary arrangements concerning the service of your national contingent with the Force may be made as occasion requires.

14. It is the intention that this letter together with your reply accepting the proposals set forth herein shall constitute an agreement between the United Nations and the United Kingdom and shall be deemed to have taken effect from the date that the national contingent provided by your Government departed from its home country to assume duties with the Force. It is also intended that it shall remain in force until such time as your national con-

tingent may be withdrawn from the Force either in accordance with the terms of paragraph 8 above or in the light of developments affecting the functioning of the Force which may render its service no longer necessary. The provisions of paragraph 15 relating to the settlement of disputes should remain in force until all outstanding claims have been settled.

15. It is also proposed that all disputes between the United Nations and your Government concerning the interpretation or application of this agreement which are not settled by negotiation or other agreed mode of settlement shall be referred for final settlement to a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Secretary-General of the United Nations, one by your Government, and the umpire shall be chosen jointly by the Secretary-General and your Government. If the two parties fail to agree on the appointment of the umpire within one month of the proposal of arbitration by one of the parties, the President of the International Court of Justice shall be asked by either party to appoint the umpire. Should a vacancy occur for any reason, the vacancy shall be filled within thirty days by the method laid down in this paragraph for the original appointment. The tribunal shall come into existence upon the appointment of the umpire and at least one of the other members of the tribunal. Two members of the tribunal shall constitute a quorum for the performance of its functions, and for all deliberations and decisions of the tribunal a favourable vote of two members shall be sufficient.

Accept, Sir, the assurances of my highest consideration.

U THANT
Secretary-General

The Permanent Representative of the United Kingdom
of Great Britain and Northern Ireland
to the United Nations
New York, N.Y.

II

Letter from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations

21 February 1966

Your Excellency,

I have the honour to refer to Your Excellency's letter PO 210 CYPR(2), 21 February 1966, concerning the service with the United Nations Force in Cyprus of the national contingent provided by the Government of the United Kingdom of Great Britain and Northern Ireland. In this matter you have proposed that my Government and the United Nations should enter into an agreement in accordance with the terms provided therein.

My Government accepts this proposal and agrees that your letter and this reply shall constitute an agreement between the Government of the United Kingdom and the United Nations. My Government also gives the assurances requested in paragraphs 7 and 8 of your letter and undertakes to meet the request contained in paragraph 11 of your letter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

CARADON
Permanent Representative of the United Kingdom
of Great Britain and Northern Ireland
to the United Nations

His Excellency U THANT
Secretary-General
United Nations
New York, N.Y.

(*b*) Exchange of letters constituting an agreement between the United Nations and Finland concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of Finland.[28] New York, 21 February 1966.

I

Letter from the Secretary-General

[Similar to letter I in (*a*) above]

II

Letter from the Permanent Representative of Finland to the United Nations

[Similar to letter II in (*a*) above]

(*c*) Exchange of letters constituting an agreement between the United Nations and New Zealand concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of New Zealand.[29] New York, 21 February 1966.

I

Letter from the Secretary-General

[Similar to letter I in (*a*) above]

II

Letter from the Permanent Representative of New Zealand to the United Nations

[Similar to letter II in (*a*) above]

(*d*) Exchange of letters constituting an agreement between the United Nations and Canada concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of Canada.[30] New York, 21 February 1966.

I

Letter from the Secretary-General

[Similar to letter I in (*a*) above]

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[28] Deemed to have taken effect as from 28 March 1964, the date that the national contingent provided by the Government of Finland departed from its home country to assume duties with the United Nations Peace-Keeping Force in Cyprus, in accordance with paragraph 14.

[29] Deemed to have taken effect as of 14 May 1964, the date that the national contingent provided by the Government of New Zealand departed from its home country to assume duties with the United Nations Peace-Keeping Force in Cyprus, in accordance with paragraph 14.

[30] Deemed to have taken effect as from 13 March 1964, the date that the national contingent provided by the Government of Canada departed from its home country to assume duties with the United Nations Peace-Keeping Force in Cyprus, in accordance with paragraph 14.

II

Letter from the Permanent Representative of Canada to the United Nations

New York, 21 February 1966

Excellency,

I have the honour to acknowledge receipt of your letter of today's date proposing an agreement between the United Nations and Canada on certain matters relating to Canadian participation in the United Nations Peace-Keeping Force in Cyprus.

My Government agrees to the proposals contained in your letter, is glad to give you the assurances requested in paragraphs 7 and 8 of that letter and concurs with your proposal that your letter and this reply shall constitute an agreement between the United Nations and Canada which shall be deemed to have taken effect from the date on which the Canadian Contingent departed from Canada to assume duties with the United Nations Force.

Yours sincerely,

Paul TREMBLAY
Permanent Representative of Canada to the United Nations

U THANT
Secretary-General of the United Nations
New York

(*e*) Exchange of letters constituting an agreement between the United Nations and Denmark concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of Denmark.[31] New York, 21 February 1966.

I

Letter from the Secretary-General

[Similar to letter I in (*a*) above]

II

Letter from the Permanent Representative of Denmark to the United Nations

New York, 21 February 1966

Sir,

I have the honour to refer to your letter of 21 February 1966 concerning the services with the United Nations Force in Cyprus of the national contingent provided by the Danish Government. In this letter you have proposed that my Government and the United Nations should enter into an agreement in accordance with the terms provided therein.

The Danish Government accepts this proposal and agrees that your letter and this reply shall constitute an agreement between the Government of Denmark and the United Nations. My Government also gives the assurances requested in paragraphs 7 and 8 of your letter and undertakes to meet the request contained in paragraph 11 of your letter.

[31] Deemed to have taken effect as from 14 May 1964, the date that the national contingent provided by the Government of Denmark departed from its home country to assume duties with the United Nations Peace-Keeping Force in Cyprus, in accordance with paragraph 14.

In signing the present agreement, my Government declares that the means at the disposal of the Danish authorities to fulfil article 12 of the agreement are the following:

(*a*) In criminal actions brought by Danish prosecutors before Danish courts against members of the Danish contingent, claims for damages will, upon request by the party having suffered damage, be joined by the prosecutor to the criminal action, where this may be done without inconvenience and the claim does not appear unfounded in cases of criminal prosecution tried by a court on which jurors serve. In police cases and cases tried by lower courts in pursuance of the rules of the Administration of Justice Act on the basis of the accused person's confession, the injured party must himself in pursuance of the same Act submit a petition to the court for his claims to be included in the judgement to be pronounced on the charge brought against the accused person. In such cases the inclusion of the claim for compensation in the judgement may be secured by a petition to that effect being submitted to the court by the Danish Ministry of Foreign Affairs or the Ministry of Justice, acting on behalf of the claimant and on his request.

(*b*) In cases where a Cypriot court or the Claims Commission has handed down an award against a member of the Danish contingent, the Danish Ministry of Foreign Affairs, if need be, may see to it that he will be urged to satisfy the award.

(*c*) In cases where particular circumstances warrant it, the Danish Government will consider *ex gratia* payment.

I avail myself of this opportunity to renew to you, Sir, the assurances of my highest consideration.

H. TABOR
Ambassador
Permanent Representative of Denmark to the United Nations

U THANT
Secretary-General of the United Nations
New York, N.Y.

(*f*) Exchange of letters (with related letter) constituting an agreement between the United Nations and Sweden concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of Sweden.[32] New York, 21 February 1966.

I

Letter from the Secretary-General

[Similar to letter I in (*a*) above]

II

Letter from the Permanent Representative of Sweden to the United Nations

New York, 21 February 1966

Sir,

I have the honour to refer to your letter of 21 February 1966 concerning the service with the United Nations Force in Cyprus of the national contingent provided by my Government. In this letter you have proposed that my Government and the United Nations should enter into an agreement in accordance with the terms provided therein.

[32] Deemed to have taken effect as from 26 March 1964, the date that the national contingent provided by the Government of Sweden departed from its home country to assume duties with the United Nations Peace-Keeping Force in Cyprus, in accordance with paragraph 14.

My Government accepts this proposal and agrees that your letter and this reply shall constitute an agreement between Sweden and the United Nations. My Government also gives the assurances requested in paragraphs 7 and 8 of your letter.

Accept, Sir, the assurances of my highest consideration.

Sverker ÅSTRÖM
Permanent Representative of Sweden to the United Nations

U THANT
Secretary-General of the United Nations
New York

III

Related letter from the Permanent Representative of Sweden to the United Nations

New York, 21 February 1966

Sir,

In signing the present agreement concerning the service with the United Nations Force in Cyprus of the national contingent provided by my Government, I have the honour to declare that the means at the disposal of Swedish authorities to fulfil article 12 (*a*) of the agreeement are the following:

(*a*) In criminal actions brought by Swedish prosecutors before Swedish Courts against members of the Swedish contingent, claims for damages will, upon request by the party having suffered damage, be joined by the prosecutor to the criminal action, where this may be done without inconvenience and the claim does not appear unfounded.

(*b*) In cases where a Cypriot court or the Claims Commission has handed down an award against a member of the Swedish contingent, the Swedish Ministry for Foreign Affairs, if need be, may see to it that he will be urged to satisfy the award.

(*c*) In cases where particular circumstances warrant it, the Swedish Government will consider *ex gratia* payment.

Accept, Sir, the assurances of my highest consideration.

Sverker ÅSTRÖM
Permanent Representative of Sweden to the United Nations

U THANT
Secretary-General of the United Nations
New York

(*g*) Exchange of letters constituting an agreement between the United Nations and Australia concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of Australia.[33] New York, 21 and 25 February 1966.

I

Letter from the Secretary-General

[Similar to letter I in (*a*) above]

[33] Deemed to have taken effect as from 14 May 1964, the date that the national contingent provided by the Government of Australia departed from its home country to assume duties with the United Nations Peace-Keeping Force in Cyprus, in accordance with paragraph 14.

II

Letter from the Permanent Representative of Australia to the United Nations

21 February 1966

Excellency,

I have the honour to refer to your letter of 21 February 1966 concerning the services with the United Nations Force in Cyprus of the national contingent provided by the Government of Australia. In this matter you have proposed that my Government and the United Nations should enter into an agreement in accordance with the terms provided therein.

My Government accepts this proposal. My Government also gives the assurances requested in paragraphs 7 and 8 of your letter and undertakes to meet the request contained in paragraph 11 of your letter.

In relation to paragraph 12 of your letter, it is the understanding of the Australian Government that the question whether, and the extent to which, the Australian Government should accept any financial obligation in regard to settlement of claims remains a matter for negotiation between the United Nations and the Australian Government.

If this understanding is acceptable to you, I should appreciate your acknowledgement to this effect, and I have the honour to suggest that your letter, this reply and your acknowledgement should be regarded as constituting an agreement between the United Nations and the Government of the Commonwealth of Australia.

Accept, Excellency, the assurances of my highest consideration.

Patrick SHAW
Permanent Representative

His Excellency U THANT
Secretary-General, United Nations
New York

III

Letter from the Secretary-General

25 February 1966

Sir,

I have the honour to refer to our exchange of letters of 21 February 1966 concerning the services with the United Nations Force in Cyprus of the national contingent provided by the Government of Australia. In relation to paragraph 12 of my letter and to the third paragraph of your reply, I wish to confirm the understanding of your Government that the question whether, and the extent to which, the Australian Government should accept any financial obligation in regard to settlement of claims remains a matter for negotiation between the United Nations and the Australian Government. I also agree that my letter of 21 February 1966, your reply of the same date and this acknowledgement should constitute the agreement between the United Nations and the Government of the Commonwealth of Australia.

Accept, Sir, the assurances of my highest consideration.

U THANT
Secretary-General

His Excellency Mr. Patrick SHAW, C.B.E.
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Australia
to the United Nations
New York, N.Y.

(*h*) Exchange of letters constituting an agreement between the United Nations and Austria concerning the service with the United Nations Peace-Keeping Force in Cyprus of the national contingent provided by the Government of Austria.[34] New York, 21 February 1966.

I

Letter from the Secretary-General

[This letter is similar to letter I in (*a*) above, except for the following changes:

(i) The fourth sentence of paragraph 5 reads:

"This immunity from the jurisdiction of Cyprus is based on the understanding that the authorities of the participating States would exercise such jurisdiction as might be necessary with respect to crimes or offences committed in Cyprus by any members of the Force provided by them."

(ii) The first sentence of paragraph 7 reads:

"In view of the considerations set out in paragraphs 5 and 6 above, I should appreciate your assurance that the commanders of the two contingents (medical and police) provided by your Government will be in a position to exercise the necessary disciplinary authority."

(iii) The first sentence of paragraph 14 reads:

"It is the intention that this letter together with your reply accepting the proposals set forth herein shall constitute an agreement between the United Nations and Austria, and shall enter into force on the date that your reply is received by me."]

II

Letter from the Permanent Representative of Austria to the United Nations

24 February 1966

Sir,

I acknowledge receipt of your letter of 21 February 1966, which reads as follows:

[See letter I]

I have the honour to inform you that my Government has agreed upon the contents of this text.

Accept, Sir, the assurances of my highest consideration.

Dr. Kurt WALDHEIM
Ambassador
Permanent Representative of Austria
to the United Nations

The Secretary-General
of the United Nations
New York, N.Y.

[34] Came into force on 28 February 1966, the date of receipt by the United Nations of the note in reply.

B. Treaty provisions concerning the Legal Status of inter-governmental organizations related to the United Nations

1. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES.[35] APPROVED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 21 NOVEMBER 1947

In 1966, the following States acceded to the Convention, or if already parties undertook by a subsequent notification to apply the provisions of the Convention, in respect of the specialized agencies indicated below:[36]

State		*Date of receipt of instrument of accession or notification*	*Specialized agencies*
Austria	Notification	22 July 1966	FAO—Second revised text of annex II
Brazil	Notification	15 July 1966	FAO—Second revised text of annex II
Byelorussian SSR[37]	Accession	18 March 1966	ILO, UNESCO, UPU, ITU, WMO
Czechoslovakia[38]	Accession	29 December 1966	WHO, ICAO, ILO, UNESCO, UPU, ITU, WMO, IMCO
Ecuador	Notification	26 July 1966	FAO—Second revised text of annex II
Gambia	Notification of succession[39]	1 August 1966	WHO, ICAO, ILO, FAO, UNESCO, UPU, ITU, WMO, IMCO
	Notification	1 August 1966	Bank, Fund, IFC, IDA
Kenya	Notification	3 March 1966	FAO—Second revised text of annex II

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

[36] The Convention is in force with regard to each State which deposited an instrument of accession and in respect of specialized agencies indicated therein or in a subsequent notification as from the date of deposit of such instrument or receipt of such notification.

[37] With the following reservation:

"The Byelorussian Soviet Socialist Republic does not consider itself bound by the provisions of sections 24 and 32 of the Convention, concerning the compulsory jurisdiction of the International Court of Justice. Concerning the jurisdiction of the International Court of Justice in disputes arising out of the interpretation or application of the Convention, the Byelorussian Soviet Socialist Republic will maintain the same position as hitherto, namely, that for any dispute to be referred to the International Court of Justice for settlement, the agreement of all Parties involved in the dispute must be obtained in each individual case. This reservation similarly applies to the provision contained in section 32, stipulating that the advisory opinion of the International Court of Justice shall be accepted as decisive."

[38] With the following reservation:

"The Czechoslovak Socialist Republic does not consider itself bound by the provisions of sections 24 and 32 of the Convention, under which the International Court of Justice has compulsory jurisdiction in disputes arising out of the interpretation or application of the Convention; concerning the competence of the International Court of Justice in such disputes, the Czechoslovak Socialist Republic takes the position that for any dispute to be referred to the International Court of Justice for settlement, the agreement of all Parties involved in the dispute must be obtained in each individual case. This reservation also applies to the provision of section 32 requiring the Parties concerned to accept the advisory opinion of the International Court of Justice as decisive."

[39] By a communication received on 1 August 1966, the Government of the Gambia notified the Secretary-General of the United Nations that it considers itself bound by the present Convention, the application of which had been extended to its territory before the attainment of independence, in respect of the specialized agencies indicated here.

State		*Date of receipt of instrument of accession or notification*	*Specialized agencies*
Kuwait	Notification	29 August 1966	FAO—Second revised text of annex II
Madagascar[40]	Accession	3 January 1966	WHO, ICAO, ILO, FAO, UNESCO, Bank, Fund, UPU, ITU, WMO, IMCO, IFC
	Notification	22 November 1966	FAO—Second revised text of annex II
Malawi	Notification	16 September 1966	FAO—Second revised text of annex II
Morocco	Notification	30 November 1966	FAO—Second revised text of annex II
Netherlands	Notification	9 December 1966	FAO—Second revised text of annex II
Norway	Notification	2 August 1966	FAO—Second revised text of annex II
Senegal	Accession	2 March 1966	WHO, ICAO, ILO, FAO, UNESCO, Bank, Fund, UPU, ITU, WMO, IMCO, IFC, IDA
Singapore	Notification of succession[41]	18 March 1966	WHO, ICAO, ILO, FAO, UNESCO, UPU, ITU, WMO
Thailand	Notification	21 March 1966	FAO—Second revised text of annex II
Trinidad and Tobago	Notification	15 July 1966	FAO—Second revised text of annex II
Ukrainian SSR[42]	Accession	13 April 1966	ILO, UNESCO, UPU, ITU, WMO
Union of Soviet Socialist Republics[43]	Accession	10 January 1966	WHO, ILO, UNESCO, UPU, ITU, WMO, IMCO

As of 31 December 1966, sixty-one States were parties to the Convention.

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[40] With the following reservation:

"...the Malagasy Government will not be able to comply fully with the provisions of article IV, section 11, of the Convention, which states that the specialized agencies shall enjoy, in the territory of each State party to the Convention, for their official communications, treatment not less favourable than that accorded by the Government of such State to any other Government, in the matter of priorities, rates and taxes on telecommunications, until such time as all governments decide to co-operate by according such treatment to the agencies in question."

[41] By a communication received on 18 March 1966, the Government of Singapore notified the Secretary-General of the United Nations that it considers itself bound by the present Convention, the application of which had been extended to its territory before the attainment of independence, in respect of the specialized agencies indicated here.

[42] With the following reservation:

"The Ukrainian Soviet Socialist Republic does not consider itself bound by the provisions of sections 24 and 32 of the Convention, concerning the compulsory jurisdiction of the International Court of Justice. Concerning the jurisdiction of the International Court of Justice in disputes arising out of the interpretation or application of the Convention, the Ukrainian Soviet Socialist Republic will maintain the same position as hitherto, namely, that for any dispute to be referred to the International Court of Justice for settlement, the agreement of all Parties involved in the dispute must be obtained in each individual case. This reservation similarly applies to the provision contained in section 32, stipulating that the advisory opinion of the International Court of Justice shall be accepted as decisive."

[43] With the following reservation:

"The Union of Soviet Socialist Republics does not consider itself bound by the provisions of sections 24 and 32 of the Convention, concerning the compulsory jurisdiction of the Inter-

2. INTERNATIONAL LABOUR ORGANISATION

Agreement between the Government of Lebanon and the International Labour Organisation concerning the establishment of an office of the Organisation in Beirut.[44] Signed at Beirut on 14 May 1966.

Article 2

The Government shall grant to the office of the International Labour Organisation and to the staff of the Organisation assigned to that office the privileges and immunities provided for in the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 and in Decree No. 12991 of the Lebanese Government of 10 June 1965.

Article 3

The Government shall facilitate the entry into, sojourn in and departure from Lebanon of persons invited to the office of the International Labour Organisation for official purposes.

...

Article 5

The Government of Lebanon shall in general grant to the office of the International Labour Organisation and its staff treatment not less favourable than that accorded to any other specialized agency or to the United Nations itself, and to their staff.

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3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) Agreement relating to a UNESCO Mission

Exchange of letters between the Government of Brazil and UNESCO concerning the establishment of a post of UNESCO Head of Mission. Signed at Paris on 24 May and 7 June 1966

(2) The Government of Brazil shall apply to the staff of the Mission of UNESCO the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, to which it has adhered on 22 May 1963

(3) It shall grant to the Head of Mission the right to import an automobile for his personal use, free of all duties and levies and of all prohibitions and restrictions on imports

(*b*) Agreements relating to conferences, seminars and other meetings

(i) Agreement between the Czechoslovak Government and UNESCO concerning the organization of the meeting of co-ordinators of scientific policy. Signed at Paris on 10 November 1965 and at Prague on 27 January 1966

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national Court of Justice. Concerning the jurisdiction of the International Court of Justice in disputes arising out of the interpretation or application of the Convention, the USSR will maintain the same position as hitherto, namely, that for any dispute to be referred to the International Court of Justice for settlement, the agreement of all Parties involved in the dispute must be obtained in each individual case. This reservation similarly applies to the provision contained in section 32, stipulating that the advisory opinion of the International Court of Justice shall be accepted as decisive."

[44] Came into force on the date of signature.

IV. *Privileges and immunities*

A. The Czechoslovak Government shall apply for the duration of the meeting the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and Annex IV thereof. In particular, no restriction shall be imposed upon the rights of entry into, sojourn in and departure from Czechoslovak territory of any persons, without distinction as to nationality, invited to participate in an official capacity at that meeting.

B. It is understood that no Government officials or persons performing specific tasks in connexion with the meeting shall be considered as agents or staff members of UNESCO, nor, except as otherwise stated, entitled to privileges, immunities and compensation or reimbursement, nor empowered to incur expenses or enter into obligations binding on UNESCO.

(ii) Letter of Agreement between the Government of the United Arab Republic and UNESCO concerning the Regional Training Course in Soil Biology. Signed at Paris on 25 March 1966 and at Cairo on 30 March 1966

III. *Privileges and immunities*

The Government of the United Arab Republic will apply to the Training Course the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, to which it has been a party since 28 September 1954, and of Annex IV thereof, it being understood in particular that no restriction shall be imposed upon the rights of entry into, sojourn in and departure from, the territory of the United Arab Republic of any persons entitled to attend this Training Course, without distinction of nationality.

(iii) Letter of Agreement between the Government of Kenya and UNESCO concerning the Regional Seminar on Educational Statistics for Africa. Signed at Paris on 24 January 1966 and at Nairobi on 7 April 1966

Privileges and immunities

[Similar to article III in (ii) above]

(iv) Agreement between the Government of Ghana and UNESCO concerning the Pilot Project on "New Approaches and Techniques in Biology Teaching in Africa". Signed at Paris on 12 November 1966 and at Accra on 23 November 1966

III. *Privileges and immunities*

[Similar to article III in (ii) above]

(v) Agreement between the Government of the Socialist Federal Republic of Yugoslavia and UNESCO concerning the meeting of experts on the study of the seismicity of the Balkan region. Signed at Paris on 4 April 1966 and at Belgrade on 10 May 1966

III. *Privileges and immunities*

[Similar to article III in (ii) above, with the insertion of the words "in an official capacity" before the words "without distinction of nationality"]

(vi) Agreement between the Government of the Tunisian Republic and UNESCO concerning the training course for specialists in political science and public administration of French-speaking African countries. Signed at Paris on 7 June 1966 and at Tunis on 10 June 1966

3. *Privileges and immunities*

[Similar to article III in (ii) above, with the insertion of the words "in an official capacity" before the words "without distinction of nationality"]

(vii) Letter of Agreement between the Government of the Netherlands and UNESCO concerning the Symposium on Water in the Unsaturated Zone. Signed at Paris on 4 March 1966 and at The Hague on 4 May 1966

Privileges and immunities

[Similar to article III in (ii) above, with the insertion of the words "in an official capacity" before the words "without distinction of nationality"]

(viii) Agreement between the Brazilian Government and UNESCO concerning the Inter-American Meeting of Copyright Experts. Signed at Paris on 2 November 1965 and 18 March 1966

II. *Privileges and immunities*

The Government of Brazil shall apply for the duration of the Meeting the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and Annex IV thereof, and shall grant all the privileges, immunities and facilities necessary for that Meeting, it being understood in particular that no restriction shall be imposed on the entry into, sojourn in and departure from Brazilian territory of persons, without distinction of nationality, invited to participate in an official capacity in that Meeting.

(ix) Agreement between the Government of the Republic of Dahomey and UNESCO concerning the Committee of Experts on the study of cultural relations between Africa and Latin America. Signed at Paris on 25 February 1966 and at Cotonou on 9 March 1966

Privileges and immunities

[Similar to article II in (viii) above]

(x) Letter of Agreement between the Government of Iraq and UNESCO concerning the Regional Training Course in Hydrology. Signed at Paris on 10 March 1966 and at Baghdad on 21 March 1966

III. *Privileges and immunities*

The Government of Iraq agrees to apply to UNESCO, its officials and experts, for the duration of the Course, the Convention on the Privileges and Immunities of the Specialized Agencies, to which it has been a party since 9 July 1954, and Annex IV thereof, it being understood in particular that no restriction shall be imposed upon the rights of entry into, sojourn in and departure from the territory of Iraq of any persons entitled to attend this Training Course, without distinction of nationality.

(xi) Letter of Agreement between the Government of India and UNESCO concerning the Seminar on Technical Education in Asia. Signed at Paris on 3 March 1966 and at New Delhi on 17 March 1966

III. *Privileges and immunities*

[Similar to article III in (x) above, with the omission of the words "for the duration of the Course"]

(xii) Agreement between the Government of the Republic of Costa Rica and UNESCO concerning the Meeting of Experts on Higher Education and Development in Latin America. Signed at Paris on 31 January 1966 and at San José on 28 February 1966

II. *Privileges and immunities*

The Government of Costa Rica shall apply, in all matters pertaining to the Meeting, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and Annex IV thereof relating to UNESCO. In particular, it shall guarantee that no restriction shall be placed on the rights of entry into, sojourn in and departure from the territory of Costa Rica of persons participating in an official capacity in the Meeting, without distinction of nationality.

(xiii) Agreement between the Government of Argentina and UNESCO concerning the regional course in marine biology. Signed at Paris on 21 June 1966 and 12 December 1966

Privileges and immunities

[Similar to article II in (xii) above with the addition of the words "to which Argentina is a party since 10 October 1963" at the end of the first sentence]

(xiv) Agreement between the Government of Spain and UNESCO concerning the twelfth meeting of the Executive Committee of the International Campaign to Save the Monuments of Nubia. Signed at Paris on 6 June 1966 and at Madrid on 2 July 1966

III. *Privileges and immunities*

Even though Spain is not a party to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, the Spanish Government shall apply exceptionally in all matters pertaining to the meeting, the provisions of that Convention and Annex IV thereof relating to UNESCO. It shall be understood in particular that no restrictions shall be placed on the rights of entry into, sojourn in and departure from Spain of any of the persons participating in the meeting, without distinction of nationality.

(xv) Agreement between the Government of the Principality of Monaco and UNESCO concerning the seventh meeting of the Bureau and Consultative Council of the Intergovernmental Oceanographic Commission (IOC). Signed at Paris on 22 July 1966 and at Monaco on 8 September 1966

III. *Privileges and immunities*

The Government of the Principality shall apply to the meeting the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and Annex IV thereof, it being understood in particular that no restrictions shall be imposed on the entry into, sojourn in and departure from the territory of the Principality of persons invited to participate in an official capacity in the meeting, without distinction of nationality.

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4. INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement on the Privileges and Immunities of the IAEA.[45] Approved by the Board of Governors of the Agency on 1 July 1959.

(*a*) *Deposit of instruments of acceptance*

The following States accepted the Agreement on the Privileges and Immunities of the IAEA in 1966:[46]

State	*Date of Deposit of Instrument of Acceptance*
Brazil	13 June 1966
Canada[47]	15 June 1966
Union of Soviet Socialist Republics[48]	1 July 1966
Ukrainian Soviet Socialist Republic[49]	5 October 1966
Byelorussian Soviet Socialist Republic[50]	2 December 1966

[45] United Nations, *Treaty Series*, vol. 374, p. 147.

[46] The agreement comes into force as between the Agency and the accepting States on the date of deposit of instruments of acceptance.

[47] With the following reservation:

"Exemption from liability for any taxes or duties imposed by any law in Canada should not extend to a Canadian citizen residing or ordinarily resident in Canada."

[48] With the following reservation:

"The Union of Soviet Socialist Republics does not consider itself bound by the provisions of Sections 26 and 34 of the Agreement, under which there is an obligation to submit to the jurisdiction of the International Court of Justice. With regard to the question of referring to the International Court of Justice differences arising out of the interpretation or application of the Agreement, the USSR adheres as before to the position that the consent of all parties involved in a dispute must be obtained in each individual case before that dispute can be referred to the International Court of Justice. This reservation applies equally to the provision in Section 34 that the opinion given by the Court shall be accepted as decisive."

[49] With the following reservation:

"The Ukrainian Soviet Socialist Republic does not consider itself bound by the provisions of Sections 26 and 34 of the Agreement, under which there is an obligation to refer to the International Court of Justice all disputes arising out of the interpretation or application of the Agreement. With regard to the question of the Court's jurisdiction in respect of such disputes, the Ukrainian SSR continues to take the view that the consent of all parties involved in a dispute must be obtained in each individual case before that dispute can be referred to the International Court of Justice. This reservation applies equally to the provision in Section 34 that the advisory opinion given by the Court shall be accepted by the parties as decisive."

[50] With the following reservation:

"The Byelorussian Soviet Socialist Republic does not consider itself bound by the provisions of Sections 26 and 34 of the Agreement, under which there is an obligation to submit to the jurisdiction of the International Court of Justice. With regard to the question of referring to the International Court of Justice differences arising out of the interpretation or application of the Agreement, the Byelorussian SSR adheres as before to the position that the consent of all parties involved in a dispute must be obtained in each individual case before that dispute

This brought up to 25 the number of States parties to this Agreement.

Furthermore, the Government of Pakistan deposited on 18 October 1966 an instrument limiting the possible scope of its original reservation as contained in their Instrument of Acceptance of 16 April 1963.[51]

(b) Incorporation of the Agreement by reference in other agreements

(i) Article III, Section 17 of the Agreement between the IAEA, the Government of the Kingdom of Greece and the Government of the United States of America, for the Application of Safeguards (INFCIRC/78); entered into force on 13 January 1966.

(ii) Section 10 of the Master Agreement between the IAEA and the Government of Turkey for Assistance by the Agency in Furthering Projects by the Supply of Materials (INFCIRC/83); entered into force on 8 February 1966.

(iii) Article III, Section 17 of the Agreement between the IAEA, the Government of the Argentine Republic and the Government of the United States of America, for the application of Safeguards (INFCIRC/79); entered into force on 1 March 1966.

(iv) Section 4 (*e*) of the Project Agreement between the IAEA and the Government of Pakistan Regarding Arrangements for the Transfer of Therapeutic Equipment (INFCIRC/90); entered into force on 15 March 1966.

(v) Article X of the Master Agreement between the IAEA and the Government of Romania for Assistance by the Agency in Furthering Projects by the Supply of Materials; entered into force on 22 April 1966.

(vi) Article III, Section 17 of the Agreement between the IAEA, the Government of Israel and the Government of the United States of America for the Application of Safeguards (INFCIRC/84); entered into force on 15 June 1966.

(vii) Article III, Section 19 of the Agreement between the IAEA, the Government of Canada and the Government of Japan for the application of Agency Safeguards in Respect of the Bilateral Agreement between those Governments for Co-operation in the Peaceful Uses of Atomic Energy (INFCIRC/85); entered into force on 20 June 1966.

(viii) Section 6 of the Annex to the Agreement between the IAEA and the Government of the United Mexican States for Assistance by the Agency to Mexico in Establishing a Sub-Critical Assembly Project (INFCIRC/82, II, Annex); entered into force on 29 June 1966.

(ix) Part V, Section 15 of the Agreement between the IAEA and the Government of the United Kingdom of Great Britain and Northern Ireland for the Application of Safeguards with Regard to the Bradwell Nuclear Power Station (INFCIRC/86, I); entered into force on 1 September 1966.

(x) Part V, Section 23 of the Agreement between the IAEA, the Government of the Commonwealth of Australia and the Government of the United States of America for the Application of Safeguards (INFCIRC/91); entered into force on 26 September 1966.

(xi) Article VI, Section 8 of the Agreement between the IAEA and the Government of the Republic of the Philippines for Assistance by the Agency to the Philippines in Continuing a Reactor Project (INFCIRC/88, II); entered into force on 28 September 1966.

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can be referred to the International Court of Justice. This reservation applies equally to the provision in Section 34 that the opinion given by the Court shall be accepted as decisive."

[51] See *Juridical Yearbook*, 1963, p. 49. The amended reservation reads as follows:
"... the concessions and privileges conferred by the Agreement on the employees of the Agency, other than those which also follow from Article XV of the Statute, such as immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity, should not be applicable to the Pakistani nationals serving on the staff of the Agency in Pakistan."

(xii) Part V, Section 23 of the Agreement between the IAEA, the Government of Spain and the Government of the United States of America for the Application of Safeguards (INFCIRC/92); entered into force on 9 December 1966.

(xiii) Section 10 of the Master Agreement between the IAEA and the Government of India for Assistance by the Agency in Furthering Projects by the Supply of Materials; entered into force on 9 December 1966.

Part Two

LEGAL ACTIVITIES OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

Chapter III

SELECTED DECISIONS, RECOMMENDATIONS AND REPORTS OF A LEGAL CHARACTER BY THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

A. Decisions, recommendations and reports of a legal character by the United Nations

United Nations General Assembly—twenty-first session

1. NON-PROLIFERATION OF NUCLEAR WEAPONS: REPORT OF THE CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE ON DISARMAMENT (AGENDA ITEM 26)

Resolution [2153(XXI)] adopted by the General Assembly

2153 (XXI). Non-proliferation of nuclear weapons

A

The General Assembly,

Having discussed the report of the Conference of the Eighteen-Nation Committee on Disarmament on the non-proliferation of nuclear weapons,[1]

Noting that it has not yet been possible to reach agreement on an international treaty to prevent the proliferation of nuclear weapons,

Viewing with apprehension the possibility that such a situation may lead not only to an increase of nuclear arsenals and to a spread of nuclear weapons over the world but also to an increase in the number of nuclear-weapon Powers,

Believing that if such a situation persists it may lead to the aggravation of tensions between States and the risk of a nuclear war,

Believing further that the remaining differences between all concerned should be resolved quickly so as to prevent any further delay in the conclusion of an international treaty on the non-proliferation of nuclear weapons,

Convinced, therefore, that it is imperative to make further efforts to bring to a conclusion a treaty which reflects the mandate given by the General Assembly in its resolution 2028 (XX) of 19 November 1965 and which is acceptable to all concerned and satisfactory to the international community,

1. *Reaffirms* its resolution 2028 (XX);

2. *Urges* all States to take all the necessary steps conducive to the earliest conclusion of a treaty on the non-proliferation of nuclear weapons;

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[1] *Official Records of the Disarmament Commission, Supplement for 1966*, document DC/228.

3. *Calls upon* all nuclear-weapon Powers to refrain from the use, or the threat of use, of nuclear weapons against States which may conclude treaties of the nature defined in paragraph 2 (*e*) of General Assembly resolution 2028 (XX);

4. *Requests* the Conference of the Eighteen-Nation Committee on Disarmament to consider urgently the proposal that the nuclear-weapon Powers should give an assurance that they will not use, or threaten to use, nuclear weapons against non-nuclear-weapon States without nuclear weapons on their territories, and any other proposals that have been or may be made for the solution of this problem;

5. *Calls upon* all States to adhere strictly to the principles laid down in its resolution 2028 (XX) for the negotiation of the above-mentioned treaty;

6. *Calls upon* the Conference of the Eighteen-Nation Committee on Disarmament to give high priority to the question of the non-proliferation of nuclear weapons in accordance with the mandate contained in General Assembly resolution 2028 (XX);

7. *Transmits* the records of the First Committee relating to the discussion of the item entitled "Non-proliferation of nuclear weapons", together with all other relevant documents, to the Conference of the Eighteen-Nation Committee on Disarmament;

8. *Requests* the Conference of the Eighteen-Nation Committee on Disarmament to submit to the General Assembly at an early date a report on the results of its work on the question of the non-proliferation of nuclear weapons.

1469th plenary meeting
17 November 1966

B

The General Assembly,

Recalling previous resolutions on the non-proliferation of nuclear weapons,

Considering that the further spread of nuclear weapons would endanger the peace and security of all States,

Convinced that the emergence of additional nuclear-weapon Powers would provoke an uncontrollable nuclear arms race,

Reiterating that the prevention of further proliferation of nuclear weapons is a matter of the highest priority demanding the unceasing attention of both nuclear-weapon and non-nuclear-weapon Powers,

Believing that a conference of non-nuclear-weapon Powers would contribute to the conclusion of arrangements designed to safeguard the security of those States,

1. *Decides* to convene a conference of non-nuclear-weapon States to meet not later than July 1968 to consider the following and other related questions:

"(*a*) How can the security of the non-nuclear States best be assured?

"(*b*) How may non-nuclear Powers co-operate among themselves in preventing the proliferation of nuclear weapons?

"(*c*) How can nuclear devices be used for exclusively peaceful purposes?";

2. *Requests* the President of the General Assembly immediately to set up a preparatory committee, widely representative of the non-nuclear-weapon States, to make appropriate arrangements for convening the conference and to consider the question of the association of nuclear States with the work of the conference and report thereon to the General Assembly at its twenty-second session.

1469th plenary meeting
17 November 1966

2. QUESTION OF GENERAL AND COMPLETE DISARMAMENT: REPORT OF THE CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE ON DISARMAMENT (AGENDA ITEM 27)

Resolution [2162B (XXI)] adopted by the General Assembly

2162B (XXI) Question of general and complete disarmament

The General Assembly,

Guided by the principles of the Charter of the United Nations and of international law,

Considering that weapons of mass destruction constitute a danger to all mankind and are incompatible with the accepted norms of civilization,

Affirming that the strict observance of the rules of international law on the conduct of warfare is in the interest of maintaining these standards of civilization,

Recalling that the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, of 17 June 1925,[2] has been signed and adopted and is recognized by many States,

Noting that the Conference of the Eighteen-Nation Committee on Disarmament has the task of seeking an agreement on the cessation of the development and production of chemical and bacteriological weapons and other weapons of mass destruction, and on the elimination of all such weapons from national arsenals, as called for in the draft proposals on general and complete disarmament now before the Conference,

1. *Calls for* strict observance by all States of the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and condemns all actions contrary to those objectives;

2. *Invites* all States to accede to the Geneva Protocol of 17 June 1925.

1484th plenary meeting
5 December 1966

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3. URGENT NEED FOR SUSPENSION OF NUCLEAR AND THERMONUCLEAR TESTS: REPORT OF THE CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE ON DISARMAMENT (AGENDA ITEM 28)

Resolution [2163 (XXI)] adopted by the General Assembly

2163 (XXI). Urgent need for suspension of nuclear and thermonuclear tests

The General Assembly,

Having considered the question of the cessation of nuclear and thermonuclear weapon tests and the report of the Conference of the Eighteen-Nation Committee on Disarmament,[3]

Recalling its resolutions 1762 (XVII) of 6 November 1962, 1910 (XVIII) of 27 November 1963 and 2032 (XX) of 3 December 1965,

Recalling further the joint memorandum on a comprehensive test ban treaty submitted by Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden and the United Arab Republic

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[2] League of Nations, *Treaty Series*, vol. XCIV, 1929, No. 2138.

[3] *Official Records of the Disarmament Commission, Supplement for 1966*, document DC/228.

and annexed to the report of the Conference of the Eighteen-Nation Committee on Disarmament,[4] and in particular the concrete suggestions contained therein,

Noting with great concern the fact that all States have not yet adhered to the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water, signed in Moscow on 5 August 1963,[5]

Noting also with great concern that nuclear weapon tests in the atmosphere and underground are continuing,

Taking into account the possibilities of establishing, through international co-operation, an exchange of seismic data so as to create a better scientific basis for national evaluation of seismic events,

Recognizing the importance of seismology in the verification of the observance of a treaty banning underground nuclear weapon tests,

Realizing that such a treaty would also constitute an effective measure to prevent the proliferation of nuclear weapons,

1. *Urges* all States which have not done so to adhere to the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water;

2. *Calls upon* all nuclear-weapon States to suspend nuclear weapon tests in all environments;

3. *Expresses the hope* that States will contribute to an effective international exchange of seismic data;

4. *Requests* the Conference of the Eighteen-Nation Committee on Disarmament to elaborate without any further delay a treaty banning underground nuclear weapon tests.

1484th plenary meeting
5 December 1966

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4. INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE (AGENDA ITEM 30)

CONCLUSION OF AN INTERNATIONAL TREATY ON PRINCIPLES GOVERNING THE ACTIVITIES OF STATES IN THE EXPLORATION AND USE OF OUTER SPACE, THE MOON AND OTHER CELESTIAL BODIES (AGENDA ITEM 89)

TREATY GOVERNING THE EXPLORATION AND USE OF OUTER SPACE INCLUDING THE MOON AND OTHER CELESTIAL BODIES (AGENDA ITEM 91)

Resolution [2222 (XXI)] adopted by the General Assembly

2222 (XXI). Treaty on Principles Governing the Activities of States on the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies

The General Assembly,

Having considered the report of the Committee on the Peaceful Uses of Outer Space covering its work during 1966,[6] and in particular the work accomplished by the Legal Sub-

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[4] *Ibid*, annex 1, sect. O.

[5] United Nations, *Treaty Series*, vol. 480 (1963), No. 6964.

[6] *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda items 30, 89 and 91, document A/6431.

Committee during its fifth session, held at Geneva from 12 July to 4 August and at New York from 12 September to 16 September,

Noting further the progress achieved through subsequent consultations among States Members of the United Nations,

Reaffirming the importance of international co-operation in the field of activities in the peaceful exploration and use of outer space, including the Moon and other celestial bodies, and the importance of developing the rule of law in this new area of human endeavour,

1. *Commends* the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, the text of which is annexed to the present resolution;

2. *Requests* the Depositary Governments to open the Treaty for signature and ratification at the earliest possible date;

3. *Expresses its hope* for the widest possible adherence to this Treaty;

4. *Requests* the Committee on the Peaceful Uses of Outer Space:

(*a*) To continue its work on the elaboration of an agreement on liability for damages caused by the launching of objects into outer space and an agreement on assistance to and return of astronauts and space vehicles, which are on the agenda of the Committee;

(*b*) To begin at the same time the study of questions relative to the definition of outer space and the utilization of outer space and celestial bodies, including the various implications of space communications;

(*c*) To report on the progress of its work to the General Assembly at its twenty-second session.

1499th plenary meeting
19 December 1966

ANNEX

[Text of the Treaty, reproduced in this *Yearbook*, pp. 166-170]

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5. PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES (AGENDA ITEM 45)

Resolution [2158 (XXI)] adopted by the General Assembly

2158 (XXI). Permanent sovereignty over natural resources

The General Assembly,

Recalling its resolutions 523 (VI) of 12 January 1952, 626 (VII) of 21 December 1952 and 1515 (XV) of 15 December 1960,

Recalling further its resolution 1803 (XVII) of 14 December 1962 on permanent sovereignty over natural resources,

Recognizing that the natural resources of the developing countries constitute a basis of their economic development in general and of their industrial progress in particular,

Bearing in mind that natural resources are limited and in many cases exhaustible and that their proper exploitation determines the conditions of the economic development of the developing countries both at present and in the future,

Considering that, in order to safeguard the exercise of permanent sovereignty over natural resources, it is essential that their exploitation and marketing should be aimed at securing the highest possible rate of growth of the developing countries,

Considering further that this aim can better be achieved if the developing countries are in a position to undertake themselves the exploitation and marketing of their natural resources so that they may exercise their freedom of choice in the various fields related to the utilization of natural resources under the most favourable conditions,

Taking into account the fact that foreign capital, whether public or private, forthcoming at the request of the developing countries, can play an important role inasmuch as it supplements the efforts undertaken by them in the exploitation and development of their natural resources, provided that there is government supervision over the activity of foreign capital to ensure that it is used in the interests of national development,

I

1. *Reaffirms* the inalienable right of all countries to exercise permanent sovereignty over their natural resources in the interest of their national development, in conformity with the spirit and principles of the Charter of the United Nations and as recognized in General Assembly resolution 1803 (XVII);

2. *Declares*, therefore, that the United Nations should undertake a maximum concerted effort to channel its activities so as to enable all countries to exercise that right fully;

3. *States* that such an effort should help in achieving the maximum possible development of the natural resources of the developing countries and in strengthening their ability to undertake this development themselves, so that they might effectively exercise their choice in deciding the manner in which the exploitation and marketing of their natural resources should be carried out;

4. *Confirms* that the exploitation of natural resources in each country shall always be conducted in accordance with its national laws and regulations;

5. *Recognizes* the right of all countries, and in particular of the developing countries, to secure and increase their share in the administration of enterprises which are fully or partly operated by foreign capital and to have a greater share in the advantages and profits derived therefrom on an equitable basis, with due regard to the development needs and objectives of the peoples concerned and to mutually acceptable contractual practices, and calls upon the countries from which such capital originates to refrain from any action which would hinder the exercise of that right;

6. *Considers* that, when natural resources of the developing countries are exploited by foreign investors, the latter should undertake proper and accelerated training of national personnel at all levels and in all fields connected with such exploitation;

7. *Calls upon* the developed countries to make available to the developing countries, at their request, assistance, including capital goods and know-how, for the exploitation and marketing of their natural resources in order to accelerate their economic development, and to refrain from placing on the world market non-commercial reserves of primary commodities which may have an adverse effect on the foreign exchange earnings of the developing countries;

8. *Recognizes* that national and international organizations set up by the developing countries for the development and marketing of their natural resources play a significant role in ensuring the exercise of the permanent sovereignty of those countries in this field and should on that account be encouraged;

9. *Recommends* to the Economic Commission for Asia and the Far East, the Economic Commission for Latin America, the Economic Commission for Africa and the United

Nations Economic and Social Office in Beirut that, in the execution of their functions, they should keep under review the question of permanent sovereignty over natural resources in the countries of the regions concerned, and the problem of the economic utilization of these resources in the national interests of their peoples;

II

Requests the Secretary-General:

(*a*) To co-ordinate the activities of the Secretariat in the field of natural resources with those of other United Nations organs and programmes, including the United Nations Conference on Trade and Development, the United Nations Development Programme, the regional economic commissions, the United Nations Economic and Social Office in Beirut, the specialized agencies and the International Atomic Energy Agency, and in particular with those of the United Nations Industrial Development Organization;

(*b*) To take the necessary steps to facilitate, through the work of the Centre for Development Planning, Projections and Policies, the United Nations Conference on Trade and Development, the United Nations Industrial Development Organization and the Advisory Committee on the Application of Science and Technology to Development, the inclusion of the exploitation of the natural resources of the developing countries in programmes for their accelerated economic growth;

(*c*) To submit to the General Assembly at its twenty-third session a progress report on the implementation of the present resolution.

1478th plenary meeting
25 November 1966

6. DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS (AGENDA ITEM 62)

Resolution [2200 (XXI)] adopted by the General Assembly

2200 (XXI). International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights

A

The General Assembly,

Considering that one of the purposes of the United Nations, as stated in Articles 1 and 55 of the Charter, is to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that in Article 56 of the Charter all Members of the United Nations have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of that purpose,

Recalling the proclamation by the General Assembly on 10 December 1948 of the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations,

Having considered since its ninth session the draft International Covenants on Human Rights prepared by the Commission on Human Rights and transmitted to it by Economic

and Social Council resolution 545 B (XVIII) of 29 July 1954, and having completed the elaboration of the Covenants at its twenty-first session,

1. *Adopts* and opens for signature, ratification and accession the following international instruments, the texts of which are annexed to the present resolution:

(*a*) The International Covenant on Economic, Social and Cultural Rights;

(*b*) The International Covenant on Civil and Political Rights;

(*c*) The Optional Protocol to the International Covenant on Civil and Political Rights;

2. *Expresses the hope* that the Covenants and the Optional Protocol will be signed and ratified or acceded to without delay and come into force at an early date;

3. *Requests* the Secretary-General to submit to the General Assembly at its future sessions reports concerning the state of ratifications of the Covenants and of the Optional Protocol which the Assembly will consider as a separate agenda item.

1496th plenary meeting
16 December 1966

ANNEX

[Text of the Covenants and of the Optional Protocol, reproduced in this *Yearbook*, pp. 170-195]

B

The General Assembly,

Considering that the text of the International Covenant on Economic, Social and Cultural Rights, the text of the International Covenant on Civil and Political Rights and the text of the Optional Protocol to the International Covenant on Civil and Political Rights should be made known throughout the world,

1. *Requests* the Governments of States and non-governmental organizations to publicize the text of these instruments as widely as possible, using every means at their disposal, including all the appropriate media of information;

2. *Requests* the Secretary-General to ensure the immediate and wide circulation of these instruments and, to that end, to publish and distribute the text thereof.

1496th plenary meeting
16 December 1966

C

The General Assembly,

Considering the advisability of the proposals for the establishment of national commissions on human rights or the designation of other appropriate institutions to perform certain functions pertaining to the observance of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

1. *Invites* the Economic and Social Council to request the Commission on Human Rights to examine the question in all its aspects and to report, through the Council, to the General Assembly;

2. *Requests* the Secretary-General to invite Member States to submit their comments on the question, in order that the Commission on Human Rights may take these comments into account when considering the proposals.

1496th plenary meeting
16 December 1966

7. QUESTION OF SOUTH WEST AFRICA: REPORT OF THE SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (AGENDA ITEM 65)

Resolution [2145 (XXI)] adopted by the General Assembly

2145 (XXI). Question of South West Africa

The General Assembly,

Reaffirming the inalienable right of the people of South West Africa to freedom and independence in accordance with the Charter of the United Nations, General Assembly resolution 1514 (XV) of 14 December 1960 and earlier Assembly resolutions concerning the Mandated Territory of South West Africa,

Recalling the advisory opinion of the International Court of Justice of 11 July 1950,[7] accepted by the General Assembly in its resolution 449 A (V) of 13 December 1950, and the advisory opinions of 7 June 1955[8] and 1 June 1956[9] as well as the judgement of 21 December 1962,[10] which have established the fact that South Africa continues to have obligations under the Mandate which was entrusted to it on 17 December 1920 and that the United Nations as the successor to the League of Nations has supervisory powers in respect of South West Africa,

Gravely concerned at the situation in the Mandated Territory, which has seriously deteriorated following the judgement of the International Court of Justice of 18 July 1966,[11]

Having studied the reports of the various committees which had been established to exercise the supervisory functions of the United Nations over the administration of the Mandated Territory of South West Africa,

Convinced that the administration of the Mandated Territory by South Africa has been conducted in a manner contrary to the Mandate, the Charter of the United Nations and the Universal Declaration of Human Rights,

Reaffirming its resolution 2074 (XX) of 17 December 1965, in particular paragraph 4 thereof which condemned the policies of apartheid and racial discrimination practised by the Government of South Africa in South West Africa as constituting a crime against humanity,

Emphasizing that the problem of South West Africa is an issue falling within the terms of General Assembly resolution 1514 (XV),

Considering that all the efforts of the United Nations to induce the Government of South Africa to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the well-being and security of the indigenous inhabitants have been of no avail,

Mindful of the obligations of the United Nations towards the people of South West Africa,

Noting with deep concern the explosive situation which exists in the southern region of Africa,

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[7] *International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950*, p. 128.

[8] *South West Africa—Voting procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955*, p. 67.

[9] *Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of June 1st, 1956: I.C.J. Reports 1956*, p. 23.

[10] *South West Africa Cases (Ethiopia* v. *South Africa; Liberia* v. *South Africa), Preliminary Objections, Judgment of 21 December 1962: I.C.J. Reports 1962*, p. 319.

[11] *South West Africa, Second Phase, Judgment, I.C.J. Reports 1966*, p. 6.

Affirming its right to take appropriate action in the matter, including the right to revert to itself the administration of the Mandated Territory,

1. *Reaffirms* that the provisions of General Assembly resolution 1514 (XV) are fully applicable to the people of the Mandated Territory of South West Africa and that, therefore, the people of South West Africa have the inalienable right to self-determination, freedom and independence in accordance with the Charter of the United Nations;

2. *Reaffirms further* that South West Africa is a territory having international status and that it shall maintain this status until it achieves independence;

3. *Declares* that South Africa has failed to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the moral and material well-being and security of the indigenous inhabitants of South West Africa and has, in fact, disavowed the Mandate;

4. *Decides* that the Mandate conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa is therefore terminated, that South Africa has no other right to administer the Territory and that henceforth South West Africa comes under the direct responsibility of the United Nations;

5. *Resolves* that in these circumstances the United Nations must discharge those responsibilities with respect to South West Africa;

6. *Establishes* an *Ad Hoc* Committee for South West Africa—composed of fourteen Member States to be designated by the President of the General Assembly—to recommend practical means by which South West Africa should be administered, so as to enable the people of the Territory to exercise the right of self-determination and to achieve independence, and to report to the General Assembly at a special session as soon as possible and in any event not later than April 1967;

7. *Calls upon* the Government of South Africa forthwith to refrain and desist from any action, constitutional, administrative, political or otherwise, which will in any manner whatsoever alter or tend to alter the present international status of South West Africa;

8. *Calls the attention* of the Security Council to the present resolution;

9. *Requests* all States to extend their whole-hearted co-operation and to render assistance in the implementation of the present resolution;

10. *Requests* the Secretary-General to provide all the assistance necessary to implement the present resolution and to enable the *Ad Hoc* Committee for South West Africa to perform its duties.

1454th plenary meeting
27 October 1966

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8. REPORTS OF THE INTERNATIONAL LAW COMMISSION ON THE SECOND PART OF ITS SEVENTEENTH SESSION AND ON ITS EIGHTEENTH SESSION (AGENDA ITEM 84)

(*a*) Report of the Sixth Committee[12]

[*Original text: English/Spanish*]
[*21 November 1966*]

I. Introduction

1. At its 1415th plenary meeting, on 24 September 1966, the General Assembly decided to include the item entitled "Reports of the International Law Commission on the second

[12] Document A/6516, reproduced from *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 84.

part of its seventeenth session and on its eighteenth session" in the agenda of its twenty-first session and to allocate the item to the Sixth Committee.

2. The Sixth Committee considered this item from its 902nd to its 919th meetings, from 3 to 26 October 1966.

3. At the 902nd meeting, the Chairman welcomed Mr. Mustafa Kamil Yasseen, Chairman of the International Law Commission at its eighteenth session, on behalf of the Sixth Committee, and invited him to introduce the Commission's report on the work of that session (A/6309/Rev.1). At the 914th meeting, on 19 October, Mr. Yasseen replied to the general comments made by the representatives who had spoken during the debate, and at the 918th meeting, on 25 October, he congratulated the Sixth Committee on the action taken on the recommendations made by the International Law Commission in its report.

4. The report of the International Law Commission on the second part of its seventeenth session, held in the Principality of Monaco from 3 to 28 January 1966, in accordance with General Assembly resolution 2045 (XX) of 8 December 1965, consisted of the following sections: (*a*) Introduction; (*b*) Membership and attendance; (*c*) Officers; (*d*) Agenda and meetings; (*e*) Law of treaties; (*f*) Resolution of thanks to the Government of Monaco; (*g*) Organization and duration of the eighteenth session; (*h*) Co-operation with other bodies; (*i*) Seminar on International Law.

5. The report of the International Law Commission on its eighteenth session, held at Geneva from 4 May to 19 July 1966, consisted of the following four chapters: (*a*) Organization of the session; (*b*) Law of treaties; (*c*) Special missions; (*d*) Other decisions and conclusions of the Commission. It also reproduced in an annex the comments of Governments on parts I, II and III of the draft articles on the law of treaties drawn up by the Commission at its fourteenth, fifteenth and sixteenth sessions. In chapter II of the report, the Commission submitted to the General Assembly the final text of the draft articles on the law of treaties with commentaries, together with a recommendation concerning the convening of an international conference on the law of treaties.

6. The final text of the draft articles on the law of treaties adopted by the International Law Commission on 18 and 19 July 1966 was also reproduced in document A/6348 and Corr. 1 in accordance with the provisions of paragraph 5 (*b*) of General Assembly resolution 2045 (XX) of 8 December 1965.

7. The Sixth Committee also had before it a memorandum (A/C.6/371)[13] on the procedural and organizational problems involved in a possible diplomatic conference on the law of treaties, prepared by the Secretariat after informal consultations with the International Law Commission, in accordance with the request of the Sixth Committee at the twentieth session of the General Assembly, set forth in paragraphs 64 and 65 of its report on the agenda item "Reports of the International Law Commission on the work of its sixteenth and seventeenth sessions".[14]

II. Proposals and amendments

A. International conference of plenipotentiaries on the law of treaties

8. Uruguay submitted a draft resolution (A/C.6/L.595), under which the General Assembly would (1) express its great satisfaction with the work of codification carried out by the International Law Commission and its gratitude to the Commission and to the Special Rapporteurs for the efforts they had made; (2) urge Governments to communicate their observations on the draft articles not later than 1 September 1967 to the Secretariat, which

[13] Reproduced in this *Yearbook*, p. 248.

[14] See *Official Records of the General Assembly, Twentieth Session, Annexes*, agenda item 87, document A/6090.

would circulate them to Governments after that date; (3) recommend the Secretariat to convene an international conference of plenipotentiaries, open to all States, to study the draft articles and to conclude a convention on international treaties; (4) request the Secretariat to organize the conference in question on the following basis: (*a*) date, first half of 1968; (*b*) place, Geneva; (*c*) duration, ten weeks, in one consecutive period, two working committees to be set up to draft the text; (*d*) procedure, as for the Conference on the Law of the Sea and the Vienna Conferences on Diplomatic and Consular Relations; (*e*) participants, invitations to be extended to all Governments; (*f*) safeguards, each provision to be approved by two thirds of the votes of participating States; (5) instruct the Secretariat to bring the basic rules and regulations of the conference to the notice of the General Assembly at its next session. This draft resolution was subsequently withdrawn by its sponsor, who became a sponsor of draft resolution A/C.6/L.596 and Add.1.

9. The draft resolution (A/C.6/L.596 and Corr.1 and Add.1), submitted by Argentina, Canada, Ghana, Iran, Japan, Nigeria, the United Kingdom of Great Britain and Northern Ireland and Uruguay, proposed that the General Assembly should: (1) express its appreciation to the International Law Commission for its valuable work on the law of treaties, and to the Special Rapporteurs for their contribution to that work; (2) decide that an international conference of plenipotentiaries should be convened to consider the law of treaties and to embody the results of its work in an international convention and such other instruments as it might deem appropriate; (3) request the Secretary-General to convoke the conference early in 1968 at ... [place] ... and, if it was necessary, to convoke a second session of the conference early in 1969 at ...; (4) invite States Members of the United Nations, States members of the specialized agencies, States parties to the Statute of the International Court of Justice and States that the General Assembly decided specially to invite to participate in the conference, to send delegations of sufficient size to ensure representation in two main committees of the conference and to include among their representatives experts competent in the field to be considered; (5) invite the specialized agencies and the interested inter-governmental organizations to send observers to the conference; (6) refer to the conference the draft articles in chapter II of the report of the International Law Commission covering the work of its eighteenth session as the basic proposal for its consideration; (7) request the Secretary-General to present to the conference all relevant documentation and recommendations relating to its methods of work and procedures, and to arrange for the necessary staff and facilities which would be required for the conference including such experts as might be necessary; (8) request the International Law Commission to recommend to the conference what portions of the draft articles should be referred to its First Committee, and what portions to its Second Committee; (9) invite Member States to submit their written comments and observations on the final draft articles concerning the law of treaties prepared by the International Law Commission not later than 1 July 1967; (10) request the Secretary-General to circulate such comments so as to facilitate the discussion of the subject at the twenty-second session of the General Assembly; (11) decide to include an item entitled "Law of Treaties" in the provisional agenda of its twenty-second session with a view to further discussion of the draft articles in order to facilitate the conclusion of a convention on the law of treaties at the plenipotentiaries' conference convened by the present resolution.

10. Czechoslovakia, Poland and the Union of Soviet Socialist Republics submitted an amendment (A/C.6/L.598) to draft resolution A/C.6/L.596 and Corr.1 and Add.1 with a view to rewording operative paragraph 4 of the draft resolution to read as follows: "4. *Invites* all States to send delegations to participate in the work of the conference". This amendment was made applicable to the successive revised texts of the draft resolution (A/C.6/L.596 and Corr.1 and Add.1) which were subsequently submitted by its sponsors.

11. The sponsors of draft resolution A/C.6/L.596 and Corr.1 and Add.1 submitted a first revision of the draft (A/C.6/L.596/Rev.1), in which operative paragraphs 3 and 4 of the original text were altered to read as follows: "(3) *Requests* the Secretary-General to convoke

the conference early in 1968 at ... [place] ... and to convoke a second session of the conference early in 1969 at ...; (4) *Invites* States Members of the United Nations, States members of the specialized agencies, States parties to the Statute of the International Court of Justice, and States that the General Assembly decided specially to invite, to participate in the conference; (5) *Invites* the States referred to in paragraph 4 above to send delegations of sufficient size to ensure representation in two main committees of the conference and to include among their representatives experts competent in the field to be considered;". As a result, operative paragraphs 5, 6, 7, 8, 9, 10 and 11 of the original draft became respectively paragraphs 6, 7, 8, 9, 10, 11 and 12 of the revised draft resolution (A/C.6/L.596/Rev.1).

12. Hungary and the Ukrainian Soviet Socialist Republic submitted an amendment (A/C.6/L.601) to the revised draft resolution (A/C.6/L.596/Rev.1) proposing the addition of the following new paragraph at the end of the preamble: "*Bearing in mind* its resolutions 1665 (XVI), 1910 (XVIII), 2028 (XX), 2032 (XX) and 2077 (XX), which dealt with questions concerning the conclusion of various international agreements, participation in such agreements and the fulfilment of obligations arising from them, and which were addressed to *all* States". This amendment was also made applicable to the second revision of the draft resolution (A/C.6/L.596/Rev.2), which was subsequently submitted by the sponsors. As a result of the vote taken on amendment A/C.6/L.598, amendment A/C.6/L.601 was subsequently withdrawn by its sponsors.

13. Two amendments were submitted to operative paragraph 3 of the revised draft resolution (A/C.6/L.596/Rev.1). One of them (A/C.6/L.602), submitted by Cameroon, sought to change that paragraph to read as follows: "3. *Requests* the Secretary-General to convoke the conference early in 1968 at Geneva or at any other suitable place where an express invitation by a State Member of the United Nations is received". The other (A/C.6/L.603), submitted by Lebanon, worded that paragraph as follows: "3. *Requests* the Secretary-General to convoke, at Geneva or at any other suitable place for which an invitation is received by the Secretary-General before the twenty-second session of the General Assembly, the first session of the conference early in 1968 and the second session early in 1969".

14. The amendment of Cameroon (A/C.6/L.602) was withdrawn by its sponsor at the 918th meeting. The content of the amendment of Lebanon (A/C.6/L.603) was incorporated in the text of a second revision of the draft resolution (A/C.6/L.596/Rev.2) submitted by the sponsors of draft resolution A/C.6/L.596/Rev.1, together with Bolivia and Chile. The operative part of the second revision of the draft resolution (A/C.6/L.596/Rev.2) read as follows:

"*The General Assembly*,

"...

"1. *Expresses its appreciation* to the International Law Commission for its valuable work on the law of treaties, and to the Special Rapporteurs for their contribution to this work;

"2. *Decides* that an international conference of plenipotentiaries shall be convened to consider the law of treaties and to embody the results of its work in an international convention and such other instruments as it may deem appropriate;

"3. *Requests* the Secretary-General to convoke, at Geneva or at any other suitable place for which an invitation is received by the Secretary-General before the twenty-second session of the General Assembly, the first session of the Conference early in 1968 and the second session early in 1969;

"4. *Invites* States Members of the United Nations, States members of the specialized agencies, States parties to the Statute of the International Court of Justice, and States that the General Assembly decides specially to invite, to participate in the conference;

"5. *Invites* the States referred to in paragraph 4 above to include so far as possible among their representatives experts competent in the field to be considered;

"6. *Invites* the specialized agencies and the interested inter-governmental organizations to send observers to the conference;

"7. *Refers* to the conference the draft articles in chapter II of the report of the International Law Commission covering the work of its eighteenth session as the basic proposal for its consideration;

"8. *Requests* the Secretary-General to present to the conference all relevant documentation and recommendations relating to its methods of work and procedures, and to arrange for the necessary staff and facilities which will be required for the conference including such experts as may be necessary;

"9. *Invites* Member States, the Secretary-General and the Directors-General of those specialized agencies which act as depositaries of treaties to submit their written comments and observations on the final draft articles concerning the law of treaties prepared by the International Law Commission not later than 1 July 1967;

"10. *Requests* the Secretary-General to circulate such comments so as to facilitate the discussion of the subject at the twenty-second session of the General Assembly;

"11. *Decides* to include an item entitled "Law of Treaties" in the provisional agenda of its twenty-second session with a view to further discussion of the draft articles in order to facilitate the conclusion of a convention on the law of treaties at the plenipotentiaries, conference convened by the present resolution."

15. At the 918th meeting, Niger submitted an oral amendment to operative paragraph 3 of revised draft resolution A/C.6/L.596/Rev.2, which sought to replace that paragraph with the following text: "3. *Requests* the Secretary-General to convoke the conference early in 1969 at Geneva or at any other suitable place for which an invitation is received by the Secretary-General before the twenty-second session of the General Assembly". This amendment was withdrawn later in the same meeting.

16. The Secretary-General submitted a note (A/C.6/L.600) containing preliminary estimates of the financial implications of a conference on the law of treaties prepared on the basis of the possibilities set forth in the memorandum on procedural and organizational problems involved in a possible diplomatic conference on the law of treaties, mentioned in paragraph 7 of this report.

B. Reports of the International Law Commission

17. Uruguay submitted a draft resolution (A/C.6/L.594) whereby, after noting the reports of the International Law Commission on the second part of its seventeenth session and on its eighteenth session, the General Assembly would: (1) express: (*a*) its satisfaction and appreciation of the effective action taken to promote the codification of international law and collaboration among the various technical organs; (*b*) its satisfaction at the support given to the Seminar and the principles indicated for its further development; (*c*) its agreement with the decisions adopted in regard to the topic "Special Missions"; (2) recommend the International Law Commission: (*a*) to continue its work in connexion with the "Special Missions" and to give constant attention to the following topics: "State Responsibility", "Succession of States and Governments", "Relations between States and Inter-governmental Organizations"; (*b*) to take account of the work being carried out by the European Committee on Legal Co-operation and the Inter-American Juridical Committee in order to promote the universality of juridical solutions; (*c*) to encourage the progressive development of the Seminar on International Law; (3) urge States to give their support to the Seminar, welcoming the scholarships offered by the Governments of Israel and Sweden;

(4) request the Secretary-General: (*a*) to invite Governments to make any pertinent comments on the "Special Missions" by 1 March 1967, and to bring such comments to the notice of the International Law Commission and communicate them to Governments; (*b*) to transmit to the International Law Commission the records of the debates at the twenty-first session of the General Assembly on the reports of the Sixth Committee.

18. The sponsor of the draft resolution subsequently submitted a revised version (A/C.6/L.594/Rev.1), in which paragraph 2 (*b*) read: "(*b*) to take account of the work being carried out by the European Committee on Legal Co-operation, the Inter-American Juridical Committee and the Asian-African Legal Consultative Committee in order to promote the universality of juridical solutions;". This draft resolution (A/C.6/L.594/Rev.1) was ultimately withdrawn by its sponsor who became a sponsor of draft resolution A/C.6/L.597 and Add.1.

19. The last preambular paragraph and the operative part of the draft resolution submitted by Brazil, Canada, Chile, India, Mexico, Nigeria, Uruguay and Yugoslavia (A/C.6/L.597 and Add.1) read as follows:

"*The General Assembly,*

"...

"*Noting further with appreciation* that the Office of the United Nations at Geneva organized in May 1966, during the eighteenth session of the International Law Commission, a second session of the Seminar on International Law for advanced students and young government officials responsible in their respective countries for dealing with questions of international law and that the Seminar, which was made possible by the generous contribution of members of the Commission, was well organized and functioned to the satisfaction of all,

"1. *Takes note* of the report of the International Law Commission on the second part of its seventeenth session and of chapters I, III and IV of the report on its eighteenth session;

"2. *Expresses appreciation* to the International Law Commission for the work it has accomplished;

"3. *Notes with approval* the programme of work for 1967 proposed by the Commission in chapter IV of the report on its eighteenth session;

"4. *Recommends* that the International Law Commission should:

"(*a*) Continue the work of codification and progressive development of the international law relating to special missions, taking into account the views expressed at the twenty-first session of the General Assembly and the comments which may be submitted by Governments, with the object of presenting a final draft on the topic in the report on the work of its nineteenth session;

"(*b*) Continue its work on succession of States and Governments, State responsibility and relations between States and inter-governmental organizations, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

"5. *Expresses* the wish that, in conjunction with future sessions of the International Law Commission, other seminars be organized which should continue to ensure the participation of a reasonable number of nationals from the developing countries;

"6. *Requests* the Secretary-General to forward to the International Law Commission the records of the discussions at the twenty-first session of the General Assembly on the reports of the Commission."

20. At the 915th meeting, the sponsors of the draft resolution (A/C.6/L.597 and Add.1) orally proposed as its title "Reports of the International Law Commission". They also accepted orally, at the same meeting, the Israel representative's suggestion that the word "contribution" in the last preambular paragraph should be replaced by the word "collaboration".

III. Debate

21. The representatives who took part in the debate on this subject congratulated the International Law Commission on the work it had done at the second part of its seventeenth session and at its eighteenth session, especially for having submitted final draft articles on the law of treaties and for the progress made on other topics and particularly in the codification of the rules concerning special missions. It was stressed that the Commission's work was having an increasing influence on the theory and practice of international law; emphasis was placed once again on the great importance of the codification and progressive development of international law as a means of strengthening the rule of law in international life, maintaining international peace and security in accordance with the purposes and principles of the United Nations Charter and encouraging coexistence and peaceful co-operation among all States regardless of their political, economic and social systems. Some representatives stressed the important part which the General Assembly, and in particular the Sixth Committee, played in that process through the recommendations which it regularly made to the International Law Commission and the decisions which it adopted with regard to the final drafts which the Commission submitted to it.

22. In conformity with the practice followed in similar cases, some representatives suggested, and the Sixth Committee agreed, that the best way of concluding the consideration of the item would be to recommend to the General Assembly two draft resolutions, one taking note of the reports of the International Law Commission and dealing with the Commission's future work and other matters mentioned in those reports, and the other dealing exclusively with questions related to the convening of an international conference of plenipotentiaries on the law of treaties to adopt a convention on the subject based on the final draft articles submitted by the Commission.

A. Law of treaties

23. The representatives who spoke in the debate paid a warm tribute, on behalf of their respective delegations, to the International Law Commission for the successful conclusion, during its eighteenth session, of its work on the law of treaties by the adoption and submission to the General Assembly of seventy-five final draft articles on that topic. Many representatives especially congratulated Sir Humphrey Waldock, the Special Rapporteur for the topic, on his invaluable contribution to the work of the Commission.

24. Some representatives stressed the fact that the Commission owed its success in the codification of the law of treaties largely to the spirit of co-operation which prevailed in the Commission and to the working methods it had adopted in conformity with its statute. The International Law Commission, on which the basic legal systems of the world and the chief forms of civilization were represented, could work harmoniously and in close association with the States to whose observations and comments it gave due consideration when revising its preliminary drafts.

25. Many representatives stressed the fundamental importance of the codification of the law of treaties for ensuring legality and the stability of the international legal order. That codification was important because by means of treaties States established, modified or terminated their mutual rights and duties and because treaties, in particular multilateral conventions, had become the primary or main source of international law. On the other

hand treaties had steadily increased in number in recent years, ranging over increasingly varied and technical subjects. Consequently, many representatives stressed that the codification of the law of treaties was the Commission's *magnum opus*. The differing philosophies of international law involved in the law of treaties, the complexity and diversity of practice, court decisions and doctrine on the subject, the inherent difficulties of the topic and the far-reaching consequences that codification might entail were cited by those representatives as other factors which made the Commission's accomplishment, after years of constant and patient efforts, doubly praiseworthy. All those representatives regarded the results achieved in the codification of the law of treaties as a very significant landmark in the movement towards the codification and progressive development of international law, and considered therefore that the next steps should be taken very carefully so as not to impair those results. As some representatives pointed out, the failure of the codification of the law of treaties in its final stages would have the gravest consequences in regard to the whole future work of the United Nations directed at the codification and progressive development of international law and would adversely affect the cause of peaceful co-operation among States.

26. It was emphasized in the debate that now that the Commission had submitted final draft articles on the law of treaties, the principal task of the Sixth Committee was to see that that codification was promptly and effectively translated into international legislation, by recommending that the General Assembly should bring the work of codification and progressive development of the law of treaties to its logical conclusion by the most appropriate procedure for the adoption of a multilateral convention on the law of treaties which would give binding force to the principles and rules proposed by the Commission in its draft.

27. Consequently, the representatives who spoke in the debate said that, in view of the recommendation made by the Commission, in conformity with article 23, paragraph 1, of its statute (see A/6309/Rev.1, part II, para. 36), an international conference of plenipotentiaries should be convened to draw up and adopt a multilateral convention on the law of treaties, based on the draft articles prepared by the Commission, to which States could become parties. That new convention on the law of treaties would, like the Geneva Conventions on the Law of the Sea and the Vienna Conventions on Diplomatic Relations and Consular Relations, contribute to the strengthening of legality in international relations and solidarity among States.

28. The opinions expressed in the debate on the law of treaties are set out below in two main sections. The first contains a summary of the observations concerning the draft articles on the law of treaties prepared by the Commission, and the second the views expressed and the conclusions reached with regard to the convening of an international conference of plenipotentiaries on the law of treaties.

1. *Draft articles on the law of treaties*

29. In the debate some representatives did not consider it useful, for the time being, to comment on the substance of the draft articles on the law of treaties (A/6309/Rev.1, part II) since their Governments wished to study them in detail and, moreover, the Sixth Committee would have an opportunity at the twenty-second session of the General Assembly to consider the draft articles again before the proposed conference met. Others, on the contrary, asserted that the Sixth Committee could and should consider the substance of the draft articles at once, and, while reserving the final position of their Governments, they made preliminary comments on the general economy and scope of the draft articles and on some of their specific provisions. Lastly, some representatives, thought that the Sixth Committee should also consider particular aspects of the law of treaties which were not embodied in the Commission's draft articles or on which the draft articles, for lack of agreement, offered no solution, so that the opinions expressed might be taken into consideration by the future international conference of plenipotentiaries.

(a) *General economy of the draft*

30. Most of the representatives thought that the draft articles prepared by the International Law Commission were, as a whole, a satisfactory basic proposal for a conference of plenipotentiaries on the law of treaties. Being inspired by logic and the criterion of general acceptability, the draft reflected and recognized the existence of certain essential elements of the international legal order but, at the same time, was founded on respect for the free consent of the parties. Nevertheless, some representatives thought that the draft omitted some points which should have been included and that certain particular provisions were not all that might be desired because they did not fully reflect important principles of contemporary international law, contained purely descriptive propositions, could be simplified, were not sufficiently precise, could create domestic constitutional problems, were based on controversial ideas or upset the general balance of the text. In that connexion, some representatives stressed that the draft articles were closely integrated and that each provision must be considered on its intrinsic merits in its context in the articles as a whole and in the light of the requirements of contemporary international society, and not on the basis of preconceived notions of what the law was or purely idealistic conceptions of what it ought to be.

31. Some representatives, recalling that at previous sessions of the General Assembly a majority of the representatives in the Sixth Committee had spoken in favour of giving the codification of the law of treaties the form of a convention, expressed their satisfaction that the International Law Commission had maintained its decision of 1961 and accordingly had given the final draft articles on the law of treaties the form of a single convention. In that way, the new States which had recently become members of the international community would be able to participate directly in the formulation of the law of treaties, thereby placing the law of treaties on a wider and more secure foundation.

32. A number of representatives welcomed the fact that the draft articles presented a judicious combination of elements *de lege lata* and *de lege ferenda*, progressively developing the law of treaties when and where it was justified and necessary and not merely codifying customary norms. At the same time, some representatives stressed that the draft referred to problems of fundamental importance not only for the law of treaties but for all international law (prohibition of the threat or use of force; *jus cogens*; expression and validity of consent to be bound; relationship of treaties with customary law; loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty, etc.). Others considered that the codification of the law of treaties proposed in the draft would, if embodied in a convention, serve to prevent a treaty from legalizing gross differences between a party's obligations and its rights in disregard of justice and of the principle of the sovereign equality of States.

33. Many representatives expressed satisfaction at the fact that the draft was based on the fundamental principles of modern international law explicitly or implicitly embodied in the United Nations Charter. Some representatives stressed that the draft explicitly recognized the primacy of the Charter in some of its provisions, for example articles 26, 49, 50, 62 and 70, and added that the position of their respective Governments with regard to particular provisions correctly reflected the fundamental principles of modern international law, especially those set forth in the United Nations Charter. Among those fundamental principles the following were enumerated: the prohibition of the threat or use of force; the sovereign equality of States; non-intervention in the internal affairs of States; the equality of rights and self-determination of peoples; respect for the territorial integrity and political independence of States: good faith in international relations; the peaceful settlement of disputes; the universality of international law.

34. Among the provisions embodying rules or current trends of international law, mention was made of those relating to reservations, consent relating to a part of a treaty,

jus cogens, fundamental change of circumstances, interpretation, coercion and the consequence of the case of an aggressor State in treaty law. Articles 5, 25, 30, 33, 48 and 49 were cited as examples of provisions concerning the sovereign equality of States: articles 11, 12, 13, 25, 30 and 45-49, as examples of provisions concerning the free consent of the parties; articles 15, 23, 27 and 43 as examples of provisions concerning good faith; and articles 16-20 as examples of provisions concerning the universality of international law.

35. A number of representatives commended the draft for having allowed for the mutability of legal phenomena and having adopted a dynamic attitude which took account of the interests of a continously evolving international community. That attitude was reflected, for example, in the provision relating to a fundamental change of circumstances, in the definition of the term "treaty", which in the draft encompassed the so-called "treaties in simplified form", and in the recognition of the growing role of multilateral conventions as an important or main source of international law which objectivized the will of the parties and gave their consent effects more consistent with the interests of States and of the contemporary international community.

36. The draft was also praised for its efforts to overcome the technical difficulties of treaty law which sometimes arose from the lack of uniformity in State practice in such matters, for example, as full powers, signature, registration and publication, and for having set forth the rules to be applied if the parties to a treaty deliberately or involuntarily omitted certain clauses, such as those relating to ratification, accession, termination or revision, thus making it possible to avoid legal disputes which might affect the effectiveness and real value of treaties.

37. Some representatives said that the draft contained rules of unequal importance which could be grouped in separate categories. For example, one representative drew a distinction between technical rules (articles 62, 63 and 71-75) and logical rules (article 26, paragraphs 2, 3 and 4, and article 31), as well as between rules concerning the consent of the State to be bound (articles 10, 11, 12, 15-20, 24, 25, 32, 42 and 45-48) and "community" rules of modern international law (articles 43, 49, 50 and 59), which came within the purview of the progressive development of treaty law rather than of its codification. With regard to the rules concerning the consent of the State to be bound, that representative pointed out that while some rules were referred to on proved consent or on the lack of such consent (articles 10, 11, 12, 15-20 and 45-48), other rules presumed the consent of the parties (articles 24, 25, 32 and 53, paragraph 1), or established irrebuttable presumptions (article 17, paragraph 5, and article 42). Another representative considered that the draft indirectly established a hierarchy of rules: first, the peremptory norms of general international law from which derogation was permitted only under a subsequent norm of general international law having the same character *(jus cogens)*; secondly, the rules of international law based on international custom or on multilateral treaties, from which derogation was permitted by changing customary law or by concluding new treaties, and lastly, the purely contractual rules of conventional law. Other representatives, on the other hand, considered it premature to divide the articles into categories and attach to them epithets having a doctrinal nuance, for that might easily divert attention from the real issues that the articles raised.

38. Certain representatives also pointed out that some of the draft articles, including those relating to reservations, *jus cogens*, interpretation and fundamental change of circumstances, were controversial and should be examined very carefully before a final decision was taken on their formulation or their inclusion in the future convention on the law of treaties.

39. Some representatives stressed the need to provide for an independent body to adjudicate disputes to which certain draft articles might give rise, particularly in connexion with the articles involving the progessive development of treaty law rather than its codification proper. Those representatives felt that the procedure which the International Law

Commission had formulated in the draft, defining and strictly limiting the conditions in which certain articles could be invoked, seemed inadequate, particularly if it was borne in mind that many provisions referred to concepts which were difficult to evaluate, such as good faith or *jus cogens*. According to some of those representatives, the introduction of new principles lending themselves to subjective interpretation, or of imprecise rules and concepts, should be accompanied by satisfactory procedural guarantees. One representative considered that if means of ensuring objective solutions could not be devised it would be preferable to remove from the draft any ideas or provisions which might upset the balance of the whole or introduce an element of uncertainty, leaving the application and interpretation of those ideas and provisions to customary law and State practice.

40. Another representative thought that the draft did not take sufficient account of the influence of the time factor on the effects of the obligations deriving from treaties, and did not always take into account the fact that in many cases treaties, in addition to embodying the will of the parties, set forth principles or rules of general international law. In that representative's view, those questions should be studied more thoroughly in connexion with the codification of treaty law.

41. Some representatives said that States should study carefully the possible implications which the draft articles on the law of treaties might have for their respective constitutional systems and that their views should be taken into account when the articles of the future convention on the law of treaties were being definitively formulated.

42. Lastly, some representatives felt that the basic principles governing international relations and treaty law should be included in the preamble to the future convention on the law of treaties; in that connexion they mentioned the rule *pacta sunt servanda* and the principles of the independence and sovereignty of States, equality of rights, and non-intervention in the internal affairs of other States. One representative considered that it would be advisable for the future convention on the law of treaties to establish a special system of reservations rather than apply the rule laid down in the draft for cases where a treaty contained no provisions on that subject. Another representative thought that it would be appropriate to comply with the International Law Commission's recommendation that the titles it had given to the parts, sections and articles of its draft should be retained in any convention on the law of treaties which might be concluded, subject perhaps to including in the convention itself or in the final act of the conference a saving clause indicating that the titles were merely indicative and should not be taken into consideration when interpreting the text of the convention.

(b) *Scope of the draft*

43. During the debate, various views were expressed on the scope of the draft articles prepared by the International Law Commission, as explained in paragraphs 28-35 of the report on its eighteenth session (A/6309/Rev. 1, part II). Some representatives thought that the Commission had acted wisely in excluding questions which would have been difficult to treat with the thoroughness they deserved within the framework of the codification of treaty law. In addition, it was pointed out that the International Law Commission was or would soon be studying some of those questions in connexion with other items on its programme of work. Nevertheless, many representatives, while appreciating the reasons adduced by the Commission, considered that it had been unwise to exclude from the draft certain aspects of treaty law which in their view should and must be codified if the stability of treaty relationships was to be ensured.

44. Some representatives stressed the need to undertake at the earliest opportunity the codification and progressive development of those aspects of the responsibility of States and State succession which were closely and directly related to treaty law, and criticized the

draft articles on the law of treaties because they did not include rules on that subject and merely stated in article 69 that their provisions "were without prejudice to any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State". A number of representatives said that the draft should have provided for sanctions in cases of non-fulfilment or violation of treaties.

45. Many speakers emphasized the special interest of the new States in the consideration of the effects of the succession of States on conventional relations established by treaties. As some of those representatives pointed out, new States frequently found themselves involved in conventional relationships deriving from treaties concluded on their behalf by the colonial Powers before they had attained their independence, which often imposed upon them obligations contrary to their real interests. According to those representatives, it would therefore be advisable for the International Law Commission to express an opinion on the legal value of such agreements for new States, which could be done by adding provisions on the succession of States to the draft articles on the law of treaties. Some representatives added that the draft should have unequivocally declared null and void those treaties or agreements which were unequal, unjust or leonine, in many cases as the result of colonial rule, as, for example, certain agreements concluded by the colonial Powers during colonial domination without regard for the interests of the territories for which they were intended, as the price for the independence of those territories or before the new States had been able to acquire genuine economic independence. According to those representatives, those agreements could not be protected by the rule *pacta sunt servanda*, since the populations of those former colonial territories were not invited to give their free consent to them, and many of the agreements in question were adversely affecting the political and economic structure of new States and developing countries.

46. Other representatives recognized the concern of the new States that the rules governing the succession of States with respect to treaties should be defined as soon as possible, but took the view that they should be codified in connexion with the topic "Succession of States and Governments" rather than as a part of the general law of treaties, as the International Law Commission had decided in 1963, in the light of the recommendation made by the Sub-Committee established in 1962 to study the scope of that topic and the procedure to be followed in studying it. It was also brought out that in codifying that subject, the Commission could not depart from the method of work laid down in its statute, whereby provisional drafts were submitted to Governments for study and comment before being revised and finally adopted, a process which naturally took time, so that it would be physically impossible for a final set of draft articles on the succession of States in respect of treaties to be ready before the meeting of the future conference on the law of treaties.

47. Some representatives also referred to the International Law Commission's decision to exclude from the draft articles any provisions concerning the effects of the outbreak of hostilities upon treaties, and concerning the most-favoured-nation clause and the application of treaties providing for obligations or rights to be performed or enjoyed by private persons, and were of the opinion that these matters should be the subject of careful study. With respect to the most-favoured-nation clause, certain representatives suggested that the question should be considered in the Sixth Committee or at the future conference of plenipotentiaries on the law of treaties. Others were prepared to support any proposal that the Commission should study the most-favoured-nation clause without linking it to the general codification of the law of treaties. In their opinion, the adoption of a convention on the law of treaties would facilitate the study by the International Law Commission of the problems arising in connexion with that clause.

48. The comments made with regard to the limitation of the draft to treaties concluded between States in written form only are set out in the section of this report concerning comments on specific provisions of the draft articles.

49. One representative pointed out that although it was true that some of the subjects which had been excluded from the draft articles on the law of treaties would be discussed by the International Law Commission at its next session, other topics, such as oral agreements, the effect of the outbreak of hostilities upon treaties, the application of treaties providing for obligations or rights to be performed or enjoyed by private persons, the most-favoured-nation clause, and treaty law in relation to insurgent communities, were not included in the Commission's programme or work. The Sixth Committee should therefore consider all those questions and make such recommendations concerning them as it deemed appropriate.

(c) *Specific provisions of the draft and commentaries*

50. An account of the comments made during the debate on specific provisions of the draft and the accompanying commentaries is given below. These comments have been arranged according to the various parts into which the draft articles are divided and are set forth in the order in which those parts appear in the draft.

Part I. Introduction (articles 1-4)

51. A number of representatives commented on the scope of the draft as it was defined in articles 1 (Scope of the present articles), 2 (Use of terms), and 3 (International agreements not within the scope of the present articles). The limitation of the draft to treaties concluded between States in written form only was approved by some representatives who felt that oral agreements and treaties concluded between States and other subjects of international law, or between those other subjects of international law, presented special features which fully justified the view that the International Law Commission should not consider them in the context of its draft articles. Otherwise, it was claimed, it would have been difficult to reach general agreement on many of the draft articles, or else they would have had to be adapted and revised in such a way that they would have lost some of their clarity and effectiveness.

52. Other representatives, however, regretted that the draft articles were limited solely to treaties concluded between States. In particular, it was emphasized that treaties concluded between States and international inter-governmental organizations, or between the latter, were playing an increasingly important role in the life of the international community today, and were of great importance, above all, to the developing countries. The inclusion of that type of treaty in the draft would have avoided the difficulties and inconveniences to which the adoption of a new convention on it would one day give rise. Some representatives suggested that the International Law Commission should prepare a draft on treaties concluded with international organizations in time for the future conference on the law of treaties to be able to consider that category of treaties also. In view of the time available before the convening of the conference, others considered that impossible. Lastly, some speakers urged that the International Law Commission should proceed as soon as possible to study that category of treaties in connexion with its agenda item "Relations between States and inter-governmental organizations".

53. While some representatives considered the definition of "treaty" in article 2, sub-paragraph 1 (*a*), satisfactory, others felt that in its present wording it might create serious constitutional problems for certain States which it would be better to avoid. The use of the word "treaty" as a generic term might give rise to problems in connexion with certain agreements, e.g., agreements in simplified form or so-called executive agreements, which in respect of their conclusion and entry into force, were in many constitutional systems the exclusive prerogative of the chief executive, in the exercise of which no participation by the legislature was necessary.

54. Another representative, on the other hand, said that in his opinion the fears expressed about the use and definition of the term "treaty" in the draft were groundless, since

article 2, paragraph 1, explicitly stated that the terms used were defined only "for the purposes of the present articles" and paragraph 2 of that article stated that "The provisions of paragraph 1 regarding the use of terms in the present articles are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State".

55. In the opinion of one representative, the draft provided no criterion for determining when an international agreement was or was not "governed by international law" and he suggested that the criterion should be the intention of the parties, or, perhaps, the "manifested" intention of the parties. Another representative considered that the draft did not make it clear, as it should have done, that the expression "governed by international law" also covered "mixed" treaties, i.e. treaties which though coming under international law were also subject to the national law of one party or a third State.

56. Another representative thought that the definition of "treaty" given in article 2, sub-paragraph 1 (*a*) was incomplete. In his opinion, it was essential to add that the treaty should be intended to produce certain juridical effects, i.e., to create, modify or extinguish a legal situation. A statement which did no more than express common purposes of a non-compulsory kind and laid down no rights or obligations for the parties making the statement, could not be considered a treaty, although such a statement would come within the definition of "treaty" given in the draft articles.

57. With respect to the terminology used, one representative observed that the expression "treaties concluded between States" in article 1 (Scope of the present articles) seemed to include in the concept of "conclusion" the whole treaty-drafting process, whereas, on the other hand, in Part II of the draft, a distinction was made between the "conclusion of treaties" (section 1) and their "entry into force" (section 3). In that representative's view, it would be better to keep to a single interpretation, rather than to two interpretations, one general and the other restricted, of what was meant by "conclusion", in order to avoid possible difficulties of interpretation.

Part II. Conclusion and entry into force of treaties (articles 5-22)

58. Some representatives said they were gratified that article 5, paragraph 1, of the draft provided that "Every State possesses capacity to conclude treaties" and maintained that it was essential that the future convention on the law of treaties should contain a similar provision. In their view, such a provision was a natural corollary of the principle of the sovereign equality of States, irrespective of differences in their economic, social and political systems, a principle which had been proclaimed in Article 2 of the Charter. The principle in question had been unanimously affirmed by the 1966 Special Committee on the Principles of International Law concerning Friendly Relations and Co-operation among States.

59. Some representatives expressed approval of the International Law Commission's observation, in paragraph 4 of its commentary on article 5, that the term "State" was used in paragraph 1 of that article with the same meaning as in the United Nations Charter and the Statute of the International Court of Justice, i.e., it meant a State for the purposes of international law. One representative considered that it made little sense to make the possession of legal personality a prerequisite to the conclusion of treaties, as draft article 5 purported to do, since cases were known in international law, such as those of the Dominions of the British Commonwealth of Nations at the time of the League of Nations, in which treaty-making capacity had been developed through the very process of entering into international agreements.

60. Some representatives alluded in their statements to the solution given in the draft to the problem of determining when the consent of a State to be bound by a treaty could be expressed merely by signature (article 10), or required subsequent ratification (article 11).

Certain representatives, holding that ratification was an optional procedure, approved the fact that the Commission had made the question whether consent to be bound could be expressed by signature or required ratification depend on the intention, explicit or not, of the States which had participated in the negotiations, and had confined itself to specifying how that intention should be determined. Others, however, expressed concern lest the system adopted might reverse the traditional rule relating to ratification, inasmuch as under draft article 11 a treaty did not require ratification in order to bind States unless that requirement was expressly provided for in the treaty itself or the intention to require ratification could be deduced by reference to some of the criteria indicated in that article. One representative said that the rule laid down in article 11 concerning ratification might create difficulties for certain States, since sub-paragraph 2 (*c*) of article 6 (Full powers to represent the State in the conclusion of treaties) provided that representatives accredited by States to an international conference or to an organ of an international organization "for the purpose of the adoption of the text of a treaty in that conference or organ" were to be considered as representing a State "in virtue of their functions and without having to produce full powers".

61. In connexion with article 12 (Consent to be bound by a treaty expressed by accession), one representative expressed his satisfaction at the fact that the International Law Commission had not made accession to a treaty dependent on its entry into force.

62. A number of representatives criticized the fact that the International Law Commission had not included in its final draft articles on the law of treaties a clause affirming the universality of general multilateral treaties, or at least a rule similar to that laid down in article 8 of its preliminary draft of 1962. In the view of those representatives, the future international conference on the law of treaties should remedy the gap in the Commission's draft articles on that point. General multilateral treaties, they held, should be open to all States concerned, since they regulated matters of interest to all States and the international community and were intended to proclaim or develop principles and rules of international law binding on all States. To limit participation in general multilateral treaties would be equivalent, in their view, to violating the universality of international law and the principle of sovereign equality; it would be contrary to the very nature of those treaties and would adversely affect peaceful co-operation among nations and the progressive development and codification of international law. It was observed that when there were serious problems at issue, States had been wise enough to settle them on the basis of the principle of universality, and the Moscow Treaty prohibiting nuclear tests and the various General Assembly resolutions addressing themselves and appealing to all States were cited as familiar examples. In the view of those representatives, the principle of the universality of general multilateral treaties did not affect the question of the recognition of States or Governments, nor did it limit a State's freedom to conclude multilateral conventions to which only a certain number of States were parties. It was also pointed out by other representatives that the capacity of all States to conclude treaties recognized in draft article 5 was to be understood as meaning that all States possessed the capacity to accede to general multilateral treaties dealing with matters affecting their legitimate interests.

63. Other representatives pointed out that the question of including in the draft articles provisions relating to participation in general multilateral treaties was a controversial one, since it had not yet proved possible to find a formula acceptable to all States; and in view of that fact they felt that the International Law Commission had acted wisely in not making a proposal to that effect in its draft.

64. In the course of the debate, several representatives expressed satisfaction at the fact that in formulating draft articles 16-20 relating to reservations to multilateral treaties the International Law Commission had taken into account the need to encourage the participation of the greatest possible number of States in multilateral treaties, especially those governing matter involving the legitimate interests of all States and the international commu-

nity as a whole. Those representatives welcomed the rejection of the traditional rule or practice of unanimity in favour of a flexible system more in harmony with requirements of the contemporary international community as a positive contribution to the cause of international co-operation. One representative pointed out that that change was the logical corollary of the acceptance of the principle of majority voting at international conferences.

65. Certain representatives, on the other hand, while acknowledging that international practice and judicial precedents were today more flexible with respect to reservations to multilateral treaties, said that in the final formulation of the relevant articles an effort should be made to keep recourse to them to a minimum, since they were prejudicial to the unity of international law and the real value of treaties.

66. Other representatives held that the Commission should have drawn all the conclusions implicit in the fundamental principles on which its articles on reservations were based. The effect of an objection to a reservation should be limited to the provision or provisions which were the subject of the reservation, all the other provisions of the treaty remaining in force between the two States concerned. One of the representatives in question expressed the view that sub-paragraph 4 (*b*) of article 17 should be reversed to provide that the treaty should "enter into force" between the reserving State and the objecting State, unless the latter expressed a contrary intention. Another representative said that paragraph 3 of article 19 was still not entirely satisfactory, since the binding force of the treaty was made contingent on the agreement of the objecting State.

67. Lastly, one representative stressed the fact that the draft did not eliminate all the doubts which might arise in connexion with reservations. He observed that in practice some difficulties might be caused by the use of such expressions as "the reservation is incompatible with the object and purpose of the treaty" (article 16, sub-para. (*c*)) "a reservation... impliedly authorized by the treaty" (article 17, para. 1) and "the limited number of the negotiating States" (article 17, para. 2) and that the provisions relating to the legal effect of a reservation when there was an objection to it but the objecting State agreed to consider the rest of the treaty in force between itself and the reserving State (articles 17 and 19) would result in the same effect as an accepted reservation.

Part III. Observance, application and interpretation of treaties (articles 23-34)

68. Representatives who referred in their statements to the rule *pacta sunt servanda* laid down in article 23 of the draft, under which "Every treaty in force is binding upon the parties to it and must be performed by them in good faith", claimed that it was not only a fundamental rule of the law of treaties but also the corner-stone of international law as a whole. Some representatives pointed out that the basis for the rule *pacta sunt servanda* was nothing but the principle of good faith which ought to govern international relations, as had been expressly stated in the Preamble and in Article 2, paragraph 2, of the Charter. One representative said that the final formulation of the rule *pacta sunt servanda* should be drafted in the light of the results of the study of the principle of good faith currently being carried out by the General Assembly in connexion with the item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations". It was also said by some representatives that good faith in the law of treaties was indivisible, and that therefore if it was lacking at the moment when conventional obligations were created, the rule *pacta sunt servanda* could not subsequently be invoked to call for the fulfilment of those obligations.

69. Some representatives asserted that the strict and rigorous observance of treaties was a matter of necessity, and stressed that it was not enough to proclaim the rule *pacta sunt servanda* if it was subsequently ignored in the realities of international life. Observing that the violation of obligations flowing from treaties had been and still was the cause of

many serious international conflicts, those representatives emphasized that if the rule *pacta sunt servanda* was in fact robbed of its substance, the very existence of international law, co-operation and peaceful coexistence among States would be placed in jeopardy. It would be useful and advisable to strengthen the rule *pacta sunt servanda* by drawing up juridical declarations which would encourage the strict observance of treaties by all States, large and small.

70. Other representatives said that the rule *pacta sunt servanda* could only be considered binding and be invoked in connexion with treaties "in force"; it was not applicable in the case of treaties which were void *ab initio*. Consequently, the rule *pacta sunt servanda* should be applied in the light of the rules of treaty law which determined when a treaty was "in force" and when it was not, especially those relating to the conclusion, invalidity, termination and suspension of treaties. One of those representatives observed that the peremptory norms of international law, especially those embodied in the Charter and those which set forth the constitutional precepts on which the international community was founded, limited the effects of the rule *pacta sunt servanda*, for the latter could not redeem a treaty which ignored or violated such norms. Lastly, it was argued that the application and interpretation of the rule *pacta sunt servanda* must sometimes be modified by the rule *rebus sic stantibus* when that was called for by equity, justice and the interests of a continuously evolving international community.

71. With regard to draft article 25 (Application of treaties to territory), some representatives considered that treaties applied only to the territories of the parties; they feared that in its present form the provision might result in treaties being applied, without the consent of the population, to territories which had not yet attained their independence. Other representatives were gratified that in article 25 the International Law Commission had avoided any allusion which might associate it with the so-called "colonial clause". With regard to article 26 (Application of successive treaties relating to the same subject-matter), some representatives expressed approval of the fact that the proposed text recognized the primacy of the Charter, in accordance with Article 103 of that instrument.

72. As to the interpretation of treaties (draft articles 27-29), it was pointed out that the International Law Commission had acted correctly in introducing the principle of good faith and at the same time basing interpretation on the will of the parties expressed objectively. One representative also emphasized that sub-paragraph 3 (*c*) of article 27 wisely provided that "any relevant rules of international law applicable in the relations between the parties" should be taken into account, together with the context. Lastly, another representative said that unless interpretation served to integrate treaties in the process of historical evolution they would have no real effect.

73. With regard to the provisions relating to treaties and third States (articles 30-34), some representatives expressed satisfaction that the International Law Commission had recognized that a treaty did not create either obligations or rights for a third State without its consent (article 30). Those representatives considered that the maxim *pacta tertiis nec nocent nec prosunt* was based on the concepts of the independence and sovereign equality of States. In that connexion, some representatives referred to the situation of the colonized peoples, which were sometimes bound by treaties in whose conclusion they had not participated. One representative commended the wording of article 32 (Treaties providing for rights for third States), which, in his view, provided that a right in favour of a third State could only be created through a second collateral agreement, but at the same time stipulated that the third State's assent should be presumed so long as the contrary was not indicated. Another representative felt that in the text of article 34 (Rules in a treaty becoming binding through international custom) it should be expressly stated, as in the commentary to the article, that the customary rules referred to were those formulated in a treaty which third States recognize as binding customary law.

Part IV. Amendment and modification of treaties (articles 35-38)

74. No special comments were made on the articles in this part of the draft.

Part V. Invalidity, termination and suspension of operation of treaties (articles 39-68)

75. The only general provisions in section 1 of this part mentioned during the debate were articles 41 (Separability of treaty provisions) and 42 (Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty). With regard to paragraph 3 of article 41, one representative considered that the definition of the conditions which could be invoked as a ground for invalidating, terminating, withdrawing from or suspending the operation solely of particular clauses of a treaty should be accompanied by a procedural rule which would facilitate their practical application. The recognition in article 42 of the rule concerning loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty was welcomed as an additional proof of the importance which the International Law Commission had attached to the principle of good faith throughout the draft.

76. Some representatives approved the fundamental principles on which the provisions relating to the invalidity of treaties (articles 43-50) were based, and thought that the International Law Commission had acted correctly in protecting the authentic expression of the consent of the parties and embodying it in the system of fundamental principles of modern international law. Other representatives, on the other hand, felt that some of the provisions relating to the invalidity of treaties might introduce uncertainty or insecurity in conventional relations, and suggested that they be revised or deleted.

77. One representative praised the formulation of article 43 (Provisions of internal law regarding competence to conclude a treaty), since no State was entitled to intervene in the internal affairs of other States in order to ascertain whether or not there had been compliance with the constitutional requirements for declaring the will of that State.

78. One representative said that the International Law Commission should have devoted more attention to the time element in connexion with articles such as those relating to error (article 45), fraud (article 46) or coercion of a State by the threat or use of force (article 49). Another representative held that defects such as error (article 45), fraud (article 46) or corruption (article 47) could not be remedied, and consequently felt that in such cases a treaty should have been declared void *ab initio*. Some representatives considered that the International Law Commission had acted wisely in providing in the draft for the corruption of a representative of the State (article 47).

79. A number of representatives commended the draft for establishing, in conformity with contemporary international law, that the coercion of a State by the threat or use of force (article 49) and the coercion of a representative of the State (article 48) vitiated consent and invalidated any treaty. It was also considered highly appropriate that the principles of the United Nations Charter should be mentioned in article 49.

80. One representative observed that under draft article 49 not only "the threat or use of force" but also "violation of the principles of the Charter of the United Nations" must have occurred in order to invalidate a treaty. He recalled the development and evolution of international law with regard to the prohibition of the threat or use of force in international relations, beginning with Articles 10-15 of the Covenant of the League of Nations and the Briand-Kellogg Pact, and pointed out that Article 2, paragraph 4, of the Charter prohibited not only war but any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

81. A number of representatives regretted that the present text of article 49 referred only to the "threat or use of force" without expressly mentioning other forms of coercion of a political or economic nature which vitiated consent. Some of those representatives said that the word "force" in article 49 should be interpreted as including all forms of political and economic coercion, so as to provide special protection for the newly independent States.

82. Other representatives thought that the International Law Commission had been wrong in dismissing, in its commentary on article 49, the retroactivity of the provision formulated in that article. They considered it inadmissible for the rule not to apply to treaties whose conclusion had been procured by the threat or use of force before the entry into force of the Charter and said that that would conflict with Article 103 of the Charter, which made no distinction between treaties concluded before and those concluded after its entry into force. One representative stressed that any treaty imposed by the threat or use of force in violation of the principles of the Charter was absolutely void *ab initio*, for a defect vitiating consent was involved which violated a constitutional principle of the Charter.

83. The provisions of the draft relating to peremptory norms of general international law (*jus cogens*) as grounds for the nullity (article 50) or termination (article 61) of treaties and to the legal consequences of that nullity or termination (article 67) were viewed as very important and significant by the representatives who referred to them in the debate. The nature of *jus cogens*, its basis, content and effects, and the desirability and objectives, in terms of the draft as a whole, of the provisions dealing with it were the subject of many varied comments.

84. Some representatives said that the provisions of the draft articles referring to *jus cogens* reflected a modern conception of international law and that the Commission had done well to make *jus cogens* part of the law of treaties. In their opinion, the principle of the consent of the parties was no longer of itself sufficient for a treaty to be valid if the treaty was contrary to the norms of international law having the character of *jus cogens*. That implied, according to them, a considerable strengthening of the rule of law in the international legal order; an effort should be made to strengthen that trend still further so as to prevent the real significance of *jus cogens* from being adulterated or limited. States could no longer modify their relations with one another by violating the principles binding on all States or turn forbidden practices into rules of international law.

85. According to some representatives, the norms of *jus cogens* were already an integral part of the body of norms which constituted the law of nations. The justification for the norms of *jus cogens* was to be sought in the fact that the existence of a harmonious international legal order was in the interest of the international community, a point recognized, it was recalled, in the commentary on article 50. They were intended mainly to prevent the use of treaties as a screen to conceal actions conflicting with the principles of contemporary international law. Those representatives thought that the content of *jus cogens* should be defined by reference to the law of the United Nations Charter, the predominance of which was proclaimed in Article 103, and especially to those important Charter principles which had the character of basic norms of contemporary international law, for example, the principle of the prohibition of the threat or use of force, the principle of the peaceful settlement of disputes, the duty not to intervene in matters within the domestic jurisdiction of any State, the principle of sovereign equality of States, and the principle of equal rights and self-determination of peoples. Those representatives were opposed to drawing up a restrictive list of norms of *jus cogens*, since as international law evolved new norms of *jus cogens* would gradually be added to the existing ones; they favoured the idea of a statement in general terms, as in the draft.

86. In this connexion certain representatives considered that the norms of *jus cogens* limited the rule *pacta sunt servanda*, since by virtue of those norms not all treaties were

protected by international law. They maintained that treaties imposed by force in violation of the principles of the United Nations Charter and unjust or leonine treaties were contrary to existing norms of *jus cogens* and hence void.

87. Other representatives recognized that the very idea of *jus cogens* reflected and recorded an emergent public order of the international community, but that it had still not been accepted by all as *lex lata* and its content was disputed. In the view of those representatives, the basic question was to identify such peremptory norms having the character of *jus cogens* as already existed, and to determine how new norms of *jus cogens* might come into existence, become established and secure recognition as such. Those representatives, raising the question whether the Purposes and Principles proclaimed in Chapter I of the Charter could be regarded in their entirety as *jus cogens*, stressed that the International Law Commission in its commentary on article 50 had singled out only one, namely, the principle concerning the use of force, as "a conspicuous example" of a peremptory norm of general international law. That commentary stated, moreover, that the majority of the rules of international law did not have that character. It added that, although Article 103 of the Charter stipulated that obligations under the Charter "should prevail", the basic idea in that Article was not so much the invalidity of a treaty *ab initio*, as where a norm of *jus cogens* was involved, but rather the question of a conflict between two groups of obligations when it came time for performance. Because of those difficulties, it was noted, the Commission had been satisfied to formulate the doctrine of *jus cogens* in general terms in the draft, leaving its content "to be worked out in State practice and in the jurisprudence of international tribunals".

88. Other representatives considered that an enumeration such as that in the commentary on article 50 could not take the place of a precise definition and that consequently the article in question would be difficult to accept. Otherwise, States would bind themselves without knowing fully the scope of the obligations assumed, and that would inevitably give rise to differences of interpretation. The question could be solved by providing in the draft for compulsory jurisdiction to determine whether a specific norm of international law had the legal status of *jus cogens*, but article 62 of the draft did not establish such jurisdiction.

89. Other representatives said that the commentaries on articles 50, 61 and 67 made it possible to determine with reasonable accuracy whether a given rule of international law constituted *jus cogens*. In that connexion, one representative indicated that treaties violating human rights or the principle of self-determination, treaties favouring the slave trade, piracy or genocide, and treaties contemplating an unlawful use of force contrary to the principles of the Charter would violate norms of general international law having the character of *jus cogens* and would therefore be void. Another representative stressed that, in draft article 50, the International Law Commission gave a formal definition of peremptory norms (*jus cogens*) but not a definition of the nature of such norms. Given the examples cited in the commentary on that article, however, it could be asked, in that representative's view, whether the draft itself did not contain one or more norms of *jus cogens*, for example the norms stated in article 23 (*pacta sunt servanda*) and in article 50 itself.

90. In the opinion of one representative, it seemed inappropriate, in the commentary on article 50, for the International Law Commission to assert the non-retroactive character of the norm stated in that article, whereas another representative, on the other hand, found it hard to accept the idea that the emergence of a new peremptory norm of general international law should necessarily have the effect of annulling not only future but also existing treaties.

91. In the light of draft articles 50, 61 and 67 and the relevant commentaries, one representative considered that there were two kinds of peremptory norms of general international law which could be overridden only by another peremptory norm of the same char-

acter: the general principles of law on which any legal order must rest and the general principles of international law; and the rules and principles which represented as it were a "constitution of the international community". In that representative's opinion, the idea of an international constitution clarified the notion of peremptory norms although even that idea did not make it possible to define the nature of such norms, because the international community had as yet no procedure for creating such norms and because international conferences had never declared that a specific article of a convention was a peremptory norm. Accordingly, that representative thought that the forthcoming conference of plenipotentiaries on the law of treaties should endeavour to define some of the rules which it would lay down in the convention as rules of *jus cogens*, since it would have the authority to do so.

92. Lastly, one representative thought that the work of the General Assembly on principles of international law concerning friendly relations and co-operation among States in accordance with the Charter might prove very helpful by clarifying points of consensus and disagreement on the idea of *jus cogens* and thus prepare the ground for general understanding of the content of that idea.

93. The formulation of articles 51 to 60 in part V, section 3 of the draft dealing with the termination and suspension of the operation of treaties was approved in general terms by certain representatives. Nevertheless, one representative considered that article 55 (Temporary suspension of a multilateral treaty by consent between certain of the parties only) involved risks and did not seem to be entirely in accord with the practice of States. Another representative suggested the addition of a sentence, for example in article 58 (Supervening impossibility of performance) providing for the automatic termination of treaties as the result of the fulfilment of all the obligations assumed in it by the parties. According to still another representative, the present wording of paragraph 1 of article 53 (Denunciation of a treaty containing no provision regarding termination) contained a subjective element which was difficult to evaluate and article 56 (Termination or suspension of the operation of a treaty implied from entering into a subsequent treaty) should provide for the possibility of regarding the earlier treaty as still being applicable with respect to those matters not covered by the new treaty.

94. Stressing the importance in international law of the rule *rebus sic stantibus*, one representative thought a new clause (*c*) should be added to paragraph 3 of article 57 (Termination or suspension of the operation of a treaty as a consequence of its breach) with a view to extending the provisions of that article to "changes of the circumstances which have not been foreseen by the parties but which have been deliberately brought about or created by one of the parties to the treaty", and that a paragraph should be added to article 58 (Supervening impossibility of performance) which would read as follows: "A party to a treaty may not plead impossibility of performance if such alleged impossibility is based on a change of circumstances deliberately brought about by that party. Such a party should restore the *status quo* and carry out its obligations under the treaty."

95. Certain representatives said that the doctrine of *rebus sic stantibus* was aptly introduced and stated in draft article 59 (Fundamental change of circumstances). It was asserted that that doctrine was particularly important for the purpose of counterbalancing the principle of *pacta sunt servanda*, and that, if properly circumscribed and regulated, it would provide a safety-valve enabling the law of treaties to be adapted to the dynamics of international life. One representative emphasized that according to article 59 there must be not only "a fundamental change of circumstances" but, in addition, the existence of those circumstances should constitute an essential basis of the consent of the parties to be bound by the treaty, and that even then, that change could not be invoked in the case of a treaty establishing boundaries or if the fundamental change was the result of a breach by the party invoking it either of the treaty or of a different international obligation owed to the other parties to the treaty. Another representative thought that article 59 could be invoked to

terminate a treaty if one of the parties unreasonably opposed the conclusion of a new agreement to terminate it. With reference to the present wording of the article, still another representative observed that it would be preferable to draft paragraph 1 in positive terms and to retain the negative form only in paragraph 2.

96. Some representatives, on the contrary, said that they found it difficult to accept draft article 59 because it laid down imprecise rules, to which important juridical consequences were attributed, without surrounding them with the necessary procedural safeguards, and because it might jeopardize the stability of treaty relations. One representative criticized the fact that in drafting article 59, the Commission had not given due consideration to the time factor and, therefore, failed to take into account the distinction between treaties immediately executed (*a tracto cumplido*) and treaties to be executed in the future (*a tracto futuro*).

97. Some representatives regretted that, owing to the current divergence of opinion on the international level, the International Law Commission had not made provision in draft article 62 (Procedure to be followed in cases of invalidity, termination, withdrawal from or suspension of the operation of a treaty) for a binding judicial solution, especially with regard to the draft articles falling within the purview of the progressive development of international law or containing new or imprecise concepts. Those representatives felt that the provision in paragraph 3 of article 62, under which the parties should "seek a solution through the means indicated in Article 33 of the Charter of the United Nations" if objection had been raised by any other party, did not appear to be enough to ensure the objective settlement of conflicts which might be caused by the application or the interpretation of those articles or concepts. Consequently, some representatives advocated deleting some provisions from the draft, one of those representatives specifically referring to the provisions in articles 45, 46, 49, 50, 59, 61, 67 and 70.

Part VI. Miscellaneous provisions (articles 69 and 70)

98. With regard to article 69 (Cases of State succession and State responsibility), a number of representatives said that they would have liked the draft to regulate those aspects of State succession and State responsibility which concerned treaty law, as indicated in the section of this report dealing with the scope of the draft, paragraphs 45 and 46 above. Some representatives considered article 70 (Case of an aggressor State) particularly important, because its application would help to strengthen international legality. According to those representatives, it constituted an exception to the rule that consent was required for a State to be bound by a treaty; by virtue of that exception it would be legally possible through a treaty to impose obligations on a State guilty of the initiation and conduct of aggressive war. One representative considered that the article was not precisely formulated or accompanied by adequate guarantees regarding its application and interpretation.

Part VII. Depositaries, notifications, corrections and registration (articles 71-75)

99. One representative suggested that the wording of the first sentence of article 75 (Registration and publication of treaties) should be amended, because in his view those words, at least in the Spanish version, seemed to give the impression that treaties were being entered into by means of the draft articles themselves.

2. International conference of plenipotentiaries on the law of treaties

100. As is indicated in paragraph 27 of this report, the representatives who took part in the discussion endorsed the International Law Commission's recommendation that an international conference of plenipotentiaries on the law of treaties should be convened to

study the final text of the Commission's draft articles and incorporate the results of its work in a single convention on the law of treaties. There was also general agreement that the Commission's draft articles, contained in chapter II of the report on its eighteenth session, should be referred to the conference as the "basic proposal" for its consideration, without prejudice, of course, to the right of any State participating in the conference to submit such amendments to the "basic proposal" as it might deem appropriate.

101. Various views were expressed concerning arrangements for the conference, procedural and organizational problems, the question of participation, and other administrative and budgetary matters. The discussion of all those questions dealt at first with the various possibilities suggested in the memorandum prepared by the Secretariat on procedural and organizational problems involved in a possible diplomatic conference on the law of treaties (A/C.6/371), and later centred on the suggestions put forward during the discussion and on the relevant draft resolutions (A/C.6/L.595, A/C.6/L.596 and Corr.1 and Add.1, A/C.6/L.596/Rev.1 and Add.1, and A/C.6/L.596/Rev.2) and amendments (A/C.6/L.598, and A/C.6/L.601-603). The Secretariat was thanked by many delegations for helping to deal with the problems involved in convening the conference by preparing the above-mentioned memorandum, which some regarded as an important development in the techniques of codification that should become standard practice in the future. During the discussion, the Committee had before it a set of preliminary estimates of the financial implications of the various possible methods of organizing the conference (A/C.6/L.600).

(a) *Preparation for the conference*

102. Many delegations, pointing out the importance of the proposed conference on the law of treaties, stressed the need to make careful preparations, from the political, legal and administrative standpoints, so as to ensure its success. It was considered essential for Governments to have a reasonable amount of time, before the conference opened, in which to study the substance and implications of the draft articles submitted by the International Law Commission, to express and exchange their views on the articles and even to begin negotiations with a view to reconciling or removing any differences of opinion. That would make it much easier to reach agreement at the conference and might help to shorten the conference, with a resultant financial saving.

103. In order to ensure that proper preparations were made for the conference, it was felt that it would be most useful to have written comments from the Governments of Member States on the final draft articles and even, if possible, specific amendments during the preparatory phase. It was also proposed that written comments should be requested from the Secretary-General of the United Nations and the Directors-General of those specialized agencies which acted as depositaries of treaties. Those views were reflected in draft resolution A/C.6/L.596 and its revised versions and were ultimately embodied in operative paragraph 9 of the draft resolution adopted by the Committee (A/C.6/L.596/Rev.2). One representative, however, expressed fear that the procedure of written comments would lead to a hardening rather than a reconciliation of positions. Another representative felt that it would be preferable to invite comments from all States, even if some did not subsequently attend the conference.

104. At the same time, it was decided to include an item entitled "Law of treaties" in the provisional agenda of the twenty-second session of the General Assembly so that the Sixth Committee could discuss the substance of the draft articles before the conference was convened. Since it was thought advisable to have the requested written comments available in time for that discussion, Member States, the Secretary-General of the United Nations and the Directors-General of the above-mentioned specialized agencies were invited to submit their comments not later than 1 July 1967, and the Secretary-General was requested to circulate them as soon as possible in order to facilitate the Committee's work. Those

decisions are embodied in operative paragraphs 9, 10 and 11 of the draft resolution adopted by the Committee (A/C.6/L.596/Rev.2).

105. Some representatives thought that it would be very useful for Sir Humphrey Waldock, the International Law Commission's Special Rapporteur on the law of treaties, to be present during the Sixth Committee's discussion of the item "Law of treaties". One representative proposed that the Committee should discuss that item first at the twenty-second session of the General Assembly so that Governments would have time to study the remarks made in the discussion before the conference opened. He also suggested that verbatim records of the discussion might be useful.

106. Lastly, some representatives felt that consultations could be held during the period of preparation for the conference in order to explore the possibilities of agreement and compromise on various issues on which controversy would otherwise be likely to arise at the conference. One representative expressed the view that "regional" consultations would be most appropriate.

(b) *Division of the conference*

107. During the discussion, a number of representatives expressed themselves in favour of dividing the conference into two parts, with an interval between them. It was argued that that would give Governments time to analyse the results achieved during the first phase and resolve their differences, that it would encourage participation in the two phases of the conference by highly qualified representatives, and that it would make it possible to avoid setting up two main committees and thus bring about a saving in personnel and costs. Some of the representatives in question thought it desirable that States should try to send the same representatives to the two parts of the conference, that the interval between the two parts should not be longer than one year, and that the first part should be devoted primarily to committee work and the second part to the discussion and adoption in plenary of the texts adopted in committee. One representative felt that, at the end of the first part of the conference, the drafting committee should remain in session for a number of days longer than the main committee or committees so that Governments could have its recommendations on the results of the work in committee. It was also thought essential for the records of the first part of the conference to be made rapidly available to Governments.

108. Other representatives were opposed, in principle, to a division of the conference into two parts on the ground that the disadvantages of that procedure outweighed the possible advantages. They felt that a two-part conference would make greater demands in terms of money and staff, which would be particularly difficult for the developing countries to bear, and that it would prevent work from progressing smoothly, would delay compromise solutions of controversial problems and would carry with it the risk that issues apparently settled during the first part of the conference would be reopened during the second.

109. Some representatives felt that the possibility of completing the conference in a single session should not be excluded beforehand but that appropriate decisions should be adopted at the present time so that it would be possible to hold a second session if necessary.

110. Finally, in view of the decision taken on the question of division of the draft articles between two main committees and on the opening date of the conference, most representatives agreed to the idea of dividing the conference into two parts, with an interval of one year between them, and chose a formula which would remove any uncertainty in that regard so as not to complicate the task of planning the conference. That position was embodied in operative paragraph 3 of the draft resolution adopted by the Committee (A/C.6/L.596/Rev.2). However, some representatives expressed reservations concerning the matter in view of the increased costs involved and the difficulty some Governments would have in sending a sufficient number of specialists to the conference in two successive years.

(c) *Division of the draft articles between two main committees*

111. Some representatives were in favour of dividing the draft articles between two main committees because they thought that that would make for a shorter conference. In that respect, certain representatives considered that the allocation of the articles suggested by the Secretariat in paragraph 16 of the memorandum (A/C.6/371) was, in principle, logical. Others felt that if that method was adopted the allocation of the articles would need to be more closely studied and they suggested that the International Law Commission should be consulted on the subject and that the question should be discussed in the Sixth Committee the following year. There were certain representatives, too, who felt that the final decision should be left to the conference itself. All those representatives stressed the important co-ordinating role that the drafting committee of the conference would have to play in the event of the draft articles being divided between two main committees. Some of those opinions were embodied in operative paragraphs 4 and 8 of the original draft resolution (A/C.6/L.596) and in operative paragraphs 5 and 9 of the first revised text (A/C.6/L.596/Rev.1).

112. There were other representatives who did not share that view and who stressed the close connexion between all the draft articles, the element of arbitrariness inherent in any division, the increased expenditure that it would entail and the difficulties that the small delegations and the developing countries would have in ensuring representation in two committees. Some of those representatives did not preclude the possibility that the conference itself might in certain particular cases decide to set up sub-committees or working groups.

113. In the end, the advocates of two main committees did not press their point of view but decided in favour of setting up a single committee of the whole. The sponsors of the revised draft resolution (A/C.6/L.596/Rev.1) left out all references to the division of the draft articles between two main committees in the second revised text of the draft resolution (A/C.6/L.596/Rev.2), which was approved by the Sixth Committee.

(d) *Date of the conference*

114. Most of the representatives who spoke in the debate agreed that Governments and the Sixth Committee should be given time to examine the draft articles and that the Secretariat should have time to prepare the documentation for the conference, but at the same time they stated that the momentum that the International Law Commission had given to the codification of the law of treaties should not be lost. Those representatives considered that the conference should be held early in 1968.

115. Other representatives emphasized the need to take into account the general calendar of conferences of the United Nations before taking any decision on the date of the conference. They pointed out that the calendar for 1968 would be a heavy one, since there was to be an international conference on human rights, an international conference to replace the Convention on Road Traffic and the Protocol on Road Signs and Signals, a conference of ministers responsible for social welfare and perhaps a meeting of the United Nations Conference on Trade and Development, too; they therefore thought that it would be better to postpone the conference on the law of treaties until 1969. Those representatives pointed out that under paragraph 5 of General Assembly resolution 2116 (XX) of 21 December 1965 not more than one "major special conference" should be scheduled in any one year and they declared that the Sixth Committee should bear that resolution in mind in deciding the date of the conference on the law of treaties. At the 915th and 917th meetings, the Legal Counsel, referring to the rule established in paragraph 5 of resolution 2116 (XX), stated that there was as yet no criterion for determining what constituted a "major" conference. He also told the Committee that, according to the information available, there were no conferences scheduled for January, February or March 1968.

116. The Committee decided that the first session of the conference should be convened early in 1968 and the second session early in 1969, as stated in operative paragraph 3 of the draft resolution adopted by the Committee (A/C.6/L.596/Rev.2). The sponsors of the draft resolution said that the date of the proposed conference would of course have to be determined in relation to the over-all United Nations conference schedule and that it would consequently be for the appropriate United Nations organs to determine, within the framework of General Assembly resolution 2116 (XX), the order of priority of the various conferences proposed for 1968.

(e) *Place of the conference*

117. Most of the representatives who referred to this question opted for the United Nations Office at Geneva, for technical, practical or financial reasons, although certain representatives expressed a preference for United Nations Headquarters in New York.

118. It was decided that the conference would be held "at Geneva or at any other suitable place for which an invitation is received by the Secretary-General before the twenty-second session of the General Assembly", as stated in operative paragraph 3 of the draft resolution adopted by the Sixth Committee (A/C.6/L.596/Rev.2). At the 918th meeting the Legal Counsel explained that if the Secretary-General were to receive an invitation he would decide upon it on the basis of operative paragraph 2 (*h*) of General Assembly resolution 2116 (XX), i.e., if the host Government agreed to defray all the additional costs entailed. In that case the estimates of the additional costs would be based on the estimated cost of holding the conference at Geneva. He added that in deciding whether the place to which the conference was invited was "suitable" the Secretary-General would take into consideration the general interest of all those attending the conference, the financial arrangements proposed by the host Government, the privileges and immunities to be extended, the facilities and installations offered and the possibilities in the way of accommodation, means of transport and communication, etc. If more than one invitation was received, the most "suitable" place would be determined in the light of those criteria. If any problem arose, the Secretary-General would consult the General Assembly at the twenty-second session.

(f) *Participation in the conference*

119. Some representatives proposed that all States should be invited to take part in the conference. The participation of all States in the conference would be of advantage for the codification of the law of treaties and in accordance with the principles of universality and the sovereign equality of States set forth in the United Nations Charter. All sovereign States that so wished would have the right to take part in the conference, or should be able to do so, since the law of treaties was of indisputable interest to all States and to the whole international community and its codification should be established on a universal basis. It was also said that participation in international conferences was not to be confused with recognition of a State. The position of those States was reflected in the amendments (A/C.6/L.598 and A/C.6/L.601).

120. Other representatives argued that the universality prescribed in the Charter applied only to its purposes and principles, that there was no universally recognized definition of a "State" and that it was a fact of international life that there were States or entities that were recognized as such by some States and not by others.

121. Some representatives proposed that, in addition to the categories of States traditionally invited to codification conferences, namely, States Members of the United Nations, States members of specialized agencies and States parties to the Statute of the International Court of Justice, there should be a new category of "States that the General Assembly decides specially to invite to participate in the conference". That formula was

included in the draft resolution (A/C.6/L.596) and in its two subsequent revised texts. According to those representatives, the "all States" formula would place upon the Secretary-General the political responsibility of deciding which entities were States that should be invited, a responsibility which he had declined on similar occasions in the past on the ground that it was a question for decision by the General Assembly itself. At the 918th meeting, the Legal Counsel told the Committee that the Secretary-General adhered to the position he had expressed on 18 November 1963 in the General Assembly,[15] and that consequently, if the "all States" formula was adopted, the Secretary-General would immediately ask the Sixth Committee and the General Assembly for a list of the States covered by the formula other than Members of the United Nations, members of the specialized agencies and parties to the Statute of the Court.

122. Those in favour of inviting all States considered that the new formula proposed was still discriminatory, and opposed its adoption. They felt that the principle of universality should not be obscured by alleged practical difficulties. They pointed out that, while there were no great difficulties over inviting observers from the specialized agencies and from inter-governmental organizations and even experts or specialists, representatives of a certain group of States were being excluded from the conference for purely political motives. It was added that the practical difficulties to which the "all States" formula allegedly gave rise had not prevented the General Assembly on important occasions from adopting resolutions addressed to all States in connexion with certain international agreements.

123. Other representatives, however, considered that the new formula was not discriminatory because the General Assembly could invite to the conference those States which it saw fit to invite; the proposed wording represented an advance over the traditional formula since it introduced an element of flexibility and avoided the technical difficulties to which the "all States" formula gave rise. In the opinion of some of those representatives, the adoption of the "all States" formula would have no practical value since, in the final analysis, the General Assembly, in that case too, would be called upon to give instructions to the Secretary-General. It was added that the resolutions which the General Assembly had addressed to all States were appeals or exhortations which it could make without having to prejudge the statehood of any party concerned.

124. One representative sought to overcome the practical difficulties invoked against the "all States" formula by suggesting that "all States parties to treaties registered with the United Nations" should be invited. Another representative asserted that such a formula would not solve the problem either because parties to registered treaties were not always States, so that the Secretary-General would again face the problem of defining the word "State". At the 916th meeting, the Legal Counsel, as requested, made a statement concerning the parties to treaties registered with the United Nations which were not Members of the United Nations nor members of the specialized agencies nor parties to the Statute of the International Court of Justice nor international organizations.

125. Finally, the Sixth Committee approved operative paragraph 4 of the draft resolution (A/AC.6/L.596/Rev.2) inviting to the conference on the law of treaties States Members of the United Nations, States members of the specialized agencies, States parties to the Statute of the International Court of Justice, and States that the General Assembly decides specially to invite, to participate in the conference.

(g) *Observers from specialized agencies and inter-governmental organizations*

126. Certain representatives explicitly favoured inviting to the conference observers from specialized agencies and from other interested inter-governmental organizations.

[15] See *Official Records of the General Assembly, Eighteenth Session, Plenary Meetings*, 1258th meeting, paras. 99-101.

That view, embodied in operative paragraph 6 of the resolution (A/C.6/L.596/Rev.2), was approved by the Sixth Committee.

127. At the 918th meeting, the Legal Counsel, in response to a request, explained that the "interested" inter-governmental organizations invited to send observers would be organizations which in addition to being interested in attending were engaged in the preparation of treaties, had treaty matters as a substantial part of their work, or were involved in the study of the law of treaties; it was doubtful whether collective security organizations would come within the formula. One representative proposed that the possibility of inviting the International Commission on Civil Status should be studied.

(h) *Inclusion of competent experts among the representatives sent by States to participate in the conference*

128. Certain representatives considered it extremely important to include experts competent in the law of treaties among the representatives of States participating in the conference; they advocated explicit mention of that view in the draft resolution recommended to the General Assembly. Other representatives felt that it was unfortunate, superfluous or inelegant to refer to that matter in the resolution to be adopted. Consequently, the sponsors of the revised draft resolution (A/C.6/L.596/Rev.1) inserted the phrase "so far as possible" in operative paragraph 5 of the second revised version (A/C.6/L.596/Rev.2). That paragraph, as amended, was approved by a majority of the Sixth Committee.

(i) *Experts from the Secretariat to service the conference*

129. Some representatives requested that the Secretary-General should obtain the services of experts qualified in the law of treaties because of the assistance that they could give in the work of the conference. Many representatives stressed that the conference should have the technical advice of Sir Humphrey Waldock, Special Rapporteur of the International Law Commission on the law of treaties, and suggested that he should be invited as an expert to the conference. Operative paragraph 8 of the draft resolution approved by the Sixth Committee (A/C.6/L.596/Rev.2) expressly authorizes the Secretary-General to include experts among the staff servicing the conference.

(j) *Draft rules of procedure*

130. Many representatives felt that the Secretariat should prepare draft rules of procedure for the conference on the law of treaties based on the rules of procedure of the Geneva Conferences on the Law of the Sea and the Vienna Conferences on Diplomatic Intercourse and Immunities and on Consular Relations and taking into account the nature of the work entrusted to the conference on the law of treaties. Once the draft rules had been approved by the conference, with the amendments considered appropriate, they would become the rules of procedure of the conference.

131. A number of representatives considered it essential for the conference to adopt the final texts by substantial majorities. In their view, the rule governing voting in the rules of procedure of the Conferences on the Law of the Sea and the Conferences on Diplomatic Intercourse and Immunities and on Consular Relations should be maintained. Under that rule, decisions in plenary session on questions of substance should be taken by a two-thirds majority of those present and voting and decisions on questions of procedure should be taken by a simple majority while in the committees and sub-committees all decisions should be taken by a simple majority of such representatives, except in the case of motions for reconsideration. One representative stressed that the rules of procedure should distinguish clearly between questions of substance and questions of procedure. Some representatives were in favour of deleting the rule limiting the number of speakers that could speak on a

motion for division, as suggested in paragraph 50 of the memorandum by the Secretary-General (A/C.6/371). One representative pointed out that the two-thirds majority for the adoption of motions for reconsideration was perhaps too rigid, especially at the committee stage, and suggested that the Secretariat should also study the question of amending that rule.

132. Operative paragraph 8 of the draft resolution approved by the Sixth Committee (A/C.6/L.596/Rev.2) requests the Secretary-General to present to the conference recommendations relating to its methods of work and procedures.

(k) *Documentation*

133. Some representatives pointed out that the Secretariat should centralize the preparation of all the documents for the conference. One representative expressed the hope that the reference guide to the legislative history of the draft articles being prepared by the Secretariat would be made available as soon as possible, together with the volumes of the *Yearbook of the International Law Commission* for 1966. Operative paragraph 8 of the draft resolution approved by the Sixth Committee (A/C.6/L.596/Rev.2) requests the Secretary-General to present to the conference all relevant documentation.

B. Special missions

134. In the debate some representatives stressed the importance and necessity of proceeding immediately with the codification of the international law governing special missions in a period of increasing contacts and relations among the members of the international community. Those representatives, recalling General Assembly resolution 2045 (XX) of 8 December 1965, took the view that, now that the final draft articles on the law of treaties had been adopted and submitted to the General Assembly, the International Law Commission should try to complete its work on special missions as soon as practicable, and if possible at its nineteenth session, so that the draft articles on the topic might be considered during the twenty-second session of the General Assembly. That view was expressed in sub-paragraph 4 (*a*) of the draft resolution (A/C.6/L.597), subsequently approved by the Sixth Committee. In that connexion stress was laid on the importance of the written comments of Governments to enable the Commission to put forward appropriate solutions to the problems posed by the codification of special missions, and approval was given to the Commission's decision, as indicated in paragraph 71 of its report on its eighteenth session, once again to request Governments to forward comments on its preliminary draft on special missions. Some representatives noted that their Governments were studying the draft articles and would submit such comments as they considered relevant in due course.

135. Certain representatives approved in general terms the decisions adopted with respect to the draft articles on special missions at the International Law Commission's eighteenth session and the recommendations made to the Special Rapporteur on special missions with a view to the continuation of the work on the subject. One representative endorsed, in particular, the recommendations concerning the nature of the provisions relating to special missions, the distinction between the different kinds of special missions and the inclusion of an introductory article at the beginning of the draft.

136. One representative considered that the codification of special missions should be embodied in an instrument separate from the Vienna Conventions on Diplomatic and Consular Relations, although care should be taken to ensure that the terminology employed for special missions was consistent with that used in those Conventions. Another representative thought that it was too soon to decide whether the draft articles on special missions should be in the form of a draft protocol to the 1961 Vienna Convention on Diplomatic Relations, or of a separate draft convention.

137. With reference to the general structure of the draft articles on special missions, one representative said that the draft should contain the fewest possible number of concisely drafted articles, and that the International Law Commission should adopt the final recommendations which would accompany the draft after taking due account of the practical implications of their implementation. Another representative approved the omission from the draft of the question of delegates to international congresses and conferences, but favoured the inclusion in the draft of provisions concerning so-called high-level special missions.

138. Concerning the formulation of the provisions to be included in the draft articles on special missions, it was noted that the International Law Commission still had to resolve matters of some difficulty before its work would be completed, such as the nature of the various kinds of special missions and the extent of the privileges and immunities which were accorded to those missions. One representative said that those privileges and immunities should not be too freely granted. Another representative stated specifically that articles 1, 7 and 18 of the preliminary draft could benefit from some revision.

C. Other decisions and conclusions of the International Law Commission

1. *Organization of future work*

139. Many representatives said that at its next session the International Law Commission, in addition to trying to adopt final draft articles on special missions as mentioned in paragraph 134 of this report, should also continue its work on succession of States and Governments, State responsibility and relations between States and inter-governmental organizations, and in that connexion should take such steps as it deemed advisable to advance the study of those topics as far as possible. Some representatives expressly approved the decision set out in paragraph 72 to 75 of the Commission's report on its eighteenth session, to propose to the new Commission, which would be elected at the present session of the General Assembly, a provisional programme of work for 1967 including those topics. Those views were reflected in operative paragraphs 3 and 4 of draft resolution A/C.6/L.597 and subsequently received the unanimous support of the Sixth Committee.

140. Certain representatives said that, while the drawing up of the Commission's programme of work was a matter for the Commission itself, the General Assembly and the Sixth Committee might helpfully give some indication of the relative importance which was assigned to the subjects to be studied, and consequently of the priority which should be given to them. In that connexion and with respect to the main subjects on the Commission's programme, many representatives favoured giving priority to the consideration of succession of States and Governments and, in particular, to those aspects of succession closely related to the law of treaties, because of the importance which that question had for the States which had recently become independent. Nevertheless, there were some who expressed an interest in the question of State responsibility also being taken up immediately, in view of that topic's implications for the developing countries, given the importance of foreign capital investments to their economies. One representative questioned whether the topic of State responsibility was really ripe for codification.

141. Other representatives said that they hoped that the Commission would be able to complete its work on the topic of relations between States and inter-governmental organizations within a reasonable period of time and that the study of that topic might cover treaties concluded between States and international organizations or between such organizations, with a view to completing the draft articles on the law of treaties between States.

142. Lastly, one representative, without making a formal suggestion to that effect, said he hoped that the Commission would be asked to continue its work on the codification

and progressive development of the law of treaties, in the light of the debate in the Sixth Committee and the written comments of Governments concerning the draft articles approved by the Commission at its eighteenth session. In that representative's opinion, those draft articles had not given sufficient consideration to the sociological context which determined the creation of treaties or to the higher principles which contributed to their formation, and they should therefore be duly revised and completed.

2. *Co-operation with other bodies*

143. The representatives who referred to this question in the debate expressed their gratification at the co-operation between the Commission and the Asian-African Legal Consultative Committee, the Inter-American Council of Jurists and its standing organ the Inter-American Juridical Committee, and the European Committee on Legal Co-operation. Affirming that such co-operation helped to strengthen the universality of international law, those representatives urged that such co-operation should be developed and some expressed the hope that in future it would be broadened with a view to including other bodies as well. Some representatives suggested that the Commission might go into more detail in its reports about the methods and results of its co-operation with those regional bodies. One representative stressed that the work being done by those bodies included questions, such as reservations to multilateral treaties, the law of treaties in general, and coexistence, which had great interest and importance for the work being done by the Commission and the General Assembly in the codification and progressive development of international law.

3. *Seminar on international law*

144. Recalling General Assembly resolution 2045 (XX) of 8 December 1965 and the views expressed in the Sixth Committee at the twentieth session of the General Assembly, many representatives expressed satisfaction at the holding of the second session of the Seminar on International Law for advanced students of the subject and young government officials responsible in their respective countries for dealing with questions of international law. Those representatives were in favour of continuing to hold the Seminars in the future. The United Nations Office at Geneva was commended for the planning and conduct of the Seminar and the execution of its programme. These views, embodied in the last preambular paragraph and operative paragraph 5 of draft resolution A/C.6/L.597, were subsequently approved unanimously by the Sixth Committee.

145. It was emphasized that the Seminars helped to spread a knowledge of international law and the work of the International Law Commission, and to strengthen the bonds between the members of the Commission and students of international law throughout the world. Stress was also laid on the particular importance of the Seminars for students and young officials of the developing countries and satisfaction was expressed that a considerable number of nationals of those countries had been able to participate in the second Seminar. Some representatives expressly thanked the Governments of Israel and Sweden for the scholarships they had made available for the 1966 Seminar and expressed the hope that other Governments would follow their example, in order that the number of participants from the developing countries might be maintained. The representative of Israel announced that if there was any unexpended balance of the scholarships which his Government had made available for the 1966 Seminar, the Secretariat might make use of it for the next Seminar.

146. One representative suggested that the scope of the matters examined by the Seminar should be extended by increasing the number of lectures, widening the circle of the students' direct and personal contacts and taking advantage of the opportunities offered by the presence in Geneva of many specialized agencies and non-governmental organizations.

4. *Organization of the sessions of the International Law Commission*

147. One representative considered that it might be timely for the International Law Commission to re-examine the question of the organization of its sessions and other matters relating to its general administrative arrangements and that, if it should wish to do so, it should propose to the General Assembly a new pattern for its sessions and other adjustments, even to the extent of suggesting possible amendment of its statute. Another representative was in favour of holding two annual sessions of only four or five weeks each, instead of only one session of ten weeks as at present. That would enable the members of the Commission to divide their time between taking part in the work of the Commission and their other professional activities more conveniently.

IV. Voting

148. At its 918th meeting, the Sixth Committee voted on the draft resolutions and amendments thereto.

A. International conference of plenipotentiaries on the law of treaties

149. Voting on revised draft resolution A/C.6/L.596/Rev.2 and the amendment thereto (A/C.6/L.598) took place as follows:

(*a*) The amendment submitted by Czechoslovakia, Poland and the Union of Soviet Socialist Republics (A/C.6/L.598) to operative paragraph 4 of the ten-Power draft resolution (A/C.6/L.596/Rev.2) was rejected by a roll-call vote of 53 to 33, with 19 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Congo (Brazzaville), Cuba, Czechoslovakia, Ethiopia, Hungary, India, Indonesia, Iraq, Kuwait, Mali, Mongolia, Morocco, Nepal, Poland, Romania, Sierra Leone, Singapore, Somalia, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia.

Against: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Gabon, Greece, Guatemala, Haiti, Honduras, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Luxembourg, Madagascar, Malawi, Malaysia, Malta, Mexico, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Paraguay, Peru, Rwanda, South Africa, Spain, Sweden, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela.

Abstaining: Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Dahomey, Ghana, Iran, Ivory Coast, Lebanon, Liberia, Libya, Nigeria, Pakistan, Portugal, Saudi Arabia, Senegal, Thailand, Togo, Turkey.

As a consequence of the result of the voting on that amendment, the amendment (A/C.6/L.601) to the preamble of the draft resolution (A/C.6/L.596/Rev.2) was withdrawn by the sponsors.

(*b*) Operative paragraph 3 of the draft resolution was adopted, in a separate vote requested by the representative of France, by 85 votes to 2, with 19 abstentions.

(*c*) Operative paragraph 4 of the draft resolution was adopted, in a separate vote requested by the representative of China, by 65 votes to 19, with 16 abstentions.

(*d*) Operative paragraph 5 of the draft resolution was adopted, in a separate vote requested by the representative of Upper Volta, by 51 votes to 32, with 23 abstentions.

(*e*) The draft resolution as a whole (A/C.6/L.596/Rev.2) was then adopted by 100 votes to none, with 6 abstentions.

150. At the 919th meeting, a number of representatives explained the vote of their respective delegations on the draft resolution and the amendment thereto. The representatives of Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, Mali, Mongolia, Poland, Romania, Sierra Leone, Somalia, Tunisia, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Arab Republic, and the United Republic of Tanzania referred specifically to the amendment and to operative paragraph 4 of the draft resolution. The representatives of France and Tunisia explained their votes on operative paragraph 3 of the draft resolution and the representative of France also explained his vote on operative paragraph 5 of that draft.

B. Reports of the International Law Commission

151. The eight-Power draft resolution (A/C./L.597 and Add.1), with the oral changes to the title and the last preambular paragraph made by the sponsors, was adopted unanimously.

Recommendation of the Sixth Committee

152. The Sixth Committee therefore recommends to the General Assembly the adoption of the following draft resolutions:

[*Texts adopted by the General Assembly without change. See "Resolutions adopted by the General Assembly" below*]

(*b*) Resolutions adopted by the General Assembly

At its 1484th plenary meeting, on 5 December 1966, the General Assembly adopted the draft resolutions submitted by the Sixth Committee (par. 152 above). For the final texts, see resolutions 2166 (XXI) and 2167 (XXI) below.

2166 (XXI). International Conference of Plenipotentiaries on the Law of Treaties

The General Assembly,

Having considered chapter II of the report of the International Law Commission on the work of its eighteenth session,[16] which contains final draft articles and commentaries on the law of treaties,

Noting that the International Law Commission at its first session in 1949 listed the law of treaties among the topics of international law as being suitable for codification, that at its thirteenth session in 1961 it decided to prepare draft articles on the law of treaties intended to serve as the basis for a convention, and that at its fourteenth session in 1962 it included the law of treaties in the revised programme for its future work,

Recalling that in its resolutions 1686 (XVI) of 18 December 1961, 1765 (XVII) of 20 November 1962, 1902 (XVIII) of 18 November 1963 and 2045 (XX) of 8 December 1965 it recommended that the International Law Commission should continue the work of codification and progressive development of the law of treaties, taking into account the views expressed in the General Assembly and the comments submitted by Governments, in order that the law of treaties might be placed upon the widest and most secure foundations,

[16] See *Official Records of the General Assembly, Twenty-first Session, Supplement No. 9* (A/6309/Rev. 1), part II.

and that in its resolution 2045 (XX) of 8 December 1965 it recommended that a final draft on the law of treaties should be submitted to the Assembly by the Commission in its report on the work of its eighteenth session,

Noting further that, at its seventeenth and eighteenth sessions in 1965 and 1966, the International Law Commission, in the light of the observations and comments submitted by Governments and taking into account the relevant resolutions and debates of the General Assembly, revised the provisional draft articles on the law of treaties prepared at its fourteenth and sixteenth sessions, and that at its eighteenth session the Commission finally adopted the draft articles,

Recalling that, as stated in paragraph 36 of the report of the International Law Commission on the work of its eighteenth session, the Commission decided to recommend that the General Assembly should convene an international conference of plenipotentiaries to study the Commission's draft articles on the law of treaties and to conclude a convention on the subject,

Mindful of Article 13, paragraph 1 a, of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Believing that the successful codification and progressive development of the rules of international law governing the law of treaties would contribute to the development of friendly relations and co-operation among States, irrespective of their differing constitutional and social systems, and would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter,

1. *Expresses its appreciation* to the International Law Commission for its valuable work on the law of treaties and to the Special Rapporteurs for their contribution to this work;

2. *Decides* that an international conference of plenipotentiaries shall be convened to consider the law of treaties and to embody the results of its work in an international convention and such other instruments as it may deem appropriate;

3. *Requests* the Secretary-General to convoke, at Geneva or at any other suitable place for which he receives an invitation before the twenty-second session of the General Assembly, the first session of the conference early in 1968 and the second session early in 1969;

4. *Invites* States Members of the United Nations, States members of the specialized agencies, States Parties to the Statute of the International Court of Justice and States that the General Assembly decides specially to invite, to participate in the conference;

5. *Invites* the States referred to in paragraph 4 above to include as far as possible among their representatives experts competent in the field to be considered;

6. *Invites* the specialized agencies and the interested inter-governmental organizations to send observers to the conference;

7. *Refers* to the conference the draft articles contained in chapter II of the report of the International Law Commission on the work of its eighteenth session as the basic proposal for consideration by the conference;

8. *Requests* the Secretary-General to present to the conference all relevant documentation and recommendations relating to its method of work and procedures, and to arrange for the necessary staff and facilities which will be required for the conference, including such experts as may be necessary;

9. *Invites* Member States, the Secretary-General and the Directors-General of those specialized agencies which act as depositaries of treaties to submit, not later than 1 July 1967,

their written comments and observations on the final draft articles concerning the law of treaties prepared by the International Law Commission;

10. *Requests* the Secretary-General to circulate such comments so as to facilitate the discussion of the subject at the twenty-second session of the General Assembly;

11. *Decides* to include an item entitled "Law of treaties" in the provisional agenda of its twenty-second session with a view to further discussion of the draft articles in order to facilitate the conclusion of a convention on the law of treaties at the conference of plenipotentiaries convened pursuant to the present resolution.

1484th plenary meeting
5 December 1966

2167 (XXI). Reports of the International Law Commission

The General Assembly,

Having considered the reports of the International Law Commission on the second part of its seventeenth session and on its eighteenth session, [17]

Recalling its resolutions 1686 (XVI) of 18 December 1961, 1765 (XVII) of 20 November 1962, 1902 (XVIII) of 18 November 1963 and 2045 (XX) of 8 December 1965, by which it recommended that the International Law Commission should continue its work of codification and progressive development of the law of treaties, State responsibility, succession of States and Governments, special missions and relations between States and inter-governmental organizations,

Emphasizing the need for the further codification and progressive development of international law in order to make it a more effective means of implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations and to give increased importance to its role in relations among nations,

Noting with satisfaction that at its eighteenth session the International Law Commission adopted the final text of its draft articles on the law of treaties and also made progress in the codification and progressive development of the international law relating to special missions,

Noting further with appreciation that the United Nations Office at Geneva organized in May 1966, during the eighteenth session of the International Law Commission, a second session of the Seminar on International Law for advanced students and young government officials responsible in their respective countries for dealing with questions of international law and that the Seminar, which was made possible by the generous collaboration of members of the Commission, was well organized and functioned to the satisfaction of all,

1. *Takes note* of the report of the International Law Commission on the work of the second part of its seventeenth session and of chapters I, III and IV of the report on the work of its eighteenth session;

2. *Expresses its appreciation* to the International Law Commission for the work it has accomplished;

3. *Notes with approval* the programme of work for 1967 proposed by the International Law Commission in chapter IV of the report on the work of its eighteenth session;

4. *Recommends* that the International Law Commission should:

[17] *Ibid., Supplement No. 9* (A/6309/Rev.1).

(*a*) Continue the work of codification and progressive development of the international law relating to special missions, taking into account the views expressed at the twenty-first session of the General Assembly and the comments which may be submitted by Governments, with the object of presenting a final draft on the topic in the report on the work of its nineteenth session;

(*b*) Continue its work on succession of States and Governments, State responsibility and relations between States and inter-governmental organizations, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

5. *Expresses the wish* that, in conjunction with future sessions of the International Law Commission, other seminars be organized which should continue to ensure the participation of a reasonable number of nationals from the developing countries;

6. *Requests* the Secretary-General to forward to the International Law Commission the records of the discussions at the twenty-first session of the General Assembly on the reports of the Commission.

1484th plenary meeting,
5 December 1966

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9. CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS: (*a*) REPORT OF THE 1966 SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES (*b*) REPORT OF THE SECRETARY-GENERAL ON METHODS OF FACT-FINDING (AGENDA ITEM 87)

(*a*) Report of the Sixth Committee[18]

[*Original: English*]
[*6 December 1966*]

I. Introduction

1. At its 1415th plenary meeting, on 24 September 1966, the General Assembly decided to include item 87 entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" in the agenda of its twenty-first session and to allocate the item to the Sixth Committee.

2. The Sixth Committee considered this item at its 924th to 942nd meetings, from 1 to 29 November 1966.

3. The item was previously discussed by the General Assembly at its seventeenth, eighteenth and twentieth sessions. These discussions resulted in the adoption of General Assembly resolutions 1815 (XVII) and 1816 (XVII) of 18 December 1962, 1966 (XVIII) and 1967 (XVIII) of 16 December 1963 and 2103 (XX) and 2104 (XX) of 20 December 1965.

4. At its seventeenth session the General Assembly, by resolution 1815 (XVII) of 18 December 1962, recognized "the paramount importance, in the progressive development

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[18] Document A/6547, reproduced from *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 87.

of international law and in the promotion of the rule of law among nations, of the principles of international law concerning friendly relations and co-operation among States and the duties derived therefrom, embodied in the Charter of the United Nations which is the fundamental statement of those principles..."; resolved to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more effective application; decided to study, at its eighteenth session, four of those principles, namely:

"(*a*) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

"(*b*) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

"(*c*) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;

"(*d*) The principle of sovereign equality of States."

5. At its eighteenth session the General Assembly, by resolution 1966 (XVIII) of 16 December 1963, established a Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. That Committee was requested to draw up and submit to the General Assembly a report "containing, for the purpose of the progressive development and codification of the four principles" enumerated in paragraph 4 above "so as to secure their more effective application, the conclusions of its study and its recommendations...". Likewise, the General Assembly decided to consider the report of the Special Committee at its next session and to study, at the same time, the following three principles:

"(*a*) The duty of States to co-operate with one another in accordance with the Charter;

"(*b*) The principle of equal rights and self-determination of peoples;

"(*c*) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;".

6. Also at its eighteenth session the General Assembly, by resolution 1967 (XVIII) of 16 December 1963 on the question of methods of fact-finding, invited the views of Member States, requested the Secretary-General to study the relevant aspects of the problem and to report on it to the Assembly at its nineteenth session and to the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States established under Assembly resolution 1966 (XVIII), and also requested the Special Committee to include the matter in its deliberations.

7. The Special Committee established under General Assembly resolution 1966 (XVIII) met at Mexico City from 27 August to 1 October 1964, and submitted a report on its work to the General Assembly.[19]

8. At its twentieth session the General Assembly considered under the item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter",[20] the report of the 1964 Special Committee, the three principles referred to in paragraph 5 above and the report of the Secretary-General

[19] *Official Records of the General Assembly, Twentieth Session, Annexes*, agenda items 90 and 94, document A/5746.

[20] *Ibid.*, document A/6165, para. 5.

on methods of fact-finding.[21] The Sixth Committee considered that agenda item together with item 94, entitled "Observance by Member States of the principles relating to the sovereignty of States, their territorial integrity, non-interference in their domestic affairs, the peaceful settlement of disputes and the condemnation of subversive activities".[22]

9. The General Assembly adopted at its twentieth session resolution 2103 (XX) of 20 December 1965. By resolution 2103B (XX) the General Assembly requested

> "...the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, reconstituted under paragraph 3 of resolution 2103A (XX) above, to take into consideration, in the course of its work and in drafting its report, the request for the inclusion in the agenda of the [Observance by Member States of the principles relating to the sovereignty of States, their territorial integrity, non-interference in their domestic affairs, the peaceful settlement of disputes and the condemnation of subversive activities] mentioned in the first preambular paragraph above[23] and the discussion of that item at the twentieth session of the General Assembly."

10. Also at its twentieth session the General Assembly adopted resolution 2104 (XX) of 20 December 1965 concerning the question of methods of fact-finding.

11. The Special Committee reconstituted under Assembly resolution 2103 (XX) met at United Nations Headquarters in New York from 8 March to 25 April 1966, adopted a report on its work (A/6230) and submitted it to the General Assembly in accordance with operative paragraph 4 (*c*) of resolution 2103 (XX). The report was divided into the following nine chapters: I. Introduction; II. The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations; III. The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered; IV. The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; V. The principle of sovereign equality of States; VI. The duty of States to co-operate with one another in accordance with the Charter; VII. The principle of equal rights and self-determination of peoples; VIII. The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter; IX. Conclusion of the work of the 1966 Special Committee.

12. At the twenty-first session of the General Assembly the item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" covered the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/6230) and the study prepared by the Secretary-General, in pursuance of operative paragraph 1 of General Assembly resolution 2104 (XX), on methods of fact-finding with respect to the execution of international agreements (A/6228). The Committee had also before it the comments received from Governments, in accordance with paragraph 2 of General Assembly resolution 2104 (XX), on the question of methods of fact-finding (A/6373 and Add.1).

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[21] *Ibid.*, document A/5694.

[22] *Ibid.*, document A/6165, paras. 6 and 7.

[23] *Ibid.*, *Nineteenth Session, Annexes*, annex No. 2, documents A/5757 and Add.1.

II. Proposals and amendments

A. Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

13. Cameroon, Chile, Colombia, Czechoslovakia, Ecuador, Guatemala, Honduras, India, Mexico, Nigeria, Panama, Sudan, the United Arab Republic, Uruguay, Venezuela and Yugoslavia submitted a draft resolution (A/C.6/L.607 and Add.1 and 2), which read as follows:

The General Assembly,

Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, and 2103 (XX) of 20 December 1965 which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation maong States,

Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and the improvement of the international situation,

Considering further that the progressive development and codification of those principles, so as to secure their more effective application, would promote the realization of the purposes of the United Nations,

Bearing in mind also that the Second Conference of Heads of State or Government of Non-Aligned Countries, which met at Cairo in 1964, recommended to the General Assembly of the United Nations the adoption of a declaration on these principles as an important step towards their codification,

Being convinced of the significance of continuing the effort to achieve as much general agreement as possible in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII) without prejudice to the applicability of the rules of procedure of the Assembly, and with a view to the adoption at the twenty-second session of the General Assembly of a declaration which would constitute a landmark in the progressive development and codification of those principles,

Having considered the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States which met in New York from 8 March to 25 April 1966, and having considered specifically the facts that it was noted in that Committee that the differences between the various points of view on the formulation of the principles had been materially reduced and that among the factors which hampered the achievement by the Committee of a greater measure of agreement was lack of sufficient time for additional deliberation and negotiation,

1. *Takes note* of the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

2. *Expresses its appreciation* to that Committee for the valuable work it performed;

3. *Takes note* of the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States, and of its decision that with regard to the principle of non-intervention the Special Committee will abide by General Assembly resolution 2131 (XX) of 21 December 1965;

4. *Decides* to ask the Special Committee as reconstituted by General Assembly resolution 2103 (XX) to continue its work;

5. *Requests* the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first session of the General Assembly and in the 1964 and 1966 Special Committee, to complete the formulations of:

(*a*) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

(*b*) The duty of States to co-operate with one another in accordance with the Charter,

(*c*) The principle of equal rights and self-determination of peoples, and

(*d*) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

6. *Further requests* the Special Committee to consider any additional proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, which could widen the area of agreement already expressed in General Assembly resolution 2131 (XX);

7. *Requests* the Special Committee, having regard to the work already accomplished by the 1966 Special Committee as specified in operative paragraph 3 above, to submit to the twenty-second session of the General Assembly a comprehensive report on the principles entrusted to it for study and a draft declaration on the seven principles set forth in General Assembly resolution 1815 (XVII);

8. *Requests* the Special Committee to meet at Geneva, or at any other suitable place for which an invitation is received by the Secretary-General, and to submit its report and the draft declaration to the General Assembly at its twenty-second session;

9. *Requests* the Secretary-General to co-operate with the Special Committee in its task, and to provide all the services, documentation and other facilities necessary for its work;

10. *Decides* to include an item entitled 'Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations' in the provisional agenda of its twenty-second session.

14. The sponsors of the draft resolution (A/C.6/L.607 and Add.1 and 2), together with Bolivia, Brazil, Bulgaria, Costa Rica, the Dominican Republic, El Salvador, Hungary, Madagascar, Mongolia, Nepal, Nicaragua, Paraguay, Peru, and Poland, submitted a first revision of the draft resolution (A/C.6/L.607/Rev.1 and Add.1) adding at the end of operative paragraph 7 the words "such as will constitute an outstanding event in the progressive development and codification of those principles;".

15. Australia, Canada, Jamaica, Japan, New Zealand, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America submitted amendments (A/C.6/L.608) to the revised draft resolution (A/C.6/L.607/Rev.1 and Add.1) which read as follows:

1. Add the following new preambular paragraph after the fifth preambular paragraph:

"Bearing in mind also the nature of General Assembly resolutions and in particular that of resolutions whose purpose is the progressive development and codification of principles of international law,".

2. Amend the sixth preambular paragraph as follows: (*a*) add the word "accordingly" after the opening words "Being convinced"; (*b*) replace the words "as much general agreement as possible in" by the words "general agreement at every stage of"; (*c*) replace the words "the adoption at the twenty-second session of the General Assembly" by the words "the early adoption".

3. End operative paragraph 3 with a semicolon after the words "equality of States".

4. In operative paragraph 5, after "1966 Special Committee", add "and building on existing areas of substantial agreement".

5. Amend operative paragraph 6 to read:

"6. *Further requests* the Special Committee to complete the formulation of the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, on the basis of General Assembly resolution 2131 (XX) and in an effort to widen the area of agreement on the legal content of that principle;".

16. The sponsors of the revised draft resolution, together with Lebanon, submitted a second revision of the draft resolution (A/C.6/L.607/Rev.2) introducing the following changes into the text of the draft resolution:

(*a*) The sixth preambular paragraph was redrafted to read:

"*Being convinced* of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII) but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,";

(*b*) The following new operative paragraph 7 was added:

"7. *Further requests* the Special Committee, having considered, as a matter of priority, the principles referred to in operative paragraphs 5 and 6 above, to consider any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;"

(*c*) As a result, operative paragraphs 7, 8, 9 and 10 were renumbered accordingly.

17. The sponsors of the amendments (A/C.6/L.608) withdrew amendments 1, 2 and 4 to draft resolution A/C.6/L.607/Rev.1 and Add.1 maintaining amendments 3 and 5 (A/C.6/L.608/Rev.1) to draft resolution A/C.6/L.607/Rev.2.

18. Finally, the sponsors of draft resolution A/C.6/L.607/Rev.2, together with Ghana and Romania, submitted a third revision of the draft resolution (A/C.6/L.607/Rev.3 and Add.1), which read as follows:

The General Assembly,

Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, and 2103 (XX) of 20 December 1965 which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and the improvement of the international situation,

Considering further that the progressive development and codification of those principles, so as to secure their more effective application would promote the realization of the purposes of the United Nations,

Bearing in mind also that the Second Conference of Heads of State or Government of Non-Aligned Countries, which met at Cairo in 1964, recommended to the General Assembly of the United Nations the adoption of a declaration on these principles as an important step towards their codification,

Being convinced of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII) but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,

Having considered the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States which met in New York from 8 March

to 25 April 1966, and having considered specifically the facts that it was noted in that Committee that the differences between the various points of view on the formulation of the principles had been materially reduced and that among the factors which hampered the achievement by the Committee of a greater measure of agreement was lack of sufficient time for additional deliberation and negotiation,

1. *Takes note* of the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

2. *Expresses its appreciation* to that Committee for the valuable work it performed;

3. *Takes note also* of the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States, and of its decision that with regard to the principle of non-intervention the Special Committee will abide by General Assembly resolution 2131 (XX) of 21 December 1965;

4. *Decides* to ask the Special Committee as reconstituted by General Assembly resolution 2103 (XX) to continue its work;

5. *Requests* the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first sessions of the General Assembly and in the 1964 and 1966 Special Committee, to complete formulations of:

(*a*) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(*b*) The duty of States to co-operate with one another in accordance with the Charter;

(*c*) The principle of equal rights and self-determination of peoples; and

(*d*) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

6. *Requests* the Special Committee to consider proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX);

7. *Requests* the Special Committee, having considered, as a matter of priority, the principles referred to in operative paragraphs 5 and 6 above, to consider any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;

8. *Requests* the Special Committee, having regard to the work already accomplished by the 1966 Special Committee as specified in operative paragraph 3 above, to submit to the twenty-second session of the General Assembly a comprehensive report on the principles entrusted to it for study and a draft declaration on the seven principles set forth in General Assembly resolution 1815 (XVII) such as will constitute a landmark in the progressive development and codification of those principles;

9. *Requests* the Special Committee to meet at Geneva, or at any other suitable place for which an invitation is received by the Secretary-General;

10. *Requests* the Secretary-General to co-operate with the Special Committee in its task, and to provide all the services, documentation and other facilities necessary for its work;

11. *Decides* to include an item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" in the provisional agenda of its twenty-second session.

19. Thereafter, the sponsors of the amendments (A/C.6/L.608/Rev.1) to draft resolution A/C.6/L.607/Rev.2 submitted an amendment (A/C.6/L.608/Rev.2) to operative paragraph 3 of draft resolution A/C.6/L.607/Rev.3 and Add.1, reading as follows:

"At the end of operative paragraph 3, change the semicolon to a comma and add: 'and of its decision noting the report of the drafting committee that no agreement was reached on the additional

proposals made with the aim of widening the area of agreement in General Assembly resolution 2131 (XX);'."

20. The Secretary-General submitted a statement (A/C.6/L.609) of the administrative and financial implications of the draft resolution (A/C.6/L.607/Rev.1). This statement was also made applicable to the second and third revisions of the draft resolution.

B. Question of methods of fact-finding

21. Colombia, Dahomey, Ecuador, Jamaica, Japan, Liberia, Madagascar, Mexico, the Netherlands, Pakistan, Somalia, Togo and Turkey submitted a draft resolution (A/C.6/L.610 and Add.1), reading as follows:

The General Assembly,

Recalling its resolutions 1967 (XVIII) of 16 December 1963 and 2104 (XX) of 20 December 1965 on the question of methods of fact-finding,

Noting with appreciation the two reports (A/5694 and A/6228) made by the Secretary-General in pursuance of the above-mentioned resolutions,

Noting the comments submitted by Member States pursuant to paragraph 1 of resolution 1967 (XVIII) and paragraph 2 of resolution 2104 (XX) and the views expressed during its twentieth and twenty-first sessions,

Noting chapter VII of the report (A/5746) of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, established under General Assembly resolution 1966 (XVIII) of 16 December 1963,

Reaffirming its belief that an important contribution to the peaceful settlement of disputes and to the prevention of such disputes could be made by providing for impartial fact-finding within the framework of international organizations and in bilateral and multilateral conventions,

Noting that, with regard to methods of fact-finding in international relations, a considerable documentation has now been made available by the reports of the Secretary-General on practice in relation to settlement of disputes as well as in respect to the execution of international agreements, and furthermore by the views expressed and the proposals made by Member States,

Considering it desirable that the General Assembly, at its twenty-second session, should endeavour, following a report to the competent Main Committee by a working group appointed by the Chairman of that Committee, to draw conclusions concerning the question from this documentation,

Recalling its belief that a study of the question might include the feasibility and desirability of establishing a special international body for fact-finding or of entrusting to an existing organization fact-finding responsibilities complementary to existing arrangements and without prejudice to the right of parties to any dispute to seek peaceful means of settlement of their own choice,

1. *Invites* Member States to submit in writing to the Secretary-General, before 1 August 1967, any views, or further views, they may have on this subject in the light of the reports of the Secretary-General, the views expressed and the proposals made, and in particular on the following aspects:

(*a*) The effectiveness of existing arrangements for international fact-finding,

(*b*) The need for new international machinery for fact-finding, its composition and its terms of reference;

2. *Decides* to include an item entitled "Question of methods of fact-finding" in the provisional agenda of the twenty-second session of the General Assembly, in order to consider what further action may be appropriate.

22. Hungary and the Ukrainian Soviet Socialist Republic submitted amendments (A/C.6/L.612) to the draft resolution (A/C.6/L.610 and Add.1), which would: (*a*) delete the fifth, seventh and eighth preambular paragraphs; (*b*) at the end of the preamble insert the following new preambular paragraph: "*Being unable* to consider the substance of the question of methods of fact-finding owing to lack of time,"; (*c*) end operative paragraph 1 after the words "on this subject" and insert a semicolon. These amendments were withdrawn

by the sponsors, following the oral modifications introduced in the text of the draft resolution (A/C.6/L.610 and Add.1).

23. Later, the sponsors orally amended the text as follows:

(*a*) The seventh preambular paragraph was deleted;

(*b*) In the new seventh preambular paragraph (formerly eighth), the word "other" was inserted between the words "to seek" and the words "peaceful means";

(*c*) A new eighth preambular paragraph was added reading "*Having been unable* to consider the substance of the question of methods of fact-finding owing to lack of time,";

(*d*) Operative paragraph 1 was redrafted to read as follows:

"1. *Invites* Member States to submit in writing to the Secretary-General, before 1 August 1967, any views, or further views, they may have on this subject, taking into account the reports of the Secretary-General, the views expressed and the proposals made;".

III. Discussion

A. Consideration of the report of the 1966 Special Committee (A/6230)

1. *General considerations relating to the principles and aims of the work*

24. The supreme importance of the work of codification and progressive development of the principles of international law concerning friendly relations and co-operation among States was stressed by a number of representatives. The principles involved were the basic ones of the United Nations Charter. Some representatives thought that the world had changed in the time since the Charter was adopted, largely through the accession to independence of a large number of new States, and it was necessary to apply and develop those principles to the new world situation which resulted. Progressive development should take place in order to reduce the gap between social reality and the international legal order. It was generally agreed in principle that the work at present under way should lead to the adoption of a declaration.

25. It was agreed that the work was not a process of covert and informal amendment of the Charter. That document, which was not only a constitution but, as one representative observed, the greatest law-making treaty of modern times, had to be interpreted effectively in the light of its object and purpose, and, as was said by another, in that of more than twenty years of development of customary international law. The substance of the principles could not be discarded but should be amplified, enriched and adapted to the problems of the present day. One representative added that the task related not only to rules of conduct but also to organizational rules and principles, since all of the provisions of the Charter were relevant to the purpose, and organizational rules were relevant not only for the interpretation of the rules of conduct, but also in themselves, as an integral part of the principles to be codified.

26. Some delegations said that attention should be paid to the difference between *lex lata* and *lex ferenda;* while it was entirely proper that proposals *de lege ferenda* should be made and considered, many such proposals which had been made during the work were political rather than juridical propositions, designed to stretch the Charter to fit a particular ideology. Others, however, thought it essential that to achieve its purpose the formulation of the principles should embody genuinely progressive and democratic elements and should not lose sight of the main social purpose of international law, which was the safeguarding of the sovereign rights of peoples and the maintenance of peace and co-operation. A further group of representatives thought that no sharp distinction could or should be drawn

between legal and political propositions, nor was the distinction between *lex lata* and *lex ferenda* very relevant to the formulation of a declaration of principles which was not the final step in the process of progressive development and codification.

27. One representative counselled against attempting to draft excessively precise texts which might impair the dynamic character of the law, give rise to contradictions and make difficult the attainment of the necessary breadth of agreement. Others, however, believed that it would be a mistake not to go far enough in this direction. Excessively abbreviated statements of rules might detract from the Charter by not taking account of all its relevant provisions, and that would be far from conducive to the sound codification and progressive development of the Charter principles.

2. *General comments on the work of the 1966 Special Committee*

28. Some representatives expressed disappointment that the 1966 Special Committee had been able to report new formulations on only two principles, peaceful settlement of international disputes and sovereign equality and of those formulations the latter was only a slightly expanded version of what had been adopted by the 1964 Special Committee in Mexico City. A greater number, however, thought that the session of the Special Committee in 1966 had been more fruitful than might at first appear and that there was good hope of success if the work was pursued further. Much had been done towards defining the issues and laying a basis for agreement at a later stage. One representative added that there had been a noticeable shift towards acceptance of progressive ideas. It was pointed out that, though formulations had been unanimously adopted on only two principles, formulations on other principles had received wide though less than unanimous agreement, and these texts laid a solid foundation for future work.

29. Some representatives praised the spirit of conciliation and the desire to reach agreement which in their view prevailed among the delegations on the 1966 Special Committee and said that the main factors limiting the results of the work were lack of time and the difficulty of the task. Others, however, thought that the task was not very difficult. What had hampered the formulation of the principles was the attitude of certain States which, feeling that the project might create legal difficulties for them, had raised artificial obstacles to success.

3. *General considerations on future work*

30. It was generally agreed that the Special Committee, as reconstituted by General Assembly resolution 2103 (XX) of 20 December 1965, should be asked to hold another session in 1967. Although some representatives stated that the Special Committee should not be asked to consider again the principles on which formulations had been reached, it was ultimately agreed that, while priority should be given to those on which no formulations had yet been adopted, the other two principles should be taken up again with a view to widening the areas of agreement expressed in the formulations. It was also the general view that the Special Committee should be requested to prepare a draft declaration on the seven principles for consideration by the General Assembly at its twenty-second session in 1967. The discussion in regard to the effect to be given to General Assembly resolution 2131 (XX) of 21 December 1965 is summarized in paragraphs 52-56 below.

31. There was extensive discussion of the role to be played by consensus or unanimity in the future work of the Special Committee. A few representatives believed that what was being aimed at was an authentic interpretation of the Charter by the parties to it, which, if agreed to by all of them, would have the same legal force as the Charter itself. For those representatives unanimity was indispensable, as without it there would be no possibility of authentic interpretation. It was said by one of those representatives that a method of

deciding by general agreement should be an incentive to negotiation and compromise and not a dogma whose only purpose was obstruction. Other representatives, however, considered that the goal was a recommendation by the General Assembly. Although the Assembly could not of itself create general international law, its recommendations could nevertheless, if virtually unanimous, constitute such cogent evidence of the practice of States that it could provide substantial evidence of the rules of customary law. For those representatives a consensus procedure would mean proceeding without a vote where there was no recorded dissent, rather than by strict unanimity, and voting was not in all events excluded.

32. One representative, while maintaining the value of unanimity, considered that the Special Committee's main duty was to clarify the situation, and that, when every possibility of unanimity was exhausted, a vote should be taken (preferably by roll-call) not in order to decide on adoption of the text, but rather so that the General Assembly could be informed as to the degree of support for the various views. Another group considered that every effort should be made to reach general agreement, but that as a last resort texts should be voted on so that one delegation or a few delegations could not paralyse the efforts of the great majority. Still other representatives believed that the practice followed by the 1964 and 1966 Special Committees should be abandoned, and that no demand should be made for unanimous adoption, which was not even required for amendments to the Charter itself. In their view, the value of a declaration would depend not upon the method of its adoption but upon its content, its lucid formulation and its application by States; if matters of major importance were left aside because of the impossibility of consensus, the codification would in any case be a failure.

33. Several representatives stressed the need for proceeding with a maximum of objectivity, with a constant view to the broadest interests of the international community and without pursuit of short-term political gains. One representative said that it should be decided whether the aim was a declaration by the General Assembly, which traditionally was an infrequent and solemn instrument of major and lasting importance with which maximum compliance was expected, or whether it was a less solemn document which would mirror existing trends, possibly of an ephemeral character.

34. As to the methods of drafting, it was suggested that the relationship between the principles should constantly be borne in mind, and one representative said it was essential to maintain close liaison between the various working groups. Another said that working groups should be appointed not only from members of the drafting committee but from other members of the Special Committee as well, and that some record should be kept of the work of working groups, in the form of reports by their chairmen either to the drafting committee or to the Special Committee. It was also suggested that perhaps some equivalent to the system of Special Rapporteurs used by the International Law Commission could be worked out, and that greater use should be made of written documents setting out and explaining in detail the proposals made and their implications. In any case, if the suggestions made with respect to working groups were adopted, such groups should be established at the very outset of the session of the Special Committee, in order to avoid last minute proposals and hasty negotiations, hardly compatible with a proper method of drafting legal documents of high importance.

4. *Comments on the principles examined by the Special Committee*

(a) *The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations*

35. Some representatives expressed regret that the 1966 Special Committee had been unable to arrive at an agreed formulation of this principle (see A/6230 above, para. 155)

as they considered that serious violations of it in current international life were creating dangerous situations and that a formulation would help to ensure world peace. They considered that the Special Committee at its next session should devote special effort to this principle, and mentioned different proposals and amendments made at the 1966 session, or the text which had nearly been accepted by the 1964 Special Committee in Mexico City, [24] as bases on which they wished to see agreement reached.

36. Several representatives thought that a formulation should take full account of developments in practice during the years since the United Nations Charter was drafted and should fully reflect the new realities of international life. It would, in their view, be undesirable to try to distinguish sharply between existing law and developing law, or between codification and progressive development; gaps had to be filled and logical consequences of rules could be included. One representative, however, said that the principle involved was exactly that contained in Article 2, paragraph 4, of the Charter, and that any effort to alter its scope or the meaning of the terms used would amount to an amendment of the Charter. Another representative declared that the principle was a peremptory norm of international law, from which there could be no derogation.

37. Much of the discussion in the Sixth Committee centred on the meaning of the term "force". There was general agreement that the term covered armed force. Several representatives included the use of irregular and volunteer forces in the use of force; others mentioned the training of terrorists and saboteurs for infiltration across frontiers or the existence within a State of camps for such training; and still others extended the term to all subversive activities against another State or against legitimate democratic Governments.

38. A considerable number of representatives said that the term "force" covered not only armed force, but also any other form of duress or coercion, or any form of pressure, including economic and political pressure (some referred also to social, cultural and psychological pressure) directed against the territorial integrity or political independence of a State. A few of those representatives explained that in their view the term "force" in Article 2, paragraph 4, of the Charter had a broader meaning than "force" in Article 44, as the contexts were different, and that therefore the inclusion of all forms of pressure did not go beyond the meaning of the principle in the Charter. It was also argued that the circumstances of modern international life, where economic or other kinds of pressure could have just as coercive an effect as military action, made a broad definition of "force" necessary.

39. On the other hand, it was argued by one representative that Article 2, paragraph 4, and Article 44, taken together, meant that the principle covered only armed force, and that those attempting to expand the concept of force would encounter difficulties of definition which they would have to overcome in the interest of the international community. Other representatives thought it essential to indicate that the right of self-defence under Article 51 of the Charter could not be invoked in relation to economic and political pressures. Still others thought it preferable to deal with such pressures only under the principle of non-intervention.

40. In regard to the consequences and corollaries of the prohibition of the threat or use of force, a number of representatives thought that, in addition to declaring the criminality of wars of aggression, a formulation of the principle should include a prohibition of propaganda for war, and one representative suggested consideration of the possibility of States undertaking the obligation to spread peace propaganda and support social movements for the maintenance of peace. Another representative took the view that a provision regarding war propaganda should be in hortatory language rather than in that of a legal prohibition.

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[24] *Official Records of the General Assembly, Twentieth Session, Annexes*, agenda items 90 and 94, document A/5746, para. 106, Paper No. 1(I).

41. Several representatives expressed the desire that a formulation should include a prohibition of the use of force for repression of liberation movements or for denial of the right of self-determination. A few representatives said that it was desirable expressly to prohibit the threat or use of force to violate existing boundaries. One representative thought that the prohibition should apply not only to boundaries but also to other international lines of demarcation, while another opposed any reference to such lines of demarcation. Some wished that the use of force in acts of reprisal should be condemned. Others said that recognition should be given to the obligation of States to achieve general and complete disarmament under effective international control; one representative, however, wished to deal with the question of disarmament in hortatory language rather than as an obligation.

42. One representative called attention to a long-established institution of international law which had limited the use of force even during the period when States were legally entitled to wage war in a just cause: that was the institution of permanent neutrality, like that of Switzerland and more recently Austria, under which States recognizing permanent neutrality pledged themselves to respect the territorial integrity and political independence of the neutral State, while the latter undertook not to join any military alliances.

43. In regard to the exceptions to the prohibition of the threat or use of force, a number of representatives stressed that the right of individual or collective self-defence should be strictly limited to the conditions laid down in Article 51 of the Charter. Some representatives considered that the right of self-defence, both individual and collective, was enjoyed not only by States but also by peoples defending themselves against colonial domination and struggling for freedom and self-determination. On the other hand, one representative, while recognizing that Article 2, paragraph 4, of the Charter applied only in international relations and thus did not prohibit rebellion aiming at independence, said that outside aid to a rebellion was generally prohibited by international law; others thought that the duty to respect the territorial integrity of States and the principle of non-intervention were relevant in this regard. In reply, it was argued that the struggle against colonialism was in truth an international struggle since colonial régimes constituted illegal *de facto* occupation, and thus outside aid was permissible.

44. Some representatives spoke of force as legal when it was used pursuant to a decision of a competent organ of the United Nations. Others said that only the Security Council was competent in that regard. One representative mentioned the use of force under regional arrangements in accordance with Article 53 of the Charter, and another mentioned the desirability of participation by the Security Council in decisions to use force under such arrangements. One representative thought that none of the formulations yet proposed on the prohibition of the threat or use of force did complete justice to the Charter provisions (in Chapter VII and elsewhere) concerning the functions of the United Nations in the maintenance of international peace and security.

(b) *The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered*

45. The 1966 Special Committee unanimously adopted a text setting out points of consensus on this principle (see A/6230 above, paras. 248 and 272). A number of representatives said that they were in general satisfied with that text. Although some of them expressed the hope that it would be possible to expand the scope of agreement in later stages of work, some representatives considered that the Sixth Committee should transmit the text to the Special Political Committee in connexion with consideration by the latter of agenda item 36 relating to peaceful settlement of disputes. One representative thought that the formulation should immediately be embodied in a declaration by the General Assembly, which might later, if necessary, be included in a single declaration covering all seven principles.

46. On the other hand, one representative said that the text lacked legal substance, and another thought that the agreed formula was unsatisfactory as it detracted from Chapter VI of the Charter and other Charter provisions. This might be prejudicial to the more effective application of the principle of peaceful settlement. Moreover, numerous representatives mentioned points which they would have wished to see included in the text.

47. It was agreed in the Sixth Committee that States had an obligation to settle their disputes by peaceful means and that they had a free choice of the means for doing so. In regard to this latter principle one representative regretted that the text did not expressly preserve the efficacy of any provision binding the parties with regard to means of settlement, an idea which appeared in the Charter. One representative thought that the formulation should have included the statement that "International disputes shall be settled on the basis of the sovereign equality of States, in the spirit of understanding, and without the use of any form of pressure". Other representatives, however, found that the formulation adopted by the Special Committee did not include all the elements needed to improve the juridical conditions for the application of the principle, and that it gave no assurance of recourse to peaceful means of settlement. It was also remarked that, although the primary element in the settlement of international disputes must be negotiations, the text did not attempt to deal with the question of what happened if the negotiations did not get under way, and thus was of doubtful usefulness. It was added that States, having begun negotiations, could not be expected to agree to continue them indefinitely, as the text seemed to imply, particularly when the disputes invoked such matters as the existence on their continent of colonial domination, racism and apartheid.

48. A number of representatives thought that more emphasis should have been placed upon judicial settlement and arbitral procedure, and many of these favoured stressing the role of the International Court of Justice as the principal judicial organ of the United Nations. Several representatives expressed the view that something should have been done to promote wider acceptance of the compulsory jurisdiction of the Court, and others considered that the text should have recommended the inclusion of clauses on settlement of disputes in general multilateral treaties. Some of those advocating a wider role for the International Court made it clear that they did so despite their disappointment in a recent judgement, and their dissatisfaction with the present composition of that body. Other representatives, however, emphasized the optional nature of the Court's jurisdiction, and did not consider it advisable to lay any stress on judicial settlement or to recommend the inclusion of settlement clauses in multilateral treaties while the Court retained its present composition and while much of international law remained uncodified.

49. Two representatives stated that negotiation was the most effective method for settlement of international disputes. Others, however, replied that negotiation had its limitations, since it involved a power relationship based on the particular interests of States rather than on the general welfare, and that giving *de jure* pre-eminence to negotiation was not desirable, as doing so might limit the freedom of the parties to choose the most appropriate means of settling the dispute in question.

50. Some representatives wished that the element of good faith had been mentioned in connexion with this principle. Another thought that reference should have been made to the supremacy of international law. It was observed by another that for a settlement to be valid, it must not only be consented to by the parties but must also be in conformity with the Charter and with international law. One representative considered the text defective because it contained no definition of what constituted an "international dispute", nor of the domestic jurisdiction of States.

51. Finally, some representatives expressed the hope that in future work on this principle full account would be taken of the experience of the Latin American States, which had a long history of initiatives in the field of peaceful settlement.

(c) *The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations*

52. Most of the discussion in the Sixth Committee centred around the effect which should be given to General Assembly resolution 2131 (XX) of 21 December 1965 (containing the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty) in regard to the formulation of the principle of non-intervention. The 1966 Special Committee, in its work on this principle, adopted by 22 votes to 8, with 1 abstention, a resolution (see A/6230 above, paras. 340-341) whereby it decided that it would abide by General Assembly resolution 2131 (XX), and instructed its Drafting Committee, without prejudice to that decision, to direct its work on the principle towards the consideration of additional proposals, with the aim of widening the area of agreement of Assembly resolution 2131 (XX). At the conclusion of the session, the Special Committee took note of a report of the Drafting Committee that no agreement had been reached on the additional proposals made with the aim of widening the area of agreement of the resolution.

53. A great number of representatives considered that the legal value of resolution 2131 (XX) was beyond dispute, and that its substance should be incorporated in the formulation of the principles. The majority of the 1966 Special Committee, they contended, had been right in considering that the resolution was a legal formulation, and in deciding to abide by it. There were other important examples of the adoption of declarations of consciously legal content on the recommendation of political organs of the United Nations, and the body of resolutions of the General Assembly could be a source of customary international law. Resolution 2131 (XX), which had been adopted by 109 votes to none, with 1 abstention, after careful deliberation and the consideration of a large number of drafts, could not have been adopted unless it had been considered to be in accordance with the law, reflected a universal legal conviction, and was therefore authoritative. It was worded clearly and precisely enough to be a sufficiently complete formulation of the principle. It should be respected by States, and could not be attacked as legally defective; some added that the Special Committee would exceed its competence if it attempted to alter the substance of the resolution. Some speakers said that, while they were willing to consider drafting changes which did not alter the substance and any additional proposals which might widen the area of agreement, no amendments which might impair the substance should be considered. One representative especially deplored the fact that some delegations had attempted to delete from the Special Committee's formulation operative paragraph 6 of the resolution, which provided in part that "All States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure."

54. A number of other representatives contended, however, that the Declaration embodied in General Assembly resolution 2131 (XX) was political rather than legal in nature. In their view, while the resolution was an important document entitled to the most careful study, it could not be incorporated automatically in a declaration on the principles of international law concerning friendly relations, but should be carefully re-examined from the legal standpoint, with a view both to its substance and to its drafting. They added that it had been a mistake for the Special Committee to tie its hands by deciding to "abide by" the Declaration, and they urged that a more flexible approach would be taken in the future. Some, arguing that resolution 2131 (XX) could not be taken as reflecting a universal legal conviction, referred to the reservations regarding its non-legal nature expressed by their own delegations and by others at the time the resolution was adopted. It was contended that the Declaration had been hastily drafted, without full consultation, and one representative stated that in principle a resolution emanating from a political organ could not be included as it stood in a formulation of a principle of international law. It

was further contended that the preamble of resolution 2131 (XX) could not be incorporated in the future declaration on friendly relations, and that some of its operative paragraphs (in particular, paras. 6, 7 and 8) dealt with matters other than non-intervention; that other provisions were not as precise as was required in statements of rules of international law; that the resolution made no reference to the duty of the United Nations itself to refrain from intervention, a duty laid down in the Charter; and that the substance and drafting would have to be reviewed in order to fit in with the formulation of other principles in the future declaration on friendly relations.

55. One representative hoped that the Special Committee would not renew the discussion of whether resolution 2131 (XX) represented a universal legal conviction. In his view, the Special Committee should seek to clarify the legal content of the resolution and transfer it into the framework of a declaration on friendly relations.

56. Operative paragraph 6 of the draft resolution first submitted to the Sixth Committee on this part of the item (A/C.6/L.607) requested the Special Committee to consider "any additional proposals...which could widen the area of agreement already expressed in General Assembly resolution 2131 (XX)". After consultations between the sponsors of the draft and the sponsors of the amendments thereto (A/C.6/L.608/Rev. 1) (see paras. 15-17 above), that operative paragraph of the draft was finally revised (A/C.6/L.607/Rev.3) to request the Special Committee "to consider proposals...with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX)," (see para. 18 above) and the amendment to the paragraph was withdrawn. After the Sixth Committee approved that draft resolution, one of its sponsors explained his affirmative vote as having resulted from his country's whole-hearted support of resolution 2131 (XX). A number of other representatives, including several of the sponsors of the withdrawn amendments to operative paragraph 6 (A/C.6/L.608/Rev.1), explained their votes as due in part to their satisfaction that that operative paragraph, as revised, gave the Special Committee at its next session sufficient latitude with regard to its work on the principle of non-intervention, in particular with regard to General Assembly resolution 2131 (XX).

57. At the time of voting there was agreement on the wording of all parts of the draft resolution except for operative paragraph 3, where the sponsors of amendment A/C.6/L.608/Rev.2 (see para. 19 above) thought it would be more complete and consequently more accurate to take note also of the decision of the 1966 Special Committee noting the report of the drafting committee that no agreement was reached on the additional proposals made with the aim of widening the area of agreement of resolution 2131 (XX). Some of the sponsors of the draft resolution opposed the amendment, however, on the grounds that it would have the effect of weakening the legal significance of resolution 2131 (XX), that it would be inappropriate to note such a negative factor as the lack of agreement and would give it a disproportionate significance, that the Special Committee had not decided to take note explicitly of the lack of agreement, and that the amendment would add nothing that was not already included in revised operative paragraph 6.

58. Apart from the discussion of the legal value of General Assembly resolution 2131 (XX), representatives made various suggestions as to points which should be included in or omitted from the formulation of the principle. Among the points suggested for inclusion were definitions of the terms "intervention", "the personality of a State", "wars of aggression" and "force"; a condemnation of intervention committed under the pretext of an alleged treaty right, since a treaty purporting to confer such a right would be invalid under general international law and under the Charter; and a prohibition of assistance to subversive elements or rebels, of the clandestine supply of arms and of infiltration of personnel. One representative opposed the inclusion of any reference to self-defence against intervention, since under the Charter only armed attack could justify the use of force in self-defence.

(d) *The principle of the sovereign equality of States*

59. The 1966 Special Committee unanimously adopted a text setting out points of consensus on this principle (see A/6230 above, paras. 403 and 413). This text was the same as that adopted by the 1964 Special Committee, except that the first paragraph was expanded to declare that States are equal members of the international community, notwithstanding differences of an economic, social, political or other nature. This addition was welcomed by several representatives, who considered that it improved the text. One representative, however, thought that the new sentence was not clear and that it would legalize some *de facto* inequalities between States. He suggested that the sentence be redrafted to read: "They have equal rights and duties and are equal members of the international community, notwithstanding the different economic, social and political systems or other way of life they have adopted."

60. Apart from this suggestion, there were no criticisms of the contents of the Special Committee's text, although one representative said that it was unsatisfactory as a whole because it was too obvious and too vague. A considerable number of representatives, however, mentioned various points which they considered should have been included in the text, and expressed the hope that new efforts would be made to cover them. Some representatives also urged that the principle should be examined again with a view to progressive development.

61. The point most frequently mentioned for inclusion was the right of States freely to dispose of their national wealth and natural resources, which some representatives said was an essential aspect of the principle in the economic field. It was suggested that when work was resumed on this point, attention should be given to the text which became General Assembly resolution 2158 (XXI) of 25 November 1966 on permanent sovereignty over natural resources, to General Principle III of the Final Act of the United Nations Conference on Trade and Development, and to a provision included by the Third Committee at the present session in the draft Covenant on Economic and Social Rights. Others expressed regret that the Committee had been unable to achieve agreement on one or another of the compromise texts which had commanded considerable support. While some representatives advocated a formula providing that in the exercise of this right due regard should be paid to applicable rules of international law and to valid agreements, another said that to subordinate the right to the supremacy of international law would be inconsistent with the principle of sovereign equality.

62. Other points which several representatives wished to see included were the right of each State to remove any foreign military base from its territory, and the prohibition of any experiment or any action which might have harmful effects on other States. One representative said that the text should prohibit aircraft carrying nuclear bombs and other types of weapons of mass destruction from crossing national frontiers. Some also wished to include the right of each State to take part in the solution of international questions affecting its legitimate interests, including the right to join international organizations and to become party to multilateral treaties dealing with such interests. One representative thought that arbitrary discrimination regarding the rights and duties of membership in organizations of the United Nations family should be prohibited.

63. Finally, there was a division of opinion regarding the inclusion of a reference to the supremacy of international law. Some advanced arguments to show that such supremacy was consistent with or was an essential basis for the principle, while others took the contrary view; one representative thought that the disagreement was more apparent than real since the obligation of States to observe valid treaties and valid principles of customary international law was not in question.

(e) *The duty of States to co-operate with one another in accordance with the Charter of the United Nations*

64. A number of representatives regretted that although the Special Committee had seemed to be close to an agreed formulation in regard to this principle it had ultimately proved impossible to reach agreement. It was said that lack of time had been one of the main causes for the lack of success, and one representative saw the lack of agreement as merely a matter of semantics. The hope was expressed that at a further session of the Special Committee, on the basis of the degree of agreement already reached, a text could be formulated on the principle, which was particularly important for the solution of the problems of the developing countries and could help in promoting world economic solidarity and lasting peace.

65. Several representatives stated that the principle constituted a legal as well as a moral duty, and required States to take effective action. One representative said that moral duties were the guideposts for developing new rules within an accepted legal framework, while legal duties were the result of that creative process; acceptance of the duty of co-operation would provide a legal framework for the recognition of the right of all peoples to share in the world's expanding prosperity. He considered, in view of the fact that contact was sometimes lacking between the activities of various bodies of the United Nations and of the specialized agencies, that there was an urgent need to take stock of the progress made to date in international co-operation, and that it might be possible, on the basis of an inventory of agreed texts, to draw up a Charter of Development which would inspire and mould public opinion.

66. Some representatives considered that the duty of co-operation was universal, without any limiting conditions, not limited to the ambit of the United Nations, and not permitting any discrimination on the ground of differences of political, economic or social systems. One representative, however, said that it was unreasonable to demand universal co-operation without any discrimination whatever. Another took the view that the duty to co-operate in accordance with the Charter was restricted to Members of the United Nations only; he thought it desirable, however, to refer in the text to co-operation in the matter of disarmament and was willing to discuss that matter by reference to the duties of States generally.

67. A few representatives mentioned the principle as applying mainly to the economic and social fields. Others mentioned in addition the political, cultural, scientific and technological fields. One representative said that the principle would be very difficult to apply so long as there were countries in the world whose governments did not recognize the fundamental principles of human rights.

(f) *The principle of equal rights and self-determination of peoples*

68. A number of representatives regretted the lack of success of the 1966 Special Committee in formulating this principle, but hoped that another session would make it possible to overcome the difficulties caused in 1966 by lack of time, the newness of the question to the Special Committee, and the sheer bulk of material bearing on the question. Some expressed their preferences for one or another of the proposals made in the Special Committee. Others said that the formulation should be based on General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and later related documents adopted in the United Nations and elsewhere; one representative, however, expressed the view that that resolution had no more than persuasive force in the discussion of the legal elements of the principle. Another mentioned General Assembly resolution 2131 (XX) as also furnishing a basis for further work.

69. It was generally agreed by all who spoke in the debate that the principle constituted a rule of international law and not a mere moral precept. It was also agreed that the word "peoples" applied not only to States but also to other entities, in particular, in the view of some representatives, to peoples in colonial countries. One representative specified that the principle applied to the people, as a whole, of a territory constituting a distinct geographical entity. Another, however, expressed concern lest a reference to a geographically distinct territory might not deny the right to self-determination of a number of oppressed peoples. Another raised the question whether "peoples" included minorities, so as to give a right to secession in States having more than one national community.

70. As regards the content of the right, various representatives mentioned the right to freedom and independence; the right freely to choose political, social and economic systems and ways of life without foreign interference; the exercise of full sovereignty over national territory; the right to dispose freely of natural wealth and resources; and the rights to protection under international law, and to obtain assistance from States and international organizations.

71. There was some discussion of the use of force in the exercise of the right of self-determination. Some representatives said that that right included the right of peoples under colonial domination to use force in self-defence. Some added that States were prohibited from taking measures against peoples struggling for their freedom and independence. One delegation said that General Assembly resolution 2105 (XX) of 20 December 1965, which invited all States to provide material and moral assistance to national liberation movements in colonial territories, confirmed that such assistance was legitimate under international law. Others, however, invited attention to General Assembly resolution 1514 (XV), which declared that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country was incompatible with the purposes and principles of the Charter.

(g) *The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations*

72. A number of representatives said that the failure of the 1966 Special Committee to agree on a formulation in regard to this principle (see A/6230 above, para. 565) was mainly due to a lack of time, and that another session should permit the progress already made to be brought to fruition. In the view of several speakers, the draft articles on the law of treaties submitted to the General Assembly by the International Law Commission in its report on the work of its eighteenth session [25]—and in particular article 23 of that draft, on *pacta sunt servanda*—offered a useful basis for continued work on the principle.

73. There were divergences of opinion concerning the relationship between the future work on the principle and the codification of the law of treaties on the basis of the work of the International Law Commission. Some representatives attributed the lack of success of the 1966 Special Committee in part to the desire of some delegations on that Committee to deal in a formulation of the principle with some of the specific rules and criteria governing the validity of treaties, and they thought it undesirable for the Committee to attempt to settle points which would have to be resolved at the future conferences on the law of treaties; those points should be set aside in order to facilitate agreement in the Special Committee. On the other hand, it was said that some of the draft articles prepared by the International Law Commission had been left with somewhat uncertain content because they impinged on topics within the Special Committee's terms of reference; the Special Committee should study those aspects, and the considered views of that Committee and of the General Assembly on them might be helpful to the conference on the law of treaties.

[25] See *Official Records of the General Assembly, Twenty-first Session, Supplement No. 9* (A/6309/Rev.1).

74. It was said that one of the matters on which there had been division of opinion in the Special Committee was the inclusion of a reference to sovereign equality. Some representatives considered it essential to deal with that aspect, in particular because the principle would not be respected as long as the problem of unequal treaties was left unsolved, and because the principle applied only to obligations which had been freely assumed; one representative expressed the view that any obligations undertaken by a people still under colonial domination were vitiated *ab initio*. Others thought that detailed examination of these matters should be left to the conference on the law of treaties.

75. Another matter of difficulty, it was said, was the inclusion in the formulation of the principle of Article 103 of the Charter, which provided that in the event of conflict between the obligations of Members under the Charter and their obligations under any other international agreement, the Charter obligations should prevail. Some representatives expressed a desire for such an inclusion; one added that the principle rendered invalid a treaty provision allowing intervention, for example, which was not permitted under the Charter.

76. It was agreed that good faith was an essential element in the formulation of the principle. One representative thought that good faith meant that in their international relations States must respect the sovereign and legitimate interests of other States.

B. Question of methods of fact-finding

77. This question was not referred to the 1966 Special Committee and was considered by the Sixth Committee in pursuance of General Assembly resolution 2104 (XX) of 20 December 1965 and on the basis of reports of the Secretary-General and of comments of Governments.

78. One representative stated that inquiry was an undeveloped element among the means of peaceful settlement of international disputes, and shortcomings in the area of fact-finding machinery gave rise to difficulties for international organs and for States; it was therefore desirable to take a new initiative in that field. Others stressed the importance of fact-finding in international life but some of them expressed a preference for entrusting that function either to *ad hoc* bodies composed of persons with special knowledge of the disputed question, to existing organizations, or to judicial bodies of whose normal procedure fact-finding was an element, while others reserved their positions regarding steps to be taken.

79. The discussion of possible new measures centred on a suggestion in written comments of the Government of the Netherlands (A/6373 and Add.1) of the creation of a new, permanent fact-finding body, complementary to the existing machinery, whose competence would be entirely on a voluntary basis and whose method of work would be determined in accordance with the needs of each case; this body, which would be strictly limited to fact-finding rather than conciliation, could be used to establish facts relating to disputes or to the execution of international agreements. One representative said that while it had been demonstrated that there were advantages in permanent fact-finding machinery, before any action was taken a study should be made of why States did not use existing machinery for this purpose; another stated that he was in favour of the creation of any organ which could contribute to the peaceful settlement of disputes. Still another stated that an international fact-finding body was needed if the principles of international law were to be translated into reality.

80. A number of representatives either reserved their position about the creation of a new fact-finding body, expressed doubts about the advisability of doing so or expressed opposition to the idea. It was said that *ad hoc* bodies were superior for the purpose, that

existing machinery such as the Panel for Inquiry and Conciliation established by General Assembly resolution 268D (III) of 28 April 1949 remained unused and that it was difficult to imagine a single body capable of establishing facts in all the different kinds of disputes which might arise. Some of these representatives reserved their position regarding the preambular paragraph of the resolution recommended by the Sixth Committee, which refers to a study of the feasibility and desirability of establishing a special international body for fact-finding or of entrusting fact-finding responsibilities to an existing organization.

81. As regards the action to be taken at the current session of the General Assembly, it was recognized that neither the 1964 Special Committee (to which the question of methods of fact-finding had been referred) nor the Sixth Committee had had an opportunity for full discussion of the question and hence it was not possible to take a final decision on it until the next regular session of the General Assembly. It was agreed, however, that the item should be placed on the provisional agenda of the twenty-second session in order to consider what further action might be appropriate.

82. The co-sponsors of the draft resolution (A/C.6/L.610 and Add.1), in paragraph 21 above, and some other representatives thought that it was desirable that the Main Committee dealing with the item at the twenty-second session should have the assistance of a working group appointed by the Chairman of that Committee, as the materials to be studied were too complex to be dealt with in the Main Committee. That view was reflected in the seventh preambular paragraph of the draft resolution. Some others, however, thought it undesirable to prejudice the action to be taken by the competent Committee at the next session. The amendments submitted by the Ukrainian Soviet Socialist Republic (A/C.6/L.612), later co-sponsored by Hungary, proposed *inter alia* the deletion of the preambular paragraph in question. The co-sponsors of the draft resolution and those of the amendment later agreed on a compromise text from which that preambular paragraph was omitted (see paras. 22 and 23 above); one of the co-sponsors of the draft resolution stated that they agreed to the deletion of the seventh preambular paragraph on the understanding that they nevertheless maintained their position in regard to it, and that that understanding would be recorded in the report of the Sixth Committee.

IV. Voting

83. At its 942nd meeting, the Sixth Committee voted on the draft resolutions and amendments thereto.

A. Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

84. Voting on revised draft resolution A/C.6/L.607/Rev.3 and Add.1 and the revised amendment thereto (A/C.6/L.608/Rev.2) took place as follows:

(*a*) The amendment submitted by Australia, Canada, Jamaica, Japan, New Zealand, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America (A/C.6/L.608/Rev.2) to operative paragraph 3 of the thirty-three Power draft resolution (A/C.6/L.607/Rev.3 and Add.1) was rejected by a roll-call vote of 54 to 18, with 12 abstentions. The voting was as follows:

In favour: Australia, Belgium, Canada, China, Denmark, France, Greece, Iceland, Italy, Jamaica, Japan, Netherlands, New Zealand, Norway, Philippines, Saudi Arabia, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Afghanistan, Algeria, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Chile, Colombia,

Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Dominican Republic, Ecuador, El Salvador, Ethiopia, Gabon, Guatemala, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iraq, Kenya, Kuwait, Lebanon, Libya, Madagascar, Mexico, Mongolia, Nepal, Nicaragua, Nigeria, Panama, Poland, Romania, Sierra Leone, Syria, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia.

Abstaining: Austria, Ceylon, Finland, Iran, Ireland, Israel, Liberia, Somalia, Sweden, Thailand, Tunisia, Turkey.

(*b*) The thirty-three-Power draft resolution (A/C.6/L.607/Rev.3 and Add.1) was then adopted by 83 votes to none, with 2 abstentions.

85. At the 942nd meeting, the representatives of Australia, Belgium, Brazil, Canada, Ceylon, Chile, France, Greece, Italy, Japan, Nepal, New Zealand, Panama, Somalia, Spain, United Kingdom of Great Britain and Northern Ireland, the United States of America and Venezuela explained their vote on the draft resolution and the amendment thereto.

B. Question of methods of fact-finding

86. The thirteen-Power draft resolution (A/C.6/L.610 and Add.1), as orally amended (see para. 23 above), was adopted unanimously.

87. At the 942nd meeting, the representatives of Bulgaria, Chad, Colombia, Cuba, Czechoslovakia, Hungary, Mongolia, Nigeria, Poland, Romania, Somalia, Sudan, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics explained their vote.

V. Recommendations of the Sixth Committee

88. The Sixth Committee therefore recommends to the General Assembly the adoption of the following draft resolutions:

[*Texts adopted by the General Assembly without change. See "Resolutions adopted by the General Assembly" below*]

(*b*) Resolutions adopted by the General Assembly

At its 1489th plenary meeting, on 12 December 1966, the General Assembly adopted the draft resolutions submitted by the Sixth Committee (para. 88 above). For the final texts, see resolutions 2181 (XXI) and 2182 (XXI) below.

2181 (XXI). Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

The General Assembly,

Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963 and 2103 (XX) of 20 December 1965, which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the

United Nations is of paramount importance for the maintenance of international peace an security and the improvement of the international situation,

Considering further that the progressive development and codification of those principles, so as to secure their more effective application, would promote the realization of the purposes of the United Nations,

Bearing in mind that the Second Conference of Heads of State or Government of Non-Aligned Countries, which met at Cairo in 1964, recommended to the General Assembly the adoption of a declaration on these principles as an important step towards their codification,

Being convinced of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII), but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,

Having considered the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States,[26] which met in New York from 8 March to 25 April 1966, and having considered specifically that it was noted in that Committee that the differences between the various points of view on the formulation of the principles had been materially reduced and that among the factors which hampered the achievement by the Committee of a greater measure of agreement was lack of sufficient time for additional deliberation and negotiation,

1. *Takes note* of the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

2. *Expresses its appreciation* to that Committee for the valuable work it has performed;

3. *Takes note also* of the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States, and of the Special Committee's decision that with regard to the principle of non-intervention it will abide by General Assembly resolution 2131 (XX) of 21 December 1965;

4. *Decides* to ask the Special Committee, as reconstituted by General Assembly resolution 2103 (XX), to continue its work;

5. *Requests* the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first sessions of the General Assembly and in the 1964 and 1966 Special Committees, to complete the formulations of:

(*a*) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(*b*) The duty of States to co-operate with one another in accordance with the Charter;

(*c*) The principle of equal rights and self-determination of peoples;

(*d*) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

6. *Requests* the Special Committee to consider proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accord-

[26] *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 87, document A/6230.

ance with the Charter, with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX);

7. *Requests* the Special Committee, having considered, as a matter of priority, the principles referred to in paragraphs 5 and 6 above, to examine any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;

8. *Requests* the Special Committee, having regard to the work already accomplished by the 1966 Special Committee, as specified in paragraph 3 above, to submit to the General Assembly at its twenty-second session a comprehensive report on the principles entrusted to it for study and a draft declaration on the seven principles set forth in Assembly resolution 1815 (XVII) which will constitute a landmark in the progressive development and codification of those principles;

9. *Requests* the Special Committee to meet at Geneva or at any other suitable place for which the Secretary-General receives an invitation;

10. *Requests* the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;

11. *Decides* to include an item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" in the provisional agenda of its twenty-second session.

1489th plenary meeting
12 December 1966.

2182 (XXI). Question of methods of fact-finding

The General Assembly,

Recalling its resolutions 1967 (XVIII) of 16 December 1963 and 2104 (XX) of 20 December 1965 on the question of methods of fact-finding,

Noting with appreciation the two reports submitted by the Secretary-General in pursuance of the above-mentioned resolutions,[27]

Noting the comments submitted by Member States pursuant to paragraph 1 of resolution 1967 (XVIII) and paragraph 2 of resolution 2104 (XX) and the views expressed during its twentieth and twenty-first sessions,

Noting chapter VII of the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States,[28] established under General Assembly resolution 1966 (XVIII) of 16 December 1963,

Reaffirming its belief that an important contribution to the peaceful settlement of disputes and to the prevention of such disputes could be made by providing for impartial fact-finding within the framework of international organizations and in bilateral and multilateral conventions,

Noting that, with regard to methods of fact-finding in international relations, considerable documentation has now been made available by the Secretary-General in his reports

[27] *Official Records of the General Assembly, Twentieth Session, Annexes*, agenda items 90 and 94, document A/5694; *ibid., Twenty-first Session, Annexes*, agenda item 87, document A/6228.

[28] *Ibid., Twentieth Session, Annexes*, agenda items 90 and 94, document A/5746.

on practice in relation to the settlement of disputes and the execution of international agreements, and by the views expressed and the proposals made by Member States,

Recalling its belief that a study of the question might include the feasibility and desirability of establishing a special international body for fact-finding or of entrusting to an existing organization fact-finding responsibilities complementary to existing arrangements and without prejudice to the right of parties to any dispute to seek other peaceful means of settlement, of their own choice,

Having been unable, owing to lack of time, to consider the substance of the question of methods of fact-finding,

1. *Invites* Member States to submit in writing to the Secretary-General, before 1 August 1967, any views, or further views, they may have on this subject, taking into account the reports of the Secretary-General, the views expressed and the proposals made;

2. *Decides* to include an item entitled "Question of methods of fact-finding" in the provisional agenda of its twenty-second session, with a view to considering what further action may be appropriate.

1489th plenary meeting
12 December 1966

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10. PROGRESSIVE DEVELOPMENT OF THE LAW OF INTERNATIONAL TRADE (AGENDA ITEM 88)

(*a*) Report of the Sixth Committee[29]

[*Original text: English*]
[*15 December 1966*]

INTRODUCTION

1. At the request of the Hungarian People's Republic, the item entitled "Consideration of steps to be taken for progressive development in the field of private international law with a particular view to promoting international trade" was considered by the General Assembly at its twentieth session. On the basis of the report and recommendations of the Sixth Committee,[30] the General Assembly at its 1404th plenary meeting, on 20 December 1965, adopted resolution 2102 (XX). The operative part of that resolution reads as follows:

"*The General Assembly*,

"...

"1. *Requests* the Secretary-General to submit to the General Assembly at its twenty-first session a comprehensive report including:

"(*a*) A survey of the work in the field of unification and harmonization of the law of international trade;

"(*b*) An analysis of the methods and approaches suitable for the unification and harmonization of the various topics, including the question whether particular topics are suitable for regional, interregional or world-wide action;

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[29] Document A/6594, reproduced from *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 88.

[30] See *Official Records of the General Assembly, Twentieth Session, Annexes*, agenda item 92, document A/6206.

"(*c*) Consideration of the United Nations organs and other agencies which might be given responsibilities with a view to furthering co-operation in the development of the law of international trade and to promoting its progressive unification and harmonization;

"2. *Decides* to include in the provisional agenda of its twenty-first session an item entitled 'Progressive development of the law of international trade'."

2. At its 1415th plenary meeting, on 24 September 1966, the General Assembly decided to include item 88 entitled "Progressive development of the law of international trade" in the agenda of its twenty-first session and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 946th to 953rd and 955th meetings, on 2, 5 to 9 and 14 December 1966.

4. The Sixth Committee had before it a report of the Secretary-General on this subject (A/6396 and Add.1 and 2), which was submitted in accordance with operative paragraph 1 of General Assembly resolution 2102 (XX). This report was prepared by the Office of Legal Affairs of the United Nations Secretariat on the basis of a preliminary draft elaborated by Professor Clive M. Schmitthoff of the City of London College, whose services had been retained by the Secretary-General for this purpose, and in consultation with the following experts: Dra. Margarita Arguas (Argentina), Dr. Taslim O. Elias (Nigeria), Professor Gyula Eörsi (Hungary), Professor Willis L. Reese (United States) and Professor Mustafa Kamil Yasseen (Iraq).

5. In accordance with the agreement reached during the debate in the Sixth Committee at the twentieth session of the General Assembly, the Secretary-General held consultations with some organs and units of the United Nations, the specialized agencies and other inter-governmental and non-governmental organizations. The International Law Commission advised the Secretary-General that, in view of its many activities and responsibilities and considering its extensive agenda, the Commission did not consider that it would be appropriate for it to undertake responsibilities in the field of the law of international trade. In addition, consultations were carried out with the Secretariat units most directly concerned with responsibilities in this field. The draft report was sent for comments to the secretariat of the United Nations Conference on Trade and Development (UNCTAD), the Department of Economic and Social Affairs, the Centre for Industrial Development and the United Nations regional economic commissions.

6. The Secretary-General sent the draft report for comments to the following specialized agencies: the International Bank for Reconstruction and Development, the Inter-Governmental Maritime Consultative Organization and the International Civil Aviation Organization. Consultations were also carried out with other inter-governmental and non-governmental organizations, namely: the International Institute for the Unification of Private Law, the Hague Conference on Private International Law, the International Chamber of Commerce and the United International Bureaux for the Protection of Intellectual Property.

7. Some of the suggestions received from the above-named United Nations organs, Secretariat units and other institutions were incorporated in the report. Certain observations submitted by the Hague Conference on Private International Law and by the International Institute for the Unification of Private Law, being of a general nature, were published as an addendum to the Secretary-General's report (A/6396/Add.1). The text of a resolution on the subject adopted by the Council of the International Chamber of Commerce was reproduced as document A/6396/Add.2. The Secretary-General of the International Institute for the Unification of Private Law and the Secretary-General of The Hague Conference on Private International Law attended the meetings of the Sixth Committee at which the present item was discussed, and each made a statement at the 946th meeting of the Committee.

8. Chapter I of the report of the Secretary-General contained an analysis of the concept of the term "law of international trade" and explained the two legal techniques which have been used to reduce the conflicts and divergencies arising from various national laws in matters relating to international trade, i.e., the establishment of rules regulating the conflict of laws and the harmonization of substantive rules. Chapter II consisted of a survey of the work in the field of harmonization and unification of international trade law, by inter-governmental organizations, by regional inter-governmental organizations and groupings and by non-governmental organizations. Chapter III contained an analysis of the methods, approaches and topics which were considered suitable for the progressive harmonization and unification of the law of international trade. The final chapter of the report, chapter IV, dealt with the prospective role of the United Nations in this field; it presented a picture of the progress and shortcomings of the work done and recommended action to remedy the existing shortcomings. In particular it expressed the view that the General Assembly might wish to consider the possibility of establishing a new commission which might be called the United Nations commission on international trade law for the purpose of furthering the progressive development of the law of international trade.

PROPOSALS

9. Argentina, Ceylon, Chile, Colombia, Cyprus, Czechoslovakia, Ecuador, Ghana, Greece, Honduras, Hungary, India, Nepal, Nigeria, Panama, Sudan, the United Arab Republic, the United Republic of Tanzania, Uruguay and Yugoslavia submitted a draft resolution (A/C.6/L.613). Subsequently, Cameroon, Jamaica, Spain and Venezuela (A/C.6/L.613/Add.1) and Bolivia, Romania and the United States of America (A/C.6/L.613/Add.2) added their names to the list of sponsors. In the preamble of the draft resolution the General Assembly would, *inter alia*, refer to the report of the Secretary-General on the progressive development of the law of international trade; reaffirm its conviction that conflicts and divergencies arising from the laws of different States in matters relating to international trade constitute one of the obstacles to the development of world trade; note the efforts made by inter-governmental organizations towards the harmonization and unification of international trade law; note that progress in this area had not been commensurate with the importance and urgency of the problem; express its conviction that it would be desirable for the United Nations to play a more active role in this field; note that such action would be properly within the scope and competence of the Organization under Articles 1 (3) and 13, and Chapters IX and X of the Charter; recall that UNCTAD had a particular interest in promoting the establishment of rules furthering international trade; and recognize that there is no existing United Nations organization which is both familiar with this subject and able to devote sufficient time to work in the field. The operative part of the draft resolution read as follows:

"1. *Decides* to establish a United Nations Commission on International Trade Law which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade.

"*Organization of the United Nations Commission on International Trade Law*

"2. The United Nations Commission on International Trade Law shall consist of [eighteen] [twenty-one] [twenty-four] [thirty] States, elected by the General Assembly for a term of six years, provided, however, that of the members elected at the first election, the terms of [six] [seven] [eight] [ten] members shall expire at the end of two years and the terms of [six] [seven] [eight] [ten] other members at the end of four years.

"3. In electing the members of the Commission, the General Assembly shall be guided by the principle of equitable geographical distribution and shall have due regard to the principle that in the Commission as a whole an adequate representation of countries of free enterprise and centrally planned economies, and of developed and developing countries, should be assured.

"4. The representatives of members of the Commission shall be appointed by member States in so far as possible from amongst persons of eminence in the field of the law of international trade.

"5. Retiring members shall be eligible for re-election.

"6. The Commission shall normally hold one regular session a year at the [Headquarters of the United Nations] [European Office of the United Nations].

"7. The Secretary-General shall make available to the Commission appropriate staff and facilities required by the Commission to fulfil its task.

"*Functions*

"8. The Commission shall further the progressive harmonization and unification of the law of international trade by

"(*a*) Co-ordinating the work of organizations active in this field and encouraging co-operation among them;

"(*b*) Promoting wider participation in existing international conventions, and wider acceptance of existing model and uniform laws;

"(*c*) In collaboration, where appropriate, with the organizations operating in this field, preparing, and promoting the adoption of, new international conventions, model laws and uniform laws, and the codification and wider acceptance of international trade terms, provisions, customs and practices;

"(*d*) Promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws in the field of the laws of international trade;

"(*e*) Collecting and disseminating information on national legislation and modern legal developments in the field of the law of international trade;

"(*f*) Establishing and maintaining a close collaboration with the United Nations Conference on Trade and Development;

"(*g*) Maintaining liaison with other United Nations organs and specialized agencies concerned with international trade;

"(*h*) Taking any other action it may deem useful to fulfil its functions.

"9. The Commission shall submit an annual report, including its recommendations, to the General Assembly, and the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Any such comments or recommendations which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make, including suggestions on topics for inclusion in the work of the Commission, shall be transmitted to the General Assembly in accordance with the relevant provisions of General Assembly resolution 1995 (XIX). Any other recommendations relevant to the work of the Commission which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make shall be similarly transmitted to the General Assembly.

"10. The Commission may consult with any international or national organization, scientific institution and individual expert, on any subject entrusted to it if it considers that such consultation might assist it in the performance of its functions.

"11. The Commission may establish appropriate working relationships with inter-governmental organizations and international non-governmental organizations concerned with the progressive harmonization and unification of the law of international trade."

10. Following informal consultations, the sponsors of draft resolution A/C.6/L.613, joined by Guatemala, Italy, Mali and Turkey, submitted a revised version of the draft resolution (A/C.6/L.613/Rev.1). Later, Malawi and the Netherlands (A/C.6/L.613/Rev.1/Add.1) and Belgium and Syria (A/C.6/L.613/Rev.1/Add.2) joined the sponsors of the revised draft resolution. In this revision: (*a*) the reference to "conflicts and" was deleted from the third preambular paragraph, so that the resolution would provide for the General Assembly to reaffirm "its conviction that divergencies arising from the laws of different States in matters relating to international trade constitute one of the obstacles to the development of world trade"; (*b*) the wording of operative paragraph 3 was changed to provide

that the General Assembly should, in the election of the members of the commission, be guided by the principle of equitable geographical distribution "with due regard to the adequate representation of the principal economic and legal systems of the world and of developed and developing countries"; (*c*) operative paragraph 8 (*c*) was changed to read as follows: "Preparing and/or promoting the adoption of new international conventions, model laws and uniform laws, and the codification and wider acceptance of international trade terms, provisions, customs and practices in collaboration, where appropriate, with the organizations operating in this field;"; (*d*) a reference to "case law" was introduced into operative paragraph 8 (*e*) so that it would read as follows: "Collecting and disseminating information on national legislation and modern legal developments, including case law, in the field of the law of international trade;"; (*e*) the language in operative paragraph 10 was modified to read: "10. The Commission may consult with or request the services of any international or national organization, scientific institution and individual expert, on any subject entrusted to it if it considers that such consultation or services might assist it in the performance of its functions".

11. As a result of further discussions among the sponsors, a second revision (A/C.6/L.613/Rev.2) was submitted by the sponsors. In accordance with the second revised version of the draft resolution, the General Assembly would (*a*) express, in the second preambular paragraph, its appreciation for the report of the Secretary-General (A/6396 and Add.1 and 2); (*b*) add the following, as a new third preambular paragraph: "Considering that international trade co-operation among States is an important factor for promoting friendly relations and consequently for the maintenance of peace and security", and (*c*) provide for reversal of the order of the former third and fourth preambular paragraphs. The operative part of the second revised draft resolution (A/C.6/L.613/Rev.2) read as follows:

"I

"1. *Decides* to establish a United Nations Commission on International Trade Law which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade.

"II

"*Organization and functions of the United Nations Commission on International Trade Law*

"2. The United Nations Commission on International Trade Law shall consist of ..... States, elected by the General Assembly at its twenty-second session for a term of six years. In electing the members of the Commission, the General Assembly shall observe the following distribution of seats:

"(*a*) ..... from African States;
"(*b*) ..... from Asian States;
"(*c*) ..... from Eastern European States;
"(*d*) ..... from Latin American States;
"(*e*) ..... from Western European and other States.

"3. Of the members elected at the first election, the terms of ..... members shall expire at the end of three years. The President of the General Assembly shall select these members within each of the five groups of States referred to in the preceding paragraph by drawing lots.

"4. The members elected at the first election shall take office on 1 January 1968. Subsequently, the members shall take office on 1 January of the year following each election.

"5. In electing the members of the Commission, the General Assembly shall be guided by the principle of equitable geographical distribution with due regard to the adequate representation of the principal economic and legal systems of the world, and of developed and developing countries.

"6. The representatives of members on the Commission shall be appointed by Member States in so far as possible from amongst persons of eminence in the field of the law of international trade.

"7. Retiring members shall be eligible for re-election.

"8. The Commission shall normally hold one regular session a year. It shall, if there are no technical difficulties, meet alternately at the United Nations Headquarters and the United Nations Office at Geneva.

"9. The Secretary-General shall make available to the Commission appropriate staff and facilities required by the Commission to fulfil its task.

"10. The Commission shall further the progressive harmonization and unification of the law of international trade by:

"(*a*) Co-ordinating the work of organizations active in this field and encouraging co-operation among them;

"(*b*) Promoting wider participation in existing international conventions, and wider acceptance of existing model and uniform laws;

"(*c*) Preparing and/or promoting the adoption of new international conventions, model laws and uniform laws, and the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field;

"(*d*) Promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws in the field of the law of international trade;

"(*e*) Collecting and disseminating information on national legislation and modern legal developments, including case law, in the field of the law of international trade;

"(*f*) Establishing and maintaining a close collaboration with the United Nations Conference on Trade and Development;

"(*g*) Maintaining liaison with other United Nations organs and specialized agencies concerned with international trade;

"(*h*) Taking any other action it may deem useful to fulfil its functions.

"11. The Commission shall bear in mind the interests of all peoples and particularly those of developing countries in the extensive development of international trade.

"12. The Commission shall submit an annual report, including its recommendations, to the General Assembly, and the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Any such comments or recommendations which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make, including suggestions on topics for inclusion in the work of the Commission, shall be transmitted to the General Assembly in accordance with the relevant provisions of General Assembly resolution 1995 (XIX). Any other recommendations relevant to the work of the Commission which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make shall be similarly transmitted to the General Assembly.

"13. The Commission may consult with or request the services of any international or national organization, scientific institution and individual expert, on any subject entrusted to it if it considers that such consultation or services might assist it in the performance of its functions.

"14. The Commission may establish appropriate working relationships with inter-governmental organizations and international non-governmental organizations concerned with the progressive harmonization and unification of the law of international trade.

"III

"15. *Requests* the Secretary-General, pending the election of the Commission, to carry out the preparatory work necessary for the organization of the work of the Commission and, in particular (i) to invite Member States to submit in writing before 1 July 1967, taking into account in particular the report of the Secretary-General (A/6396), comments on a programme of work to be undertaken by the Commission in discharging its functions under paragraph 10 of this resolution and (ii) to request similar comments from the organs and organizations referred to in paragraph 10 (*f*) and (*g*) and in paragraph 14 of this resolution;

"16. *Decides* to include an item entitled 'Election of the members of the United Nations Commission on International Trade Law' in the provisional agenda of the twenty-second session of the General Assembly."

12. As a result of additional informal consultations, the sponsors of draft resolution A/C.6/L.613/Rev.2 submitted a third revision (A/C.6/L.613/Rev.3) on 13 December, paragraphs 1, 2, 3 and 5 of which read as follows:

"*The General Assembly*,

"...

"1. *Decides* to establish a 'United Nations Commission on International Trade Law' which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade.

"II

"*Organization and functions of the United Nations Commission on International Trade Law*

"2. The United Nations Commission on International Trade Law shall consist of twenty-nine States, elected by the General Assembly for a term of six years, except as provided in paragraph 3 of this resolution. In electing the members of the Commission, the General Assembly shall observe the following distribution of seats:

"(*a*) Seven from African States;
"(*b*) Five from Asian States;
"(*c*) Four from Eastern European States;
"(*d*) Five from Latin American States;
"(*e*) Eight from Western European and other States.

"3. Of the members elected at the first election to be held at the twenty-second session of the General Assembly, the terms of fourteen members shall expire at the end of three years. The President of the General Assembly shall select these members within each of the five groups of States referred to in the preceding paragraph by drawing lots.

"...

"5. In electing the members of the Commission, the General Assembly shall also have due regard to the adequate representation of the principal economic and legal systems of the world, and of developed and developing countries."

13. In the course of the consideration of the third draft (A/C.6/L.613/Rev.3), it was orally agreed by the representative of Colombia on behalf of the sponsors that a more logical sequence of the operative paragraphs could be achieved by certain changes in the order thereof: (*a*) specifically, it was proposed to transpose the content of operative paragraph 5 without the opening words: "In electing the members of the Commission" to the end of operative paragraph 2; (*b*) operative paragraphs 6-16 would be renumbered 5-15;[31] (*c*) the consequential changes would be made in renumbered operative paragraph 14 (former paragraph 15). Furthermore, the sponsors orally agreed to the following new wording of renumbered operative paragraph 9 (*c*) (formerly paragraph 10 (*c*)):

> "(*c*) Preparing or promoting the adoption of new international conventions, model laws and uniform laws, and promoting the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field;".

It was also agreed to replace, in the Spanish version of operative paragraph 3, the words "*elegirá por sorteo*" by the words "*designará por sorteo*".

14. Following the submission of the original draft resolution (A/C.6/L.613 and Add.1 and 2), the Secretary-General presented for the consideration of the Sixth Committee a statement of the administrative and financial implications (A/C.6/L.615) of that draft

[31] In drawing up the final text of the draft resolution adopted by the Sixth Committee, the numbering of the paragraphs in the three operative parts was changed to conform to United Nations editorial style.

resolution. Upon the submission of the third revised draft resolution (A/C.6/L.613/Rev.3), he presented a statement of the administrative and financial implications (A/C.6/L.615/Rev.1) of that revised draft resolution.

Discussion

15. Numerous representatives expressed appreciation of the initiative taken by the Hungarian delegation at the twentieth session of the General Assembly with respect to the progressive development of the law of international trade, and welcomed the report of the Secretary-General. The assistance which had been provided by Mr. Schmitthoff in the preparation of the report was recognized as very valuable. The consultations carried on by the Secretary-General with individual experts, with organs of the United Nations and with institutions active in the field had been extremely profitable in the view of numerous representatives.

16. A great number of representatives supported the conclusions of the report, particularly that the United Nations should take an active part in efforts towards the harmonization and unification of the law of international trade. Many representatives stated that this could most appropriately be done by the establishment of a United Nations organ such as the one described in the Secretary-General's report.

17. Several representatives pointed out the extreme importance for developing countries of devoting attention to and participating in efforts towards the progressive development of the law of international trade. One representative pointed out that since developing countries were not able, by force of circumstance, to participate in numerous international institutions active in this field, their participation in such a United Nations organ as had been proposed was particularly important to them. It was pointed out in this connexion that the commission could be instrumental in improving trade practices that had evolved in the past, which benefited developed countries at the expense of the developing countries.

Functions of the proposed commission

18. Certain representatives considered that the proposed commission should be authorized to take action both in the area of the harmonization and unification of substantive rules relating to trade law and in the field of conflict of law rules. Other representatives considered that the work of the proposed commission should be primarily in the field of the unification of substantive rules.

19. With respect to the specific role that such a commission should perform, representatives expressed varying views. Certain representatives considered that the commission should engage in co-ordinating and centralizing the efforts of organizations already active in the field under discussion, and in promoting the wider acceptance of instruments already in existence. Others considered that the commission should in addition, where appropriate, perform the function of formulating new international instruments designed to further the development of international trade law. One representative expressed the view that the proposed commission should, in its initial endeavours, concentrate on co-ordinating efforts of institutions already active in the progressive development of international trade law, before considering the possibility of initiating new measures in this field while bearing in mind the financial implications.

20. Certain representatives pointed out that the proposed commission's functions did not include the adoption of instruments binding upon States, but that in this connexion a clarification of the scope of the authority would be welcome. In response to this request, it was stated on behalf of the sponsors that under its terms of reference the commission would work out model laws and uniform laws which could then serve as standards which

States might wish to consider as guides in the development of their own national legislation, and formulate draft international instruments to which States would give their consideration.

21. Reference was made by several representatives to the fact that the functions of the commission should not be interpreted to imply that it could engage in activities affecting sectors of private international law which fall outside the laws governing commercial transactions, or that it could take steps having a bearing on international trade relations governed by public law.

Collaboration with other organizations

22. It was pointed out by several representatives that, should the commission engage in formulating activities, it should maintain close liaison with the inter-governmental and non-governmental organizations already active in the field in order to avoid overlapping and duplication. In the latter connexion, numerous representatives pointed out the valuable contributions to the progressive development of international trade law which had been made by the International Institute for the Unification of Private Law and the Hague Conference on Private International Law. One representative made reference to the fact that both of these institutions had welcomed the establishment of the proposed commission. The Sixth Committee agreed to express its appreciation to these organizations for the major contributions they had made to the work in this field, for their valuable comments on the report of the Secretary-General and for the participation of their representatives in the debates of the Committee. It was suggested that appropriate working relationships should be established between the proposed commission and these two organizations, since the experience and expertise which they had acquired would be of great assistance to the proposed commission. In connexion with the relationship to be established with the two organizations, attention was drawn to the agreements concluded between the Secretary-General of the United Nations and the secretaries-general of those organizations pursuant to Economic and Social Council resolution 678 (XXXVI) of 3 July 1958, and it was suggested that a similar method be followed in connexion with the work of the new commission.

23. Various representatives made mention of the participation of their respective countries in inter-governmental and non-governmental organizations active in this field. Reference was made, for instance, to the Council for Mutual Economic Assistance, the Council of Europe, the Nordic Council, the Asian-African Legal Consultative Commission, the European Economic Community, the Inter-American Council of Jurists, the European Free Trade Association, the United Nations regional economic commissions and to the International Chamber of Commerce and the International Maritime Committee. In this connexion it was pointed out that experience gained by States in the course of participation in such institutions and organizations was relevant to the work of the proposed commission to promote the progressive unification and harmonization of international trade law. It was also pointed out by several representatives that the experience gained by States in seeking to reduce the divergencies existing within their own legal systems could also be relevant to proposed efforts on the international level, which were far more complicated owing to numerous facts such as the variety of legal concepts and languages.

24. During the final stage of the Committee's deliberations and in view of the new formulation of operative paragraph 9 (*c*) of the draft resolution (A/C.6/L.613/Rev.3), as described in paragraph 13 of the present report, a question arose as to whether the collaboration in operative paragraph 9 (*c*) mentioned was to be understood to apply to all of the activities of the proposed commission described in that sub-paragraph. It was agreed by the representatives who spoke on this issue and on behalf of the sponsors that there was no doubt that the collaboration referred to applied to all the activities of the commission enumerated in the sub-paragraph under discussion.

Relationship with the United Nations Conference on Trade and Development (UNCTAD)

25. The Committee discussed the relationship which should exist between work relating to the progressive development of the law of international trade and UNCTAD. Several representatives welcomed the provision in the draft resolution for the submission to UNCTAD of the reports prepared by the commission for the General Assembly since this would assure the required liaison with the Assembly and would assist the commission in reaching solutions which were attuned to the practical needs of the commercial world. Reference was made to paragraph 14 of General Assembly resolution 1995 (XIX), of 30 December 1964, providing that when the Conference was not in session, the Trade and Development Board carries out its functions.

Size and composition of the proposed commission and terms of office of its members

26. In commenting on the size of the proposed commission, representatives expressed various preferences. However, they agreed that it should be small enough not to be unwieldy but large enough to allow for a membership in which States of the various legal and socio-economic systems and States in different stages of development would be represented. One representative suggested, for example, that there should be between twenty-four and thirty members; another believed that the size should be between twenty-four and twenty-seven; yet another suggested a commission with from eighteen to twenty-four members, while another considered that from twenty-one to twenty-eight would be an appropriate solution. It was pointed out by one representative that it should be borne in mind that in certain areas there existed a scarcity of persons who are highly qualified legal experts in the technical and complicated field of international trade law.

27. Upon the introduction of draft resolution A/C.6/L.613/Rev.3, it was pointed out on behalf of the sponsors that the formulation of the revised version and the distribution of seats provided for in operative paragraph 2 thereof had been arrived at in a spirit of co-operation and compromise. It was hoped that although the solution proposed in the revised draft resolution was not completely satisfactory to all delegations, it could be adopted in the same spirit of co-operation. Several representatives spoke in support of this view.

28. The representative of Ecuador, speaking on behalf of his delegation and the delegations of Bolivia, Colombia, El Salvador, Honduras, Jamaica, Mexico, Panama, Paraguay and Uruguay, and the representative of Venezuela on his own behalf, wished to record the conviction of these delegations that the distribution of seats in the proposed commission, as provided for in the draft resolution (A/C.6/L.613/Rev.3), did not reflect an equitable geographical distribution in respect of the States of Latin America and did not take into consideration the realities of that region. The Ecuadorian representative stated that, in the view of the delegations for which he spoke, the disposition of seats suggested in the draft resolution should not constitute a precedent in respect of any future organs which might be established. The representatives of the African and Asian States, of the Eastern European States and of the Western European and other States, giving the views of their groups or of their own delegations, expressed their belief that the representation provided for was not an equitable solution, but that in the interest of progress and in view of the contribution which the proposed commission could be expected to make, they would accept the compromise reached. Another representative expressed the hope that the resolution would not be interpreted with undue rigidity.

29. The draft resolution (A/C.6/L.613/Rev.3) provided that the term of office of the members of the commission should be six years, but in order to ensure a degree of continuity in its membership, a rotation system was envisaged whereby the terms of office of

fourteen of the members elected at the first election—which would take place at the twenty-second session of the General Assembly—would expire at the end of three years; the President at that session would select those fourteen members by drawing lots. The sponsors of the draft resolution agreed that the fourteen members with three-year terms would be selected as follows from the different groups:

Four from African States;
Two from Asian States;
Two from Eastern European States;
Two from Latin American States; and
Four from Western European and other States.

Place of meeting

30. With respect to the place where the sessions of the proposed commission should be held, various representatives expressed divergent opinions. It was pointed out, on the one hand, that reasons of economy and efficiency would call for a choice of the United Nations Headquarters as the seat of the proposed commission; on the other hand, some argued it might be more appropriate and convenient if Geneva were chosen. A number of delegations remarked that the commission should co-operate closely with UNCTAD whose headquarters are located in Geneva, in view of the importance of that organ and of its interest in promoting the establishment of rules furthering international trade. It was finally agreed, as a compromise solution, that if there were no technical difficulties, the commission should meet alternately at United Nations Headquarters and the European Office of the United Nations at Geneva.

Time of election of members of the commission and of its first session

31. Certain representatives expressed the need for careful preparation in connexion with the establishment of the proposed commission. Some representatives suggested that prior to the establishment of the commission preliminary studies should be made of subjects which might be suitable for consideration by the commission. Other representatives stated that there was a need for careful consideration of the financial implications of the establishment at the appropriate time of such a commission. It was suggested by several representatives that prior to the election of the members of the commission it might be wise to provide for further study and consultation. It was suggested in this connexion that were such a course to be adopted, during the intervening period the Secretariat could make administrative and technical preparations for the work of the commission and might circulate requests to Member States and to inter-governmental and non-governmental institutions for suggestions as to the work programmes of the commission.

32. It was finally agreed that the commission would be elected by the General Assembly at its twenty-second session and that, pending the election, the Secretary-General would be requested to carry out the preparatory work necessary for the organization of the work of the commission.

VOTING

33. At its 955th meeting, on 14 December 1966, the Sixth Committee adopted unanimously revised draft resolution A/C.6/L.613/Rev.3, as amended (see para. 13 above). The representatives of Cameroon, Dahomey, Ecuador, France, Ghana, Greece, Mexico, Nepal, Somalia, Venezuela and the United States of America explained their votes.

Recommendation of the Sixth Committee

34. The Sixth Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

[*Text adopted by the General Assembly without change. See "Resolution adopted by the General Assembly" below*]

(*b*) Resolution adopted by the General Assembly

At its 1497th plenary meeting, on 17 December 1966, the General Assembly adopted the draft resolution submitted by the Sixth Committee (para. 34 above). For the final text, see resolution 2205 (XXI) below.

2205 (XXI). Establishment of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2102 (XX) of 20 December 1965, by which it requested the Secretary-General to submit to the General Assembly at its twenty-first session a comprehensive report on the progressive development of the law of international trade,

Having considered with appreciation the report of the Secretary-General on that subject,[32]

Considering that international trade co-operation among States is an important factor in the promotion of friendly relations and, consequently, in the maintenance of peace and security,

Recalling its belief that the interests of all peoples, and particularly those of developing countries, demand the betterment of conditions favouring the extensive development of international trade,

Reaffirming its conviction that divergencies arising from the laws of different States in matters relating to international trade constitute one of the obstacles to the development of world trade,

Having noted with appreciation the efforts made by inter-governmental and non-governmental organizations towards the progressive harmonization and unification of the law of international trade by promoting the adoption of international conventions, uniform laws, standard contract provisions, general conditions of sale, standard trade terms and other measures,

Noting at the same time that progress in this area has not been commensurate with the importance and urgency of the problem, owing to a number of factors, in particular insufficient co-ordination and co-operation between the organizations concerned, their limited membership or authority and the small degree of participation in this field on the part of many developing countries,

Considering it desirable that the process of harmonization and unification of the law of international trade should be substantially co-ordinated, systematized and accelerated and that a broader participation should be secured in furthering progress in this area,

Convinced that it would therefore be desirable for the United Nations to play a more active role towards reducing or removing legal obstacles to the flow of international trade,

Noting that such action would be properly within the scope and competence of the Organization under the terms of Article 1, paragraph 3, and Article 13, and of Chapters IX and X of the Charter of the United Nations,

Having in mind the responsibilities of the United Nations Conference on Trade and Development in the field of international trade,

Recalling that the Conference, in accordance with its General Principle Six,[33] has a particular interest in promoting the establishment of rules furthering international trade as one of the most important factors in economic development,

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[32] *Official Records of the General Assembly, Twenty-first Session. Annexes*, agenda item 88, documents A/6396 and Add.1 and 2.

[33] See *Proceedings of the United Nations Conference on Trade and Development*, vol. I, *Final Act and Report* (United Nations publication, Sales No.: 64.II.B.11), annex A.I.1, p. 18.

Recognizing that there is no existing United Nations organ which is both familiar with this technical legal subject and able to devote sufficient time to work in this field,

I

Decides to establish a United Nations Commission on International Trade Law (hereinafter referred to as the Commission), which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade, in accordance with the provisions set forth in section II below;

II

ORGANIZATION AND FUNCTIONS OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

1. The Commission shall consist of twenty-nine States, elected by the General Assembly for a term of six years, except as provided in paragraph 2 of the present resolution. In electing the members of the Commission, the Assembly shall observe the following distribution of seats:

(*a*) Seven from African States;

(*b*) Five from Asian States;

(*c*) Four from Eastern European States;

(*d*) Five from Latin American States;

(*e*) Eight from Western European and other States. The General Assembly shall also have due regard to the adequate representation of the principal economic and legal systems of the world, and of developed and developing countries.

2. Of the members elected at the first election, to be held at the twenty-second session of the General Assembly, the terms of fourteen members shall expire at the end of three years. The President of the General Assembly shall select these members within each of the five groups of States referred to in paragraph 1 above, by drawing lots.

3. The members elected at the first election shall take office on 1 January 1968. Subsequently, the members shall take office on 1 January of the year following each election.

4. The representatives of members on the Commission shall be appointed by Member States in so far as possible from among persons of eminence in the field of the law of international trade.

5. Retiring members shall be eligible for re-election.

6. The Commission shall normally hold one regular session a year. It shall, if there are no technical difficulties, meet alternately at United Nations Headquarters and at the United Nations Office at Geneva.

7. The Secretary-General shall make available to the Commission the appropriate staff and facilities required by the Commission to fulfil its task.

8. The Commission shall further the progressive harmonization and unification of the law of international trade by:

(*a*) Co-ordinating the work of organizations active in this field and encouraging co-operation among them;

(*b*) Promoting wider participation in existing international conventions and wider acceptance of existing model and uniform laws;

(*c*) Preparing or promoting the adoption of new international conventions, model laws and uniform laws and promoting the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field;

(*d*) Promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws in the field of the law of international trade;

(*e*) Collecting and disseminating information on national legislation and modern legal developments, including case law, in the field of the law of international trade;

(*f*) Establishing and maintaining a close collaboration with the United Nations Conference on Trade and Development;

(*g*) Maintaining liaison with other United Nations organs and specialized agencies concerned with international trade;

(*h*) Taking any other action it may deem useful to fulfil its functions.

9. The Commission shall bear in mind the interests of all peoples, and particularly those of developing countries, in the extensive development of international trade.

10. The Commission shall submit an annual report, including its recommendations, to the General Assembly, and the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Any such comments or recommendations which the Conference or the Trade and Development Board may wish to make, including suggestions on topics for inclusion in the work of the Commission, shall be transmitted to the General Assembly in accordance with the revelant provisions of Assembly resolution 1995 (XIX) of 30 December 1964. Any other recommendations relevant to the work of the Commission which the Conference or the Board may wish to make shall be similarly transmitted to the General Assembly.

11. The Commission may consult with or request the services of any international or national organization, scientific institution and individual expert, on any subject entrusted to it, if it considers such consultation or services might assist it in the performance of its functions.

12. The Commission may establish appropriate working relationships with inter-governmental organizations and international non-governmental organizations concerned with the progressive harmonization and unification of the law of international trade.

III

1. *Requests* the Secretary-General, pending the election of the Commission, to carry out the preparatory work necessary for the organization of the work of the Commission and, in particular:

(*a*) To invite Member States to submit in writing before 1 July 1967, taking into account in particular the report of the Secretary-General,[34] comments on a programme of work to be undertaken by the Commission in discharging its functions under paragraph 8 of section II above;

(*b*) To request similar comments from the organs and organizations referred to in paragraph 8 (*f*) and (*g*) and in paragraph 12 of section II above;

2. *Decides* to include an item entitled "Election of the members of the United Nations Commission on International Trade Law" in the provisional agenda of its twenty-second session.

1497th plenary meeting
17 December 1966

[34] *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 88, documents A/6396 and Add.1 and 2.

11. STRICT OBSERVANCE OF THE PROHIBITION OF THE THREAT OR USE OF FORCE IN INTERNATIONAL RELATIONS, AND OF THE RIGHT OF PEOPLES TO SELF-DETERMINATION (AGENDA ITEM 92)

Resolution [2160 (XXI)] adopted by the General Assembly

2160 (XXI). Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination

The General Assembly,

I

Drawing the attention of States to the fundamental obligations incumbent upon them in accordance with the Charter of the United Nations to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

Deeply concerned at the existence of dangerous situations in the world constituting a direct threat to universal peace and security, due to the arbitrary use of force in international relations,

Reaffirming the right of peoples under colonial rule to exercise their right to self-determination and independence and the right of every nation, large or small, to choose freely and without any external interference its political, social and economic system,

Recognizing that peoples subjected to colonial oppression are entitled to seek and receive all support in their struggle which is in accordance with the purposes and principles of the Charter,

Firmly convinced that it is within the power and in the vital interest of the nations of the world to establish genuinely sound relations between States, based on justice, equality, mutual understanding and co-operation,

Recalling the declarations contained in its resolutions 1514 (XV) of 14 December 1960 and 2131 (XX) of 21 December 1965,

1. *Reaffirms* that:

(*a*) States shall strictly observe, in their international relations, the prohibition of the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Accordingly, armed attack by one State against another or the use of force in any other form contrary to the Charter of the United Nations constitutes a violation of international law giving rise to international responsibility;

(*b*) Any forcible action, direct or indirect, which deprives peoples under foreign domination of their right to self-determination and freedom and independence and of their right to determine freely their political status and pursue their economic, social and cultural development constitutes a violation of the Charter of the United Nations. Accordingly, the use of force to deprive peoples of their national identity, as prohibited by the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty contained in General Assembly resolution 2131 (XX), constitutes a violation of their inalienable rights and of the principle of non-intervention;

2. *Urgently appeals* to States:

(*a*) To renounce and to refrain from any action contrary to the above-stated fundamental principles and to assure that their activities in international relations are in full harmony with the interests of international peace and security;

(*b*) To exert every effort and to undertake all necessary measures with a view to facilitating the exercise of the right of self-determination of peoples under colonial rule, lessening international tension, strengthening peace and promoting friendly relations and co-operation among States;

3. *Reminds* all Members of their duty to give their fullest support to the endeavours of the United Nations to ensure respect for and the observance of the principles enshrined in the Charter and to assist the Organization in discharging its responsibilities as assigned to it by the Charter for the maintenance of international peace and security;

II

Considering that the above principles, together with the other five principles of friendly relations and co-operation among States, have been the object of a study with a view to their progressive development and codification[18] on the basis of General Assembly resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963 and 2103 (XX) of 20 December 1965,

Requests the Secretary-General to include the present resolution and the records of the debate on the item entitled "Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination" in the documentation to be considered in the further study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, with a view to the early adoption of a declaration containing an enunciation of these principles.

1482nd plenary meeting,
30 November 1966.

B. Decisions, recommendations and reports of a legal character by inter-governmental organizations related to the United Nations

1. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) Application of the Agreement between the Government of the French Republic and the United Nations Educational, Scientific and Cultural Organization regarding the headquarters of UNESCO and the privileges and immunities of the Organization on French territory (2 July 1954)

(i) Extracts from a note of the Director-General to the Executive Board

(Document 72 EX/11, 13 April 1966)

...

I

Communication, dated 14 March 1966, from the Director-General to the Minister of Foreign Affairs of the French Republic

"The Director-General of the United Nations Educational, Scientific and Cultural Organization pays his respects to the Minister of Foreign Affairs of the French Republic and has the honour to convey the following communication to him:

[18] *Official Records of the General Assembly, Twenty-first Session, Annexes,* agenda item 87, document A/6230.

The Permanent Delegation of the Republic of China to UNESCO informed the Director-General of the Organization that, on Saturday, 12 March, about 8 a.m., the premises occupied by the delegation in the Avenue George V and the Rue Pergolèse were cordoned by a strong detachment of police. A police superintendent and an official of the Ministry of Foreign Affairs entered the said premises, accompanied by a number of policemen. They informed the members of the delegation present that they must vacate the premises before midday and they refused to give additional time as requested by Mr. Chen Yuan, Minister Plenipotentiary and Head of the Delegation. No communication with persons outside the buildings was allowed and the Head of the Delegation was prevented from telephoning to the Director-General of UNESCO.

Seals were affixed to the Delegation's archives and documents left in the premises. A request by a member of the Delegation that the Delegation's stamp should be placed on the seals beside that of the French authorities was refused.

The premises were evacuated early in the afternoon and members of the Delegation were forbidden to re-enter them.

In the light of the information thus supplied to him, it seems to the Director-General of UNESCO that the measures taken by the French authorities constitute an infringement of the inviolability of the premises in which the Delegation of the Republic of China to UNESCO had established its headquarters and the domicile of some of its members. It also appears to him that these measures contravene the immunities enjoyed by the members of the Delegation of the Republic of China and the guarantees attaching to this Delegation's status in respect of the protection of its archives and documents and its freedom of communication.

Referring to the memorandum which he sent on 6 April 1965 to the Permanent Delegate of France to UNESCO and confirming what he said to the latter on Saturday afternoon, 12 March, the Director-General of UNESCO formally protests against action which, in the light of the information at present available to him, he considers to be incompatible with the provisions of Article 18 of the Agreement between the Government of the French Republic and the United Nations Educational, Scientific and Cultural Organization regarding the Headquarters of UNESCO and the privileges and immunities of the Organization on French territory.

The Director-General of UNESCO, while reserving the Organization's position with regard to other measures which the application of the said Agreement may require, requests the Minister of Foreign Affairs to take the necessary steps to ensure that the Delegation of the Republic of China to UNESCO may, as soon as possible, be able to discharge its duties in a normal fashion and, for that purpose, to benefit once again on French territory from the facilities, privileges and immunities attaching to its status. The restitution to the Delegation of its archives and documents and the personal belongings of its members is a matter of particular urgency."

...

Communication, dated 18 March 1966, from the Permanent Delegate of France to the Director-General

"The Permanent Delegate of France to UNESCO pays his respects to the Director-General of the United Nations Educational, Scientific and Cultural Organization and, in answer to his memorandum of 14 March 1966 addressed to the Minister of Foreign Affairs, has the honour to call his attention to the following:

1. The buildings in question are the property of the Chinese State, which the Embassy of the People's Republic of China is alone entitled to represent in France. The delegates of Taipeh to UNESCO were, moreover, unable to produce any legal instrument to justify

their occupation; hence they could not be considered as other than occupants without title of premises which did not therefore enjoy any immunity either under the 1954 Headquarters Agreement or under any other treaty obligation or rule of customary law.

2. The Director-General of UNESCO was probably not fully informed of the conditions under which the French Government's decision was carried out. It is not true, for instance, that the Formosan Delegation was refused sufficient time to vacate the premises which it was improperly occupying; on the contrary, it was notified on several occasions, namely on 21 April 1965, and on 14 February, 2 and 11 March 1966, that such a situation could not continue indefinitely. On each of these occasions, the Formosan Delegation refused to acknowledge the communication made to it.

The French Government, however, endeavoured to facilitate the settlement of this matter by making vacant apartments available to members of the Delegation, despite the fact that most of them already had private residences.

It is equally untrue to say that the Delegation was prevented on 12 March from communicating with persons outside the buildings; Mr. Chen Yuan got into touch with the *Chef du Protocole;* and, if he was unable to communicate with the Director-General of UNESCO himself, it was not because he had been prevented from doing so.

The French Government understands the anxiety of the Director-General of UNESCO to secure guarantees for the Formosan Delegation concerning the protection and free disposal of its archives and the personal belongings of its members. Accordingly, on 12 March, immediate facilities were offered to the Formosan delegates for that purpose; but those concerned refused them and preferred to postpone the removal of these personal belongings and documents. That is why the seals were affixed. Members of the Delegation were informed that they could return whenever they wished, accompanied by representatives of the competent French authorities, in order to collect their property.

3. Although reluctantly obliged to resort to the measures described in the above-mentioned communication, and which it was within the power of the delegates of Taïpeh to UNESCO to avoid, the French Government did not thereby overlook the terms of the 1954 Headquarters Agreement, which, needless to say, it will continue to apply to the latter. All it did was to put an end to a situation which was contrary to both international and domestic law and which it had tried in vain to settle by other means."

Communication, dated 1 April 1966, from the Director-General to the Minister of Foreign Affairs of the French Republic

"The Director-General of the United Nations Educational, Scientific and Cultural Organization pays his respects to the Minister of Foreign Affairs of the French Republic and, referring to his communication of 14 March 1966 and that, dated 18 March 1966, from the Permanent Delegate of France, has the honour to inform him of the following:

1. The Director-General of UNESCO has noted the information contained in the said communication of 18 March relating to the conditions under which the French Government's decision was carried out on 12 March.

2. The Director-General has also noted with satisfaction that the French Government understands his anxiety to secure for the Delegation of the Republic of China guarantees concerning, in particular, the protection and free disposal of its archives and of the personal belongings of its members. He hopes that the contacts which have now been established will make it possible in the near future to arrive at a satisfactory solution to this problem.

3. With regard to the immunity of the premises, the Permanent Delegate of France states in his above-mentioned communication that the Permanent Delegation of the Republic of China to UNESCO occupied the premises in the Avenue George V and in the Rue

Pergolèse without title thereto, and he concludes that these premises could therefore not enjoy 'any immunity under the 1954 Headquarters Agreement or under any other treaty obligation or rule of customary law'.

4. The Director-General of the United Nations Educational, Scientific and Cultural Organization cannot accept this conclusion. As he pointed out in his communication of 6 April 1965 to the Permanent Delegate of France, the Director-General, who cannot take sides in the dispute concerning the ownership of the premises concerned, considers that the Head of the Delegation of the Republic of China to UNESCO enjoys, in accordance with Article 18 of the Headquarters Agreement, the status accorded to the heads of foreign diplomatic missions and that the premises he occupies as the headquarters of his delegation or as his domicile are therefore inviolable.

5. This point of view is in conformity with diplomatic tradition and international practice, codified in Article 22 of the Vienna Convention of 18 April 1961 on diplomatic relations. These provisions do not make the inviolability of the premises of a delegation's headquarters dependent on the recognition, by the Government of the State on whose territory the premises are situated, of a title of ownership."

II

1. The Board will have heard from the foregoing texts that there is a conflict between the Government of the Republic of China and the Government of the French Republic with regard to the ownership of the premises in the Avenue George V and in the Rue Pergolèse. The Director-General still considers, as he has always maintained and pointed out to the two parties concerned, that this is a problem which does not concern the Organization.

2. But the question which does concern the Organization is whether the measures taken on 12 March 1966 by the French Authorities against the Permanent Delegation of the Republic of China are or are not compatible with the Headquarters Agreement concluded on 2 July 1954 between the Government of the French Republic and UNESCO.

3. In this respect, the communications exchanged between the Ministry of Foreign Affairs of the French Republic and the Director-General of UNESCO reveal a difference of opinion on the way in which the provisions of the Headquarters Agreement of 2 July 1954 should be interpreted and applied.

4. The Director-General refers the question to the Executive Board's judgement.

(ii) Communication of 18 April 1966 from the Permanent Delegate of France to UNESCO

(Document 72 EX/11 Add., 20 April 1966)

"The Permanent Delegate of France to UNESCO presents his compliments to the Director-General of the United Nations Educational, Scientific and Cultural Organization and, referring to his note of 1 April 1966 to the Ministry of Foreign Affairs, has the honour to draw his attention to the following points:

1. It is clear that, when the Taipeh authorities decided to change the location of their Delegation to UNESCO, their only aim, in attempting to claim the protection of immunities conferred for other purposes, was to elude the legitimate application of the appropriate territorial law. This entirely unwarranted transfer, of which the French Government has never taken legal cognizance, could not, in any case, confer on the buildings occupied by the Taipeh Delegation the protection that the Delegation claims.

2. The recognition by France of the Government of the People's Republic of China brought into being an international obligation for the French Government, which could not thereafter tolerate the totally unwarranted occupation of buildings belonging to the

Chinese State, against the will of that State, which is the legitimate owner. The French Government cannot be open to criticism for having put an end to this situation.

3. The Permanent Delegate wishes to reaffirm that the French authorities intend fully to respect the provisions of the Headquarters Agreement of 1954. The French Government has not failed to appreciate the implications of that Agreement and has sought so far as possible to facilitate the settlement of this affair. It is because the Taipeh Delegation refused to respond to the repeated approaches of the French Government that the latter was obliged to resort to administrative measures, while assisting the members of the Delegation to rehouse themselves and providing them with all facilities for the disposal of their archives and personal property. The Permanent Delegate of France to UNESCO takes this opportunity of renewing to the Director-General of the United Nations Educational, Scientific and Cultural Organization the assurance of his highest consideration".

(iii) Resolution No. 9.1 adopted by the Executive Board at its seventy-second session[35]

Application of the Agreement between the Government of the French Republic and the United Nations Educational, Scientific and Cultural Organization regarding the Headquarters of UNESCO and the privileges and immunities of the Organization on French territory (2 July 1954) (documents 72 EX/11 and Add.)

The Executive Board,

1. *Having received* the report of the Director-General contained in documents 72EX/11 and 72 EX/11 Add.,

2. *Bearing in mind* also the points of view expressed in the communications of the other parties directly concerned reproduced in the same documents,

3. *Notes with appreciation* the attitude adopted by the Director-General in relation to the events of 12 March 1966 in his concern to assure the full respect of the provisions of the Headquarters Agreement and expresses its confidence that he will safeguard this Agreement in all circumstances.

(*b*) Declaration of the principles of international cultural co-operation[36]

The General Conference

of the United Nations Educational, Scientific and Cultural Organization, met in Paris for its fourteenth session, this fourth day of November 1966, being the twentieth anniversary of the foundation of the Organization,

recalling

that the Constitution of the Organization declares that "since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed" and that the peace must be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind,

recalling

that the Constitution also states that the wide diffusion of culture and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern,

[35] The summary records of the discussion of this item will be found in 72 EX/SR/1 and 72 EX/SR/15.

[36] Adopted by the General Conference of UNESCO, on 4 November 1966, during its fourteenth session.

considering

that the Organization's Member States believing in the pursuit of truth and the free exchange of ideas and knowledge, have agreed and determined to develop and to increase the means of communication between their peoples,

considering

that, despite the technical advances which facilitate the development and dissemination of knowledge and ideas, ignorance of the way of life and customs of peoples still presents an obstacle to friendship among the nations, to peaceful co-operation and to the progress of mankind,

taking account

of the Universal Declaration of Human Rights, the Declaration of the Rights of the Child, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the United Nations Declaration on the Elimination of all Forms of Racial Discrimination, the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples, and the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, proclaimed successively by the General Assembly of the United Nations,

convinced

by the experience of the Organization's first twenty years that, if international cultural co-operation is to be strengthened, its principles require to be affirmed,

proclaims

this Declaration of the principles of international cultural co-operation, to the end that governments, authorities, organizations, associations and institutions responsible for cultural activities may constantly be guided by these principles; and for the purpose, as set out in the Constitution of the Organization of advancing, through the educational, scientific and cultural relations of the peoples of the world, the objectives of peace and welfare that are defined in the Charter of the United Nations:

Article I

1. Each culture has a dignity and value which must be respected and preserved.

2. Every people has the right and the duty to develop its culture.

3. In their rich variety and diversity, and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind.

Article II

Nations shall endeavour to develop the various branches of culture side by side and, as far as possible, simultaneously, so as to establish a harmonious balance between technical progress and the intellectual and moral advancement of mankind.

Article III

International cultural co-operation shall cover all aspects of intellectual and creative activities relating to education, science and culture.

Article IV

The aims of international cultural co-operation in its various forms, bilateral or multilateral, regional or universal, shall be:

1. To spread knowledge, to stimulate talent and to enrich cultures;

2. To develop peaceful relations and friendship among the peoples and bring about a better understanding of each other's way of life;

3. To contribute to the application of the principles set out in the United Nations Declarations that are recalled in the Preamble to this Declaration;

4. To enable everyone to have access to knowledge, to enjoy the arts and literature of all peoples, to share in advances made in science in all parts of the world and in the resulting benefits, and to contribute to the enrichment of cultural life;

5. To raise the level of the spiritual and material life of man in all parts of the world.

Article V

Cultural co-operation is a right and a duty for all peoples and all nations, which should share with one another their knowledge and skills.

Article VI

International co-operation, while promoting the enrichment of all cultures through its beneficent action, shall respect the distinctive character of each.

Article VII

1. Broad dissemination of ideas and knowledge, based on the freest exchange and discussion, is essential to creative activity, the pursuit of truth and the development of the personality.

2. In cultural co-operation, stress shall be laid on ideas and values conducive to the creation of a climate of friendship and peace. Any mark of hostility in attitudes and in expression of opinion shall be avoided. Every effort shall be made, in presenting and disseminating information, to ensure its authenticity.

Article VIII

Cultural co-operation shall be carried on for the mutual benefit of all the nations practising it. Exchanges to which it gives rise shall be arranged in a spirit of broad reciprocity.

Article IX

Cultural co-operation shall contribute to the establishment of stable, long-term relations between peoples, which should be subjected as little as possible to the strains which may arise in international life.

Article X

Cultural co-operation shall be specially concerned with the moral and intellectual education of young people in a spirit of friendship, international understanding and peace and shall foster awareness among States of the need to stimulate talent and promote the training of the rising generations in the most varied sectors.

Article XI

1. In their cultural relations, States shall bear in mind the principles of the United Nations. In seeking to achieve international co-operation, they shall respect the sovereign

equality of States and shall refrain from intervention in matters which are essentially within the domestic jurisdiction of any State.

2. The principles of this Declaration shall be applied with due regard for human rights and fundamental freedoms.

(*c*) Communication from the Portuguese Government to the Director-General dated 30 June 1965 (Document 14 C/34)

(i) Sixth Report of the Legal Committee (Fourteenth session of the General Conference) (Document 14 C/90, 25 November 1966)[37]

1. In the course of ten meetings held between 8 and 22 November 1966, the Legal Committee examined the above-mentioned agenda item in accordance with the decision adopted by the General Conference at its fourth plenary meeting concerning the Executive Board's recommendation (document 14 C/2, paragraph 11 (*e*)) which was taken up by the General Committee of the General Conference (1st meeting).

2. Owing to the length of the discussions, the present report, apart from summarizing the decisions adopted by the Committee, cannot provide the General Conference with more than a brief outline of the essential points raised during the debate.

Committee's terms of reference

3. The Committee noted that the General Conference, when entrusting the Legal Committee with the study of this question, had not specifically indicated the Committee's terms of reference on this item. Some members of the Committee therefore wondered whether it would not be appropriate to request the General Conference or its General Committee to indicate the particular points on which the Committee was asked to rule. Other members of the Committee felt that the Committee's terms of reference derived from the terms of decision 71 EX/5.4 by which the Executive Board decided to refer to the General Conference "the request of the Government of Portugal for the advisory opinion of the International Court of Justice to be sought, on the issue of the validity" of decision 70 EX/14 concerning Portugal "for consideration at its fourteenth session in accordance with the principles and practices established within the United Nations system" and that it was therefore incumbent on the Legal Committee, in the absence of any indication by the General Conference, to consider this item of the agenda in whatever way seemed to it to be most appropriate.

4. During the initial discussion of this question, reference was made more specifically to the following provisions:

> Rule 32, paragraph (*b*) of the Rules of Procedure of the General Conference, which stipulates that "the Committee shall consider: ... (*b*) any legal question which may be referred to it by the General Conference or any of its organs";
>
> Rule 33, paragraph 1 of the said Rules of Procedure which provides that "The Legal Committee may be consulted on any question concerning the interpretation of the Constitution and of the Regulations";
>
> Rule 33, paragraph 3 of the said Rules of Procedure which provides that the Committee "may decide ... to recommend to the General Conference that any question concerning the interpretation of the Constitution be referred to the International Court of Justice for an advisory opinion";

[37] The summary records of the discussion of this item in the Legal Committee will be found in 14 C/LEG/SR/9 to 15 and SR/18 to 20 (prov.).

Article 65, paragraph 1 of the Statute of the International Court of Justice which provides that "The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request".

5. The Committee noted that, while these various provisions meant that the Organization could, if it saw fit, seek an advisory opinion from the Court, no provision in the Court's Statute entitled a State to submit such a request itself. The Committee further considered that, since this choice was left to the Organization, it was for the Organization, if necessary, to decide what legal questions should be submitted to the International Court of Justice without being in any way bound in this matter by the wording of the questions proposed by a Member State.

6. At the end of this initial discussion, the Legal Committee decided to proceed with the examination of this item of the agenda under the following headings and in the order indicated: (*a*) Was the Executive Board decision 70 EX/14 itself in accordance with the provisions of the Constitution? (*b*) Was it desirable for the General Conference to request an opinion from the International Court of Justice on this question? (*c*) What form should such request for an advisory opinion take? At a subsequent stage, the Committee decided also to consider the legal aspects of paragraph 4 of resolution 70 EX/14 adopted by the Executive Board, which invited the Director-General "to carry out, with the authorization of the Portuguese Government ... a study *in situ* of the present state of education in African territories under Portuguese administration, from the point of view of the aims and general objectives of UNESCO as defined in its Constitution and in the relevant resolutions of the General Conference..."

Is the decision given in paragraph 5 of resolution 70 EX/14 adopted by the Executive Board itself in accordance with the provisions of the Constitution?

7. The above-mentioned resolution of the Executive Board reads as follows:

"The Executive Board,

1. *Having examined* item 14 of its agenda concerning the consequences of Portugal's becoming a member of UNESCO,

2. *Recalling* the Declaration of the General Assembly of the United Nations on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV)) and its implications with respect to the African territories under Portuguese administration,

3. *Recalling*, further, that the General Conference at its thirteenth session adopted resolution 1.116 with the spirit of safeguarding the International Conference on Public Education, jointly convened by the International Bureau of Education and UNESCO in Geneva, from incidents similar to those which took place during the XXVIIth Conference on Public Education,

4. *Invites* the Director-General to carry out, with the authorization of the Portuguese Government, and with the aid either of qualified officials of the Secretariat or of appropriate eminent personalities, a study *in situ* of the present state of education in African territories under Portuguese administration, from the point of view of the aims and general objectives of UNESCO as defined in its Constitution and in the relevant resolutions of the General Conference, and to report thereon to the Board at its seventy-first session,

5. *Requests* the Director-General not to give effect, pending the results of this study and their examination by the Board, to any invitations to Portugal by virtue of decisions of the General Conference or of the Executive Board,

6. *Asks* the Director-General to bring this resolution to the attention of the Government of Portugal with a request that all the necessary facilities be granted within the territories concerned for the carrying out of the study mentioned in paragraph 4 above."

8. Most members of the Committee argued that the validity of the Executive Board's decision mentioned in paragraph 5 of that resolution could not be questioned and that it was in full accordance with the provisions of the Constitution and, particularly, with those of its Article V.B.5(*b*) which reads as follows:

"(*b*) The Executive Board, acting under the authority of the General Conference, shall be responsible for the execution of the programme adopted by the Conference. In accordance with the decisions of the General Conference and having regard to circumstances arising between two ordinary sessions, the Executive Board shall take all necessary measures to ensure the effective and rational execution of the programme by the Director-General."

9. Many members recalled that resolution 13 C/1.116 of the General Conference, which relates to invitations to sessions of the International Conference on Public Education and to which decision 70 EX/14 of the Executive Board referred, had been adopted "in order to avoid in future the difficulties which characterized the XXVIIth Conference" and, in its spirit, to secure the specific exclusion of Portugal, and that it should be interpreted accordingly. Thus, Portugal's admission to UNESCO, after the adoption of resolution 13 C/1.116, constituted a new circumstance which obliged the Executive Board to take decision 70 EX/14 in order to ensure the effective and rational execution of the programme.

10. Certain members considered that it should be admitted that UNESCO possessed, in virtue of its Constitution, all the powers necessary for the carrying out of its mission, even if those powers were not expressly mentioned in the Constitution.

11. Other members pointed out that no provision of the Constitution empowered the Executive Board to take decisions the effect of which was to suspend a Member State from the exercise of some of its rights and that the two cases of suspension provided for by the Constitution in Article II, paragraph 4 (Member States of UNESCO suspended from the exercise of the rights and privileges of membership of the United Nations) and in Article IV, paragraph 8 (*b*) (non-participation in votes of the General Conference in the event of arrears in the payment of contributions) were obviously not applicable. But some members counter-argued that Article II, paragraph 4 and Article IV, paragraph 8 (*b*) were not exhaustive and did not in any way limit the application of Article V.B.5 (*b*).

12. One member of the Committee argued that even a wide interpretation of the provisions of the Constitution could not justify the view that, apart from the cases expressly provided for by the Constitution, the rights and prerogatives of a Member State could be limited or suspended for a more or less lengthy period by a decision of the Executive Board. Although it may be regretted that certain infringements of the Constitution could not at present be punished, a solution must be sought through recourse to express procedures and, possibly, through amendments to the Constitution, as had been the case with other organizations.

13. Some members thought that the Executive Board's decision was not in accordance with the provisions of the Constitution, while others declared that the matter was at least open to doubt. One member also pointed out that decision 70 EX/14 contained no reference to Article V.B.5 (*b*) of the Constitution and said that it did not seem to him to have been in any way proved that that decision related to the execution of the programme.

14. Referring to resolution 13 C/1.116 of the General Conference, one member of the Committee held that, although that resolution had undoubtedly been adopted with

the intention to exclude Portugal from sessions of the International Conference on Public Education at a time when that State was not a member of UNESCO, it nevertheless recognized the right of that State to be invited to those sessions as soon as it became a member of UNESCO and that it should be considered that the Executive Board, when taking decision 70 EX/14, had not acted in accordance with Article V.B.5 (*b*), which provided that the Board must act "under the authority of the General Conference" and "in accordance with the decisions of the General Conference".

15. Some members also cited, in support of the Executive Board's decision, the provisions of the Declaration of the General Assembly of the United Nations on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV)) and its implications with respect to the African territories under Portuguese administration, to which the Executive Board referred expressly in resolution 70 EX/14, and the provisions of other resolutions adopted by various United Nations organs condemning the colonialist policy of Portugal and inviting the specialized agencies, and UNESCO in particular, to refrain from giving assistance to that country. They indicated that, in that respect, the Executive Board, in adopting resolution 70 EX/14, had merely acted upon those different declarations and resolutions. They pointed out that resolution 70 EX/14 indisputably concerned relations between the United Nations and UNESCO. It was remarked, on the other hand, that in any case the decisions and resolutions in question could not be interpreted as obliging UNESCO to adopt, at the very utmost, measures of such a nature that they would be without any legal basis in the Constitution and some of which, moreover, would go beyond the measures envisaged in the text itself of those declarations and resolutions.

16. One member of the Committee pointed out that some of the resolutions cited in support of the Board's decision had been adopted subsequently to that decision, and that in any case the declarations and resolutions in question could not change UNESCO's constitutional situation, since the application of Article II (4) of the Constitution was dependent upon a decision of the United Nations Organization—which itself could only be taken within the framework of Article 5 of the Charter—as well as upon a request addressed to UNESCO by that Organization.

17. At the conclusion of the debate on this first aspect of the question contained in item 22 of the agenda, the Committee heard, at his request, the delegate of Portugal. The latter stated that the aim of paragraph 5 of resolution 70 EX/14 of the Executive Board was not merely to make it impossible for Portugal to be represented at the International Conference on Public Education, but also to prevent it from participating in the World Congress on the Eradication of Illiteracy held in Teheran and the Intergovernmental Conference on the Status of Teachers. That decision could not be in conformity with resolution 13 C/1.116, unless it was held that the aim of that resolution was to deprive Portugal of the normal exercise of its rights as a Member State and to put it in a kind of "quarantine" that was more or less the equivalent of expulsion. Interpreted in that way—and nobody had so far suggested such an interpretation—resolution 1.116 would be contrary to the Constitution. Moreover, Portugal had consented to the carrying out of a "study *in situ*" provided that it was "not intended to be a discriminatory measure against Portugal". It had already consented to the conduct of studies by other specialized agencies and those organizations had enjoyed the fullest freedom of action. Since the admission of Portugal to UNESCO had raised no political problem, political considerations could not be invoked to deprive it of the rights normally recognized as belonging to all Member States. The representative of Portugal stated in conclusion that he regarded the Executive Board's decision as illegal and contrary not only to the spirit but also to the letter of the Constitution.

18. In the course of the debate the delegate of Argentina had submitted a draft text (document 14 C/LEG/DR.2) to serve as conclusion of the debate on this first point and to be included subsequently in a draft resolution dealing with all the points examined by the Committee. That draft text was worded as follows:

"The resolution of the Executive Board (70 EX/Decisions/14) was adopted under the powers given it by Article V.B.5 (*b*) of the Constitution of UNESCO, for the purpose of safeguarding the effective and rational execution of the programme."

The above text was, however, withdrawn provisionally by its sponsor and the Committee then decided, by 11 votes to 9, to go on to consider the second point without taking a vote on the first.

Should the General Conference ask the International Court of Justice to give an opinion on this question?

19. Several members of the Committee stated that they could hardly give an opinion on this second question without knowing what the Committee's answer would be to the first one. Some thought that it would have been better to put the questions in the reverse order, whereas others thought that the situation would be clearer if the Committee had decided by a vote on whether the Executive Board's decision was consistent with the provisions of the Constitution.

20. During the discussion which nevertheless opened on this question, one member recalled that it was firstly a matter for the General Conference, UNESCO's sovereign body, to give a decision on the interpretation of its Constitution, and that that interpretation was as much a political choice as a legal one. An opinion given by the International Court of Justice would not altogether settle the question, for the General Conference would ultimately have to examine that opinion and take the necessary decisions.

21. Other members of the Committee pointed out that Article XIV of the Constitution stated in paragraph 2 that any question or dispute concerning the interpretation of the Constitution "shall be referred for determination to the International Court of Justice or to an arbitral tribunal, as the General Conference may determine under its Rules of Procedure", and that Rule 33 of the Rules of Procedure showed that asking for an advisory opinion was the correct procedure in this case.

22. Although the wording of paragraph 2 of Article XIV of the Constitution was not altogether satisfactory and could perhaps be improved, the Committee felt that, while this provision indicated the course to adopt in solving questions concerning the interpretation of the Constitution, it empowered the Organization but did not oblige it to appeal to the International Court of Justice.

23. Some members, however, took the view that, since the communication of the Portuguese Government raised questions affecting the interpretation of the Constitution, recourse should be had to the procedure indicated in Article XIV of the Constitution supplemented by Rule 33 of the Rules of Procedure. In this connexion, one member of the Committee recalled that the International Court of Justice had all the necessary powers to express its opinion on matters of this kind and, in particular, to pick out the legal elements of the questions referred to it. Moreover, in so far as the powers of an organ of UNESCO were involved. it would be better to call in a body from outside UNESCO and to put the question in a neutral and objective manner.

24. Other members of the Committee, however, considered that, since the Legal Committee was qualified to give an opinion to the General Conference on the interpretation of the Constitution, there was no need to recommend the General Conference to apply to the International Court of Justice.

What should be the form of the request for an advisory opinion?

25. Members of the Committee expressed reservations concerning the study of this question by the Committee before a decision had been made regarding the previous question

of the expediency of a request for an advisory opinion, for any discussion on the form of a question would prejudge the decision that had to be taken on the substance, and they pointed out that it would be difficult for them to participate in the debate on this third point. The Committee accordingly decided not to close the discussion on the question of expediency, and to continue to discuss this as well as to examine at the same time the possible framing of the question to be put to the Court.

26. Some members thought that the only question that could be put to the Court was whether the decision 70 EX/14 of the Executive Board was or was not consistent with the provisions of the Constitution, and one member proposed a draft to this effect. This proposal was subsequently presented in writing (document 14 C/LEG/DR.3).

27. Another member of the Committee, while expressing reservations as to the principle of framing questions for reference to the Court, pointed out that their formulation would necessarily involve relations between UNESCO and the United Nations Organization, both because of the reference made in resolution 70 EX/14 to the Declaration of the United Nations General Assembly on the Granting of Independence to Colonial Countries and Peoples and the reference made in resolution 71 EX/5.4 to "the principles and practices established within the United Nations system". Now, under Article X, paragraph 2 of the Agreement between the United Nations and UNESCO, the General Assembly authorized UNESCO "to request advisory opinions of the International Court of Justice on legal questions arising within the scope of its activities, other than questions concerning the mutual relationships of the Organization of the United Nations or other Specialized Agencies". Any request for an opinion like that which might be contemplated in the present case, he concluded, would exceed the limits of the General Assembly's authorization, and the General Conference would not therefore have the right to put such a question.

Legal aspects of paragraph 4 of resolution 70 EX/14 concerning the study in situ

28. Some members wondered whether the Committee should examine this aspect of the question, of which it was not clearly seized. Some members pointed out that, since Portugal did not propose that this aspect of the question should be referred to the Court, there was no doubt of the legality of this decision of the Executive Board and therefore no need for the Committee to examine it. Another member, however, pointed out that the study *in situ* constituted one of the decisions taken by the Executive Board in its resolution 70 EX/14 and that this decision presented legal aspects that the Committee could and should examine. By 13 votes to 2 with 5 abstentions, the Committee decided to examine the legal aspects of this decision of the Executive Board.

29. A member of the Committee put two questions which the representative of Portugal might be asked to answer:

(*a*) Does the Government of Portugal interpret the term "non-discrimination" as necessarily stipulating that studies should be carried out in the complainant countries?

(*b*) Does the Government of Portugal consider as alternative or complementary courses of action the two procedures it has requested in its two communications, namely, on the one hand, reference of the question to the International Court of Justice and, on the other, a non-discriminatory study *in situ*?

30. In answer to the first of these questions, the Portuguese delegate stated that by a "non-discriminatory" measure Portugal meant a study which would not imply that its rights as a Member State were suspended until the Executive Board had given a decision on the results of this study, and that he did not understand why such a study was and should be limited to Portugal's overseas territories only. As to the second question, he stated

that, if resolution 70 EX/14 were withdrawn, there would be no need to consult the Court. Provided Portugal's rights were recognized in their entirety, the Government would not object to the study being carried out, and would be grateful to UNESCO for any recommendations concerning the improvement of teaching conditions in its territories. But it could not agree to this study being carried out for the purpose of applying political sanctions against Portugal.

31. After the Portuguese representative had spoken, several members of the Committee felt that he had evaded answering the questions put to him and that it would be useless to have further examination of the issue.

Draft resolutions

32. At the end of the debate on the question as a whole, the Legal Committee had before it the written proposals listed below:

14 C/LEG/DR.2 submitted by the delegate of Argentina.
14 C/LEG/DR.3 submitted by the delegate of Spain.
14 C/LEG/DR.4 submitted by the delegate of Tanzania.
14 C/LEG/DR.5 submitted by the delegate of the United Arab Republic.
14 C/LEG/DR.6 submitted by the delegate of India.
14 C/LEG/DR.7 submitted by the delegate of Chile.

Later a proposal was also submitted by the delegate of the Union of Soviet Socialist Republics, and distributed in document 14 C/LEG/DR.8.

33. The delegate of Argentina said that the text he had proposed in document 14 C/LEG/DR.2 did not in itself constitute a draft resolution and that it had been submitted, at an earlier stage in the debate, as a text for incorporation in a broader draft resolution. This intention was no longer consistent with the procedure subsequently adopted by the Committee, and he considered that he should not put his text to the vote as its substance seemed to be contained in the draft resolution submitted by the delegate of Chile (document 14 C/LEG/DR.7). The Chairman accordingly decided that this text would not be put to the vote.

34. The delegate of Spain having withdrawn his draft resolution (document 14 C/LEG/DR.3), which had been incorporated in the draft resolution 14 C/LEG/DR.7 submitted by the delegate of Chile, the Committee decided, after a brief debate on the method to be followed for examining and voting on the four drafts still before it, to proceed in accordance with the Rules of Procedure of the General Assembly of the United Nations, Rule 93 (Assembly) and Rule 132 (Committees), which provided that "if two or more proposals relate to the same question, the General Assembly (or the Committee) shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The General Assembly (or the Committee) may, after each vote on a proposal, decide whether to vote on the next proposal."

35. After hearing the sponsors of the draft resolutions, the Committee decided to vote on the draft resolution submitted by the delegate of Tanzania (document 14 C/LEG/DR.4), which, after correction of the French and Spanish texts, read as follows:

"*Item 1*

The Legal Committee, after examining the legality of the resolution of the Executive Board (70 EX/Decisions/14)—being one of the issues arising from the Communication from the Portuguese Government to the Director-General dated 30 June 1965—decided that the Executive Board adopted the above-mentioned resolution under the powers given it by Article V.B.5 (*b*) of the Constitution of UNESCO, for the purpose of safeguarding the effective and rational execution of the programme."

36. The question having been asked whether, in expressing an opinion on this proposal, the Legal Committee considered it was acting under Rule 32 (*b*) of the Rules of Procedure, the Chairman decided that the Committee could take a decision only under Rule 33, paragraphs 1 and 2, and that accordingly the draft resolution referred to above required a two-thirds majority of the members of the Committee for its adoption. This decision was appealed against and the question was asked whether the Chairman had the necessary powers under Rule 39 of the Rules of Procedure to take such a decision and, if so, in so far as this last question involved an interpretation of the Rules of Procedure, it too ought not to be decided by a two-thirds majority.

37. The appeal against the Chairman's decision regarding the majority required for the adoption of draft resolution 14 C/LEG/DR.4 was put to the vote and the Chairman's decision was maintained by 12 votes to 9.

38. The Committee then voted on the draft resolution contained in document 14 C/LEG/DR.4. At the request of two delegations, voting took place by roll-call. The draft resolution was rejected by 12 votes to 8, with 1 abstention.

For: Chad, Czechoslovakia, India, Senegal, Tanzania, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

Against: Argentina, Canada, Chile, Denmark, France, Federal Republic of Germany, Japan, Netherlands, Peru, Spain, United Kingdom, United States of America.

Abstained: Philippines.

39. The delegates of Argentina, Chile and Peru said that their votes against the draft resolution submitted by the delegate of Tanzania did not imply that they disagreed with its substance, and that they would have been able to support this proposal if it had formed part of a general resolution providing for recourse to the advisory opinion procedure. It was only because the draft did not contain a clause providing for such recourse that they had been obliged to vote against it.

40. The Committee then proceeded to consider the draft resolution submitted by the delegate of the United Arab Republic, which, after amendment by the author, read as follows:

"The Legal Committee, having discussed all the legal aspects of the request of the Government of Portugal addressed to the Director-General on 30 June 1965, has decided that its report shall reflect all points of view expressed, so that the General Conference may be properly informed in whatever decision it may deem fit to take in plenary meeting.

It should be noted that:

With regard to the compatibility of the Executive Board decision (70 EX/Decisions/14) with the UNESCO Constitution,

(*a*) the following delegations considered that such compatibility exists:
(*b*) the following delegations considered that such compatibility does not exist:
(*c*) the following delegations expressed doubts regarding this compatibility:
(*d*) certain delegations expressed no opinion on the subject, namely:".

41. Some members of the Committee declared that they could not quite understand the meaning of this proposal, which did not appear to them to constitute a draft resolution in the usual sense of the term, and they wondered whether the Committee could pass an opinion on an incomplete text and how the text would be completed; some of them added that the vote which had been taken on draft resolution 14 C/LEG/DR.4 made the adoption of such a text useless, whilst others pointed out that their view could not be determined by the terms employed in the draft resolution and did not fall into any of the categories indicated.

42. After the author of the amendment had explained that the aim of his proposal had been to present the General Conference with the most complete picture possible of the different points of view expressed and that the voting on draft resolution 14 C/LEG/DR.4 had not brought out all the shades of opinion expressed, the Committee went on to a brief debate on procedure in the course of which it was explained *inter alia* that, if the proposal were adopted, it would be for the Committee itself to complete the text. Put to the vote, the proposal quoted in paragraph 40 above was rejected by 13 votes to 8.

43. After an exchange of views on procedure, the Committee next went on to examine the draft resolution submitted by the Indian delegate. The delegate of Senegal then expressed the wish to accept responsibility for and to submit as his own resolution the text appearing in document 14 C/LEG/DR.2 and quoted in paragraph 18 above, which the delegate of Argentina had previously submitted and then withdrawn. The Committee having entered into a procedural debate as to whether this resolution was admissible and at what point it could be discussed, the delegate of India suggested, by way of compromise, that the text taken up again by Senegal (the text previously submitted by Argentina) be submitted as an amendment to his own resolution. The draft resolution of the delegate of India reads as follows:

> "The Legal Committee has examined the Executive Board resolution submitting to the General Conference the communication from the Government of Portugal requesting that an opinion be sought from the International Court of Justice.
>
> The Committee decided that the resolution of the Executive Board (70 EX/Decisions/14) was adopted under the powers given it by Article V.B.5 (*b*) of the Constitution of UNESCO, for the purpose of safeguarding the effective and rational execution of the programme.
>
> As divergent views were expressed during discussion of the legal aspects of the matter, the Committee has decided to include a detailed record of that discussion in its report in order to inform the General Conference, while leaving it to reach a final decision on the request of the Government of Portugal."

44. A division having been called for, the Committee decided, after further debate on the procedure to be followed, to vote each paragraph in turn. The first paragraph was adopted unanimously. At the request of two members of the Committee, the vote on the second paragraph was taken by roll-call after the Chairman had explained that adoption of this paragraph required a two-thirds majority. The second paragraph was voted in this way and was rejected by 12 votes to 8 with 1 abstention. Those voting in favour were: Chad, Czechoslovakia, India, Senegal, Tanzania, Union of Soviet Socialist Republics, United Arab Republic and Yugoslavia. Those voting against were: Argentina, Canada, Chile, Denmark, France, Federal Republic of Germany, Japan, Netherlands, Peru, Spain, United Kingdom and United States of America. The Philippines abstained. The third paragraph was also rejected by 12 votes to 8 with 1 abstention. The remainder of the proposal (paragraph 1) was then put to the vote and adopted by 6 votes to 1 with 2 abstentions.

45. Several members of the Committee explained that they had not taken part in the last vote or had abstained because the proposal, after the amputation of the last two paragraphs, had become void of meaning. The delegates of Argentina, Chile and Spain stated that they had voted against the second paragraph of the proposal, not because they disagreed with its substance, but because it only formed one part of a whole which ought also to include a clause envisaging the possibility of a request for an advisory opinion from the International Court of Justice.

46. The Committee then went on to discuss the texts contained in documents 14 C/LEG/DR.7 and 8. Document 14 C/LEG/DR.7, submitted by the delegation of Chile, reads, after correction of the English and Spanish texts, as follows:

"*The General Conference,*

Recalling resolution 1.116 of the thirteenth session of the General Conference,

Recalling decisions 70 EX/14 and 71 EX/5.4 of the Executive Board,

Considering that decision 70 EX/14 of the Executive Board was adopted pursuant to Article V.B.5 (*b*) of the Constitution of UNESCO for the purpose of safeguarding the effective and rational execution of the programme,

Noting the Rules of Procedure for the Calling of International Conferences of States and the Summary Table of a General Classification of the Various Categories of Meetings Convened by UNESCO,

Having regard to the relevant provisions of the Constitution of UNESCO, of the Agreement between the United Nations and UNESCO and of the Statute of the International Court of Justice,

Decides to request an advisory opinion of the International Court of Justice on the following questions of law:

Does the Constitution of UNESCO and in particular Article V thereof give the power to withhold from a Member State, by virtue of decisions of the General Conference or Executive Board, any invitations to meetings convened by UNESCO under Article 3 of the Rules of Procedure for the Calling of International Conferences of States and the Summary Table of a General Classification of the Various Categories of Meetings convened by UNESCO, other than as provided for in Article II of the Constitution; in particular, is the Executive Board's decision 70 EX/14 in accordance with the Constitution of UNESCO?

Requests the Director-General to take the necessary steps accordingly."

47. Document 14 C/LEG/DR.8, submitted by the delegation of the USSR, reads, after correction of the French and Spanish texts, as follows:

"1. *Transfer* the third paragraph to the operative part of the resolution, re-wording it as follows:

Decides that decision 70 EX/14 of the Executive Board was adopted pursuant to a series of resolutions of United Nations bodies and in conformity with Article V.B.5 (*b*) of the Constitution of UNESCO for the purpose of safeguarding the effective and rational execution of the programme.

2. *Delete* the last two paragraphs of the draft resolution."

48. After a debate on the question whether document 14 C/LEG/DR.8 constituted a draft amendment or a separate proposal, the Committee decided first to take a vote on document 14 C/LEG/DR.8. The two parts of this document were voted upon separately, the Chairman having decided that the adoption of the first part would require a two-thirds majority under Rule 33, paragraph 2 of the Rules of Procedure. The first part was rejected by 13 votes to 7. The second part was then put to the vote and was also rejected by 13 votes to 7.

49. After this last vote, the delegates of the following eight Member States declared that they were unable to take part in the discussion and voting on document 14 C/LEG/DR.7 and withdrew from the conference room for the period of that discussion: Chad, Czechoslovakia, India, Senegal, Tanzania, USSR, United Arab Republic and Yugoslavia.

50. The delegate of Senegal stated that, as the Committee was divided into two groups for purely political reasons, he saw no point in taking further part in the work of the Committee on this item of the agenda. The delegate of the United Arab Republic added that the legal arguments put forward in support of the proposal to the effect that the Committee

recognized the validity of the Executive Board's decision had not been seriously studied or refuted and that consequently he would take no further part in the Committee's discussions on document 14 C/LEG/DR.7. The delegate of Chad also expressed his disappointment at the serious turn which the debates of the Committee had taken and indicated that in consequence of the Committee's latest decisions he would withdraw. The delegate of Tanzania said he had hoped that the Committee would find a solution to the legal problem before it that would take account of facts and realities. As the Committee was veering towards a purely theoretical solution which took no account of these realities and as the Court could not resolve the practical problem facing UNESCO, he could not participate in such a decision. The delegate of Yugoslavia said that she fully shared the view expressed in the previous speakers' statement. The resolution that the Committee was about to adopt would amount to a disavowal of the Executive Board, with which she could not be associated. She said that she would take no further part in the discussions on this item. The delegates of Czechoslovakia and of the USSR also announced that they would not take part in the remainder of the discussion on this item of the agenda and more particularly on document 14 C/LEG/DR.7. They declared that any decision by the Committee on the point would be illegal because it would run counter to Article X, paragraph 2 of the Agreement between the United Nations and UNESCO, as had been urged at an earlier stage of the debate. The delegate of India stated that the Committee had reached a serious situation because of the attitude of the majority, which was contradictory and hostile to any compromise. This majority, which included Executive Board members who had approved and sponsored the Board's resolution, had preferred to repudiate the Executive Board rather than cause pain to a State whose attitude was reprobated by the majority of the members of the United Nations family of organizations. This majority was now proposing a draft resolution which consisted in ignoring the series of decisions taken by the United Nations on Portugal, casting doubt upon the legality of the actions of the Executive Board and depriving the General Conference of its sovereign power of decision. This majority had made its choice between the need to enforce the principles proclaimed by UNESCO and the disintegration of the Organization which any support given to the colonialist and racialist policy of Portugal under the guise of legal arguments would inevitably entail. The delegate of India said in conclusion that it was difficult for the former colonial and subjugated countries to accept such a choice due to a compromise of any kind whatsoever on this subject and to stand by unconcerned during the preparation and voting of a recommendation which would decide in favour of Portugal against the United Nations and UNESCO.

51. The Committee having decided to take a vote on the draft resolution in document 14 C/LEG/DR.7, the question arose of what was the required majority for the adoption of the third paragraph of the preamble. The Chairman having decided that this paragraph did not constitute an interpretation by the Legal Committee of Article V.B.5 (*b*) of the Constitution and that consequently a two-thirds majority would not be required, the draft resolution was put to the vote as a whole and was adopted unanimously. The Legal Committee accordingly recommended to the General Conference that the draft resolution appearing in paragraph 46 of this report be adopted.

(ii) Resolution No. 20 adopted by the General Conference at its fourteenth session[38]

The General Conference,

Considering that the Government of Portugal continues to pursue in the African territories under its domination a policy of colonialism and racial discrimination which deprives the peoples of those territories of their most elementary rights to education and culture, thus violating the fundamental obligations of every member of UNESCO,

[38] Verbatim records of the discussion in plenary meetings of the General Conference will be found in 14 C/VR. 30 to 35.

Considering also that this behaviour on the part of Portugal violates the fundamental principles of the Convention and Recommendation against Discrimination in Education adopted at the eleventh session of the General Conference of UNESCO,

Recalling the many resolutions of the United Nations General Assembly and the Security Council condemning Portugal, and the resolution of the Economic and Social Council expelling Portugal from the Economic Commission for Africa,

Referring to Article 73 of Chapter XI of the United Nations Charter, concerning non-self-governing territories, and to Article IX of the Agreement between the United Nations and UNESCO, concerning UNESCO's obligation to co-operate with the United Nations in giving effect to the principles and obligations set forth in Chapter XI of the Charter with regard to matters affecting the well-being and development of the peoples of non-self-governing territories,

Recalling resolution 1.116 adopted by the General Conference at its thirteenth session with a view to excluding Portugal from meetings convened by UNESCO,

Reaffirming the right of the General Conference, as the sovereign organ of UNESCO, to interpret the provisions of the Constitution, and particularly the provisions of Article V of that Constitution, which give the Executive Board authority to take all necessary measures for the execution of the programme in accordance with the decisions of the General Conference,

1. *Confirms* the decision taken by the Executive Board at its seventieth session (70 EX/Decisions14), whilst reserving the right of the Organization to take such other subsequent measures as may be necessary;

2. *Rejects*, accordingly, the request of the Portuguese Government (14 C/34, Annex I) that the question be referred to the International Court of Justice.

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2. INTERNATIONAL TELECOMMUNICATION UNION

Resolution No. 559 regarding Rhodesia adopted by the Administrative Council of the ITU at its twenty-first session in 1966

The Administrative Council,

Having examined

document No. 3525/CA21 containing communications from the United Kingdom of Great Britain and Northern Ireland advising that, as a result of the illegal declaration of Rhodesia's independence on 11 November 1965 and the dismissal of former ministers, the authority of the Rhodesian Delegation to the Montreux Plenipotentiary Conference ceased on 11 November 1965 and the former Delegation was thus no longer empowered to sign the Final Acts when they were formally presented for signature on 12 November 1965,

Considering that

the recommendations of the Administrative Council contained in Circular Telegrams Nos. 44/14 and 45/14 of 14 May 1966 were approved by a majority of the Members of the Union,

Instructs the Secretary-General

1. To delete the signatures of the former Rhodesian Delegation appended to the copy of the International Telecommunication Convention (Montreux, 1965), the Additional

Protocols I, II and III, the Final Protocol and the Optional Additional Protocol deposited in the archives of the Union;

2. To notify all Members of the Union by circular letter that the signatures have been deleted and invite them to amend their published copies accordingly;

3. To refuse acceptance of any purported instrument of ratification or accession by or on behalf of the existing illegal regime in Rhodesia;

4. To take the necessary steps so that the existing illegal regime in Rhodesia shall not be invited to take part in the work of any conference or meeting called by the Union, or under its auspices, until the Administrative Council, taking into account the decisions taken by the United Nations, shall find that the conditions for constructive co-operation have been restored.

Chapter IV

TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

A. Treaties concerning international law concluded under the auspices of the United Nations

1. TREATY ON PRINCIPLES GOVERNING THE ACTIVITIES OF STATES IN THE EXPLORATION AND USE OF OUTER SPACE, INCLUDING THE MOON AND OTHER CELESTIAL BODIES.[1] SIGNED AT MOSCOW, LONDON AND WASHINGTON ON 27 JANUARY 1967.[2]

The States Parties to this Treaty,

Inspired by the great prospects opening up before mankind as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should be carried on for the benefit of all peoples irrespective of the degree of their economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

Recalling resolution 1962 (XVIII), entitled "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space", which was adopted unanimously by the United Nations General Assembly on 13 December 1963,

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Taking account of United Nations General Assembly resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace or act of aggression, and considering that the aforementioned resolution is applicable to outer space,

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[1] Came into force on 10 October 1967, the date of deposit of the instruments of ratification by five Governments including the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America designated as depositary Governments, in accordance with article XIV, paragraphs 2 and 3.

[2] See General Assembly resolution 2222 (XXI) of 19 December 1966, reproduced in this *Yearbook*, pp. 22 and 23.

Convinced that a Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, will further the purposes and principles of the Charter of the United Nations,

Have agreed on the following:

Article I

The exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.

Outer space, including the Moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.

There shall be freedom of scientific investigation in outer space, including the Moon and other celestial bodies, and States shall facilitate and encourage international co-operation in such investigation.

Article II

Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

Article III

States Parties to the Treaty shall carry on activities in the exploration and use of outer space, including the Moon and other celestial bodies, in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation and understanding.

Article IV

States Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station weapons in outer space in any other manner.

The Moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manœuvres on celestial bodies shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the Moon and other celestial bodies shall also not be prohibited.

Article V

States Parties to the Treaty shall regard astronauts as envoys of mankind in outer space and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of another State Party or on the high seas. When astronauts make such a landing, they shall be safely and promptly returned to the State of registry of their space vehicle.

In carrying on activities in outer space and on celestial bodies, the astronauts of one State Party shall render all possible assistance to the astronauts of other States Parties.

States Parties to the Treaty shall immediately inform the other States Parties to the Treaty or the Secretary-General of the United Nations of any phenomena they discover in

outer space, including the Moon and other celestial bodies, which could constitute a danger to the life or health of astronauts.

Article VI

States Parties to the Treaty shall bear international responsibility for national activities in outer space, including the Moon and other celestial bodies, whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions set forth in the present Treaty. The activities of non-governmental entities in outer space, including the Moon and other celestial bodies, shall require authorization and continuing supervision by the appropriate State Party to the Treaty. When activities are carried on in outer space, including the Moon and other celestial bodies, by an international organization, responsibility for compliance with this Treaty shall be borne both by the international organization and by the States Parties to the Treaty participating in such organization.

Article VII

Each State Party to the Treaty that launches or procures the launching of an object into outer space, including the Moon and other celestial bodies, and each State Party from whose territory or facility an object is launched, is internationally liable for damage to another State Party to the Treaty or to its natural or juridical persons by such object or its component parts on the Earth, in air space or in outer space, including the Moon and other celestial bodies.

Article VIII

A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth. Such objects or component parts found beyond the limits of the State Party to the Treaty on whose registry they are carried shall be returned to that State Party, which shall, upon request, furnish identifying data prior to their return.

Article IX

In the exploration and use of outer space, including the Moon and other celestial bodies, States Parties to the Treaty shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space, including the Moon and other celestial bodies, with due regard to the corresponding interests of all other States Parties to the Treaty. States Parties to the Treaty shall pursue studies of outer space, including the Moon and other celestial bodies, and conduct exploration of them so as to avoid their harmful contamination and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter and, where necessary, shall adopt appropriate measures for this purpose. If a State Party to the Treaty has reason to believe that an activity or experiment planned by it or its nationals in outer space, including the Moon and other celestial bodies, would cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space, including the Moon and other celestial bodies, it shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State Party to the Treaty which has reason to believe that an activity or experiment planned by another State Party in outer space, including the Moon and other celestial bodies, would cause potentially harmful interference with activities in the peaceful exploration and use of outer space, including the

Moon and other celestial bodies, may request consultation concerning the activity or experiment.

Article X

In order to promote international co-operation in the exploration and use of outer space, including the Moon and other celestial bodies, in conformity with the purposes of this Treaty, the States Parties to the Treaty shall consider on a basis of equality any requests by other States Parties to the Treaty to be afforded an opportunity to observe the flight of space objects launched by those States.

The nature of such an opportunity for observation and the conditions under which it could be afforded shall be determined by agreement between the States concerned.

Article XI

In order to promote international co-operation in the peaceful exploration and use of outer space, States Parties to the Treaty conducting activities in outer space, including the Moon and other celestial bodies, agree to inform the Secretary-General of the United Nations as well as the public and the international scientific community, to the greatest extent feasible and practicable, of the nature, conduct, locations and results of such activities. On receiving the said information, the Secretary-General of the United Nations should be prepared to disseminate it immediately and effectively.

Article XII

All stations, installations, equipment and space vehicles on the Moon and other celestial bodies shall be open to representatives of other States Parties to the Treaty on a basis of reciprocity. Such representatives shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited.

Article XIII

The provisions of this Treaty shall apply to the activities of States Parties to the Treaty in the exploration and use of outer space, including the Moon and other celestial bodies, whether such activities are carried on by a single State Party to the Treaty or jointly with other States, including cases where they are carried on within the framework of international inter-governmental organizations.

Any practical questions arising in connexion with activities carried on by international inter-governmental organizations in the exploration and use of outer space, including the Moon and other celestial bodies, shall be resolved by the States Parties to the Treaty either with the appropriate international organization or with one or more States members of that international organization, which are Parties to this Treaty.

Article XIV

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Treaty.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force and other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XV

Any State Party to the Treaty may propose amendments to this Treaty. Amendments shall enter into force for each State Party to the Treaty accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and thereafter for each remaining State Party to the Treaty on the date of acceptance by it.

Article XVI

Any State Party to the Treaty may give notice of its withdrawal from the Treaty one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article XVII

This Treaty, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate, at the cities of Moscow, London and Washington, the twenty-seventh day of January one thousand nine hundred and sixty-seven.

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2. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, ADOPTED AND OPENED TO SIGNATURE, RATIFICATION AND ACCESSION BY GENERAL ASSEMBLY RESOLUTION 2200A (XXI) OF 16 DECEMBER 1966[2]

International Covenant on Economic, Social and Cultural Rights

PREAMBLE

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights

[2] Reproduced in this *Yearbook*, pp. 69 and 70.

of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(*a*) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(*b*) Safe and healthy working conditions;

(*c*) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(*d*) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(*a*) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion

and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(*b*) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(*c*) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and the freedoms of others;

(*d*) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(*a*) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(*b*) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(*a*) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(*b*) The improvement of all aspects of environmental and industrial hygiene;

(*c*) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(*d*) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(*a*) Primary education shall be compulsory and available free to all;

(*b*) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(*c*) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(*d*) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(*e*) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years. to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(*a*) To take part in cultural life;

(*b*) To enjoy the benefits of scientific progress and its applications;

(*c*) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. (*a*) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(*b*) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as

these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Council Social may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Council Social may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(*a*) Signatures, ratifications and accessions under article 26;

(*b*) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

International Covenant on Civil and Political Rights

PREAMBLE

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(*a*) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(*b*) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(*c*) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (*a*) No one shall be required to perform forced or compulsory labour;

(*b*) Paragraph 3 (*a*) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(*c*) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in sub-paragraph (*b*), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (*a*) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(*b*) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(*a*) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(*b*) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(*c*) To be tried without undue delay;

(*d*) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(*e*) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(*f*) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(*g*) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(*a*) For respect of the rights or reputations of others;

(*b*) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(*a*) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(*b*) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(*c*) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary-General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members, elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

(*a*) Twelve members shall constitute a quorum;

(*b*) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:

(*a*) Within one year of the entry into force of the present Covenant for the States Parties concerned;

(*b*) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(*a*) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.

(*b*) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.

(*c*) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

(*d*) The Committee shall hold closed meetings when examining communications under this article.

(*e*) Subject to the provisions of sub-paragraph (*c*), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant.

(*f*) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (*b*), to supply any relevant information.

(*g*) The States Parties concerned, referred to in sub-paragraph (*b*), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(*h*) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (*b*), submit a report:

(i) If a solution within the terms of sub-paragraph (*e*) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of sub-paragraph (*e*) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declara-

tions shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1. (*a*) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an *ad hoc* Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(*b*) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(*a*) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(*b*) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(*c*) If a solution within the terms of sub-paragraph (*b*) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(*d*) If the Commission's report is submitted under sub-paragraph (*c*), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the *ad hoc* conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of

the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(*a*) Signatures, ratifications and accessions under article 48;

(*b*) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

Optional Protocol to the International Covenant on Civil and Political Rights

The States Parties to the present Protocol,

Considering that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant,

Have agreed as follows:

Article 1

A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a party to the present Protocol.

Article 2

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.

2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.

2. The Committee shall not consider any communication from an individual unless it has ascertained that:

(*a*) The same matter is not being examined under another procedure of international investigation or settlement;

(*b*) The individual has exhausted all available domestic remedies.

This shall not be the rule where the application of the remedies is unreasonably prolonged.

3. The Committee shall hold closed meetings when examining communications under the present Protocol.

4. The Committee shall forward its views to the State Party concerned and to the individual.

Article 6

The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of resolution 1514 (XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Protocol is open for signature by any State which has signed the Covenant.

2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 before the effective date of denunciation.

Article 13

Irrespective of the notifications made under article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

(*a*) Signatures, ratifications and accessions under article 8;

(*b*) The date of the entry into force of the present Protocol under article 9 and the date of the entry into force of any amendments under article 11;

(*c*) Denunciations under article 12.

Article 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

B. Treaties concerning international law concluded under the auspices of inter-governmental organizations related to the United Nations

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Convention on the Settlement of Investment Disputes between States and Nationals of Other States.[3] Opened for signature at Washington on 18 March 1965

Preamble

The Contracting States

Considering the need for international cooperation for economic development, and the role of private international investment therein;

Bearing in mind the possibility that from time to time disputes may arise in connection with such investment between Contracting States and nationals of other Contracting States;

Recognizing that while such disputes would usually be subject to national legal processes, international methods of settlement may be appropriate in certain cases;

Attaching particular importance to the availability of facilities for international conciliation or arbitration to which Contracting States and nationals of other Contracting States may submit such disputes if they so desire;

Desiring to establish such facilities under the auspices of the International Bank for Reconstruction and Development;

Recognizing that mutual consent by the parties to submit such disputes to conciliation or to arbitration through such facilities constitutes a binding agreement which requires in particular that due consideration be given to any recommendation of conciliators, and that any arbitral award be complied with; and

Declaring that no Contracting State shall by the mere fact of its ratification, acceptance or approval of this Convention and without its consent be deemed to be under any obligation to submit any particular dispute to conciliation or arbitration,

Have agreed as follows:

CHAPTER I

International Centre for Settlement of Investment Disputes

SECTION 1

Establishment and organization

Article 1

(1) There is hereby established the International Centre for Settlement of Investment Disputes (hereinafter called the Centre).

(2) The purpose of the Centre shall be to provide facilities for conciliation and arbitration of investment disputes between Contracting States and nationals of other Contracting States in accordance with the provisions of this Convention.

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[3] In accordance with article 68 (2), the Convention came into force on 14 October 1966, thirty days after the date of deposit of the twentieth instrument of ratification.

Article 2

The seat of the Centre shall be at the principal office of the International Bank for Reconstruction and Development (hereinafter called the Bank). The seat may be moved to another place by decision of the Administrative Council adopted by a majority of two-thirds of its members.

Article 3

The Centre shall have an Administrative Council and a Secretariat and shall maintain a Panel of Conciliators and a Panel of Arbitrators.

SECTION 2

The Administrative Council

Article 4

(1) The Administrative Council shall be composed of one representative of each Contracting State. An alternate may act as representative in case of his principal's absence from a meeting or inability to act.

(2) In the absence of a contrary designation, each governor and alternate governor of the Bank appointed by a Contracting State shall be *ex officio* its representative and its alternate respectively.

Article 5

The President of the Bank shall be *ex officio* Chairman of the Administrative Council (hereinafter called the Chairman) but shall have no vote. During his absence or inability to act and during any vacancy in the office of President of the Bank, the person for the time being acting as President shall act as Chairman of the Administrative Council.

Article 6

(1) Without prejudice to the powers and functions vested in it by other provisions of this Convention, the Administrative Council shall:

(*a*) adopt the administrative and financial regulations of the Centre;

(*b*) adopt the rules of procedure for the institution of conciliation and arbitration proceedings;

(*c*) adopt the rules of procedure for conciliation and arbitration proceedings (hereinafter called the Conciliation Rules and the Arbitration Rules);

(*d*) approve arrangements with the Bank for the use of the Bank's administrative facilities and services;

(*e*) determine the conditions of service of the Secretary-General and of any Deputy Secretary-General;

(*f*) adopt the annual budget of revenues and expenditures of the Centre;

(*g*) approve the annual report on the operation of the Centre.

The decisions referred to in sub-paragraphs (*a*), (*b*), (*c*) and (*f*) above shall be adopted by a majority of two-thirds of the members of the Administrative Council.

(2) The Administrative Council may appoint such committees as it considers necessary.

(3) The Administrative Council shall also exercise such other powers and perform such other functions as it shall determine to be necessary for the implementation of the provisions of this Convention.

Article 7

(1) The Administrative Council shall hold an annual meeting and such other meetings as may be determined by the Council, or convened by the Chairman, or convened by the Secretary-General at the request of not less than five members of the Council.

(2) Each member of the Administrative Council shall have one vote and, except as otherwise herein provided, all matters before the Council shall be decided by a majority of the votes cast.

(3) A quorum for any meeting of the Administrative Council shall be a majority of its members.

(4) The Administrative Council may establish, by a majority of two-thirds of its members, a procedure whereby the Chairman may seek a vote of the Council without convening a meeting of the Council. The vote shall be considered valid only if the majority of the members of the Council cast their votes within the time limit fixed by the said procedure.

Article 8

Members of the Administrative Council and the Chairman shall serve without remuneration from the Centre.

SECTION 3

The Secretariat

Article 9

The Secretariat shall consist of a Secretary-General, one or more Deputy Secretaries-General and staff.

Article 10

(1) The Secretary-General and any Deputy Secretary-General shall be elected by the Administrative Council by a majority of two-thirds of its members upon the nomination of the Chairman for a term of service not exceeding six years and shall be eligible for re-election. After consulting the members of the Administrative Council, the Chairman shall propose one or more candidates for each such office.

(2) The offices of Secretary-General and Deputy Secretary-General shall be incompatible with the exercise of any political function. Neither the Secretary-General nor any Deputy Secretary-General may hold any other employment or engage in any other occupation except with the approval of the Administrative Council.

(3) During the Secretary-General's absence or inability to act, and during any vacancy of the office of Secretary-General, the Deputy Secretary-General shall act as Secretary-General. If there shall be more than one Deputy Secretary-General, the Administrative Council shall determine in advance the order in which they shall act as Secretary-General.

Article 11

The Secretary-General shall be the legal representative and the principal officer of the Centre and shall be responsible for its administration, including the appointment of staff,

in accordance with the provisions of this Convention and the rules adopted by the Administrative Council. He shall perform the function of registrar and shall have the power to authenticate arbitral awards rendered pursuant to this Convention, and to certify copies thereof.

SECTION 4

The Panels

Article 12

The Panel of Conciliators and the Panel of Arbitrators shall each consist of qualified persons, designated as hereinafter provided, who are willing to serve thereon.

Article 13

(1) Each Contracting State may designate to each Panel four persons who may but need not be its nationals.

(2) The Chairman may designate ten persons to each Panel. The persons so designated to a Panel shall each have a different nationality.

Article 14

(1) Persons designated to serve on the Panels shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators.

(2) The Chairman, in designating persons to serve on the Panels, shall in addition pay due regard to the importance of assuring representation on the Panels of the principal legal systems of the world and of the main forms of economic activity.

Article 15

(1) Panel members shall serve for renewable periods of six years.

(2) In case of death or resignation of a member of a Panel, the authority which designated the member shall have the right to designate another person to serve for the remainder of that member's term.

(3) Panel members shall continue in office until their successors have been designated.

Article 16

(1) A person may serve on both Panels.

(2) If a person shall have been designated to serve on the same Panel by more than one Contracting State, or by one or more Contracting States and the Chairman, he shall be deemed to have been designated by the authority which first designated him or, if one such authority is the State of which he is a national, by that State.

(3) All designations shall be notified to the Secretary-General and shall take effect from the date on which the notification is received.

SECTION 5

Financing the Centre

Article 17

If the expenditure of the Centre cannot be met out of charges for the use of its facilities, or out of other receipts, the excess shall be borne by Contracting States which are members of the Bank in proportion to their respective subscriptions to the capital stock of the Bank, and by Contracting States which are not members of the Bank in accordance with rules adopted by the Administrative Council.

SECTION 6

Status, immunities and privileges

Article 18

The Centre shall have full international legal personality. The legal capacity of the Centre shall include the capacity:

(*a*) to contract;

(*b*) to acquire and dispose of movable and immovable property;

(*c*) to institute legal proceedings.

Article 19

To enable the Centre to fulfil its functions, it shall enjoy in the territories of each Contracting State the immunities and privileges set forth in this Section.

Article 20

The Centre, its property and assets shall enjoy immunity from all legal process, except when the Centre waives this immunity.

Article 21

The Chairman, the members of the Administrative Council, persons acting as conciliators or arbitrators or members of a Committee appointed pursuant to paragraph (3) of article 52, and the officers and employees of the Secretariat:

(*a*) shall enjoy immunity from legal process with respect to acts performed by them in the exercise of their functions, except when the Centre waives this immunity;

(*b*) not being local nationals, shall enjoy the same immunities from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by Contracting States to the representatives, officials and employees of comparable rank of other Contracting States.

Article 22

The provisions of article 21 shall apply to persons appearing in proceedings under this Convention as parties, agents, counsels, advocates, witnesses or experts; provided, however, that sub-paragraph (*b*) thereof shall apply only in connection with their travel to and from, and their stay at, the place where the proceedings are held.

Article 23

(1) The archives of the Centre shall be inviolable, wherever they may be.

(2) With regard to its official communications, the Centre shall be accorded by each Contracting State treatment not less favourable than that accorded to other international organizations.

Article 24

(1) The Centre, its assets, property and income, and its operations and transactions authorized by this Convention shall be exempt from all taxation and customs duties. The Centre shall also be exempt from liability for the collection or payment of any taxes or customs duties.

(2) Except in the case of local nationals, no tax shall be levied on or in respect of expense allowances paid by the Centre to the Chairman or members of the Administrative Council, or on or in respect of salaries, expense allowances or other emoluments paid by the Centre to officials or employees of the Secretariat.

(3) No tax shall be levied on or in respect of fees or expense allowances received by persons acting as conciliators, or arbitrators, or members of a Committee appointed pursuant to paragraph (3) of article 52, in proceedings under this Convention, if the sole jurisdictional basis for such tax is the location of the Centre or the place where such proceedings are conducted or the place where such fees or allowances are paid.

CHAPTER II

Jurisdiction of the Centre

Article 25

(1) The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State (or any constituent subdivision or agency of a Contracting State designated to the Centre by that State) and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre. When the parties have given their consent, no party may withdraw its consent unilaterally.

(2) "National of another Contracting State" means:

(*a*) any natural person who had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration as well as on the date on which the request was registered pursuant to paragraph (3) of article 28 or paragraph (3) of article 36, but does not include any person who on either date also had the nationality of the Contracting State party to the dispute; and

(*b*) any juridical person which had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration and any juridical person which had the nationality of the Contracting State party to the dispute on that date and which, because of foreign control, the parties have agreed should be treated as a national of another Contracting State for the purposes of this Convention.

(3) Consent by a constituent subdivision or agency of a Contracting State shall require the approval of that State unless that State notifies the Centre that no such approval is required.

(4) Any Contracting State may, at the time of ratification, acceptance or approval of this Convention or at any time thereafter, notify the Centre of the class or classes of disputes which it would or would not consider submitting to the jurisdiction of the Centre. The Secretary-General shall forthwith transmit such notification to all Contracting States. Such notification shall not constitute the consent required by paragraph (1).

Article 26

Consent of the parties to arbitration under this Convention shall, unless otherwise stated, be deemed consent to such arbitration to the exclusion of any other remedy. A Contracting State may require the exhaustion of local administrative or judicial remedies as a condition of its consent to arbitration under this Convention.

Article 27

(1) No Contracting State shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its nationals and another Contracting State shall have consented to submit or shall have submitted to arbitration under this Convention, unless such other Contracting State shall have failed to abide by and comply with the award rendered in such dispute.

(2) Diplomatic protection, for the purposes of paragraph (1), shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

CHAPTER III

Conciliation

SECTION 1

Request for conciliation

Article 28

(1) Any Contracting State or any national of a Contracting State wishing to institute conciliation proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to conciliation in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

SECTION 2

Constitution of the Conciliation Commission

Article 29

(1) The Conciliation Commission (hereinafter called the Commission) shall be constituted as soon as possible after registration of a request pursuant to article 28.

(2) (a) The Commission shall consist of a sole conciliator or any uneven number of conciliators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of conciliators and the method of their appointment, the Commission shall consist of three conciliators, one conciliator appointed by each party and the third, who shall be the president of the Commission, appointed by agreement of the parties.

Article 30

If the Commission shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of article 28, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the conciliator or conciliators not yet appointed.

Article 31

(1) Conciliators may be appointed from outside the Panel of Conciliators, except in the case of appointments by the Chairman pursuant to article 30.

(2) Conciliators appointed from outside the Panel of Conciliators shall possess the qualities stated in paragraph (1) of article 14.

SECTION 3

Conciliation proceedings

Article 32

(1) The Commission shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Commission, shall be considered by the Commission which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 33

Any conciliation proceeding shall be conducted in accordance with the provisions of this Section and, except as the parties otherwise agree, in accordance with the Conciliation Rules in effect on the date on which the parties consented to conciliation. If any question of procedure arises which is not covered by this Section or the Conciliation Rules or any rules agreed by the parties, the Commission shall decide the question.

Article 34

(1) It shall be the duty of the Commission to clarify the issues in dispute between the parties and to endeavour to bring about agreement between them upon mutually acceptable terms. To that end, the Commission may at any stage of the proceedings and from time to time recommend terms of settlement to the parties. The parties shall cooperate in good faith with the Commission in order to enable the Commission to carry out its functions, and shall give their most serious consideration to its recommendations.

(2) If the parties reach agreement, the Commission shall draw up a report noting the issues in dispute and recording that the parties have reached agreement. If, at any stage of the proceedings, it appears to the Commission that there is no likelihood of agreement between the parties, it shall close the proceedings and shall draw up a report noting the submission of the dispute and recording the failure of the parties to reach agreement. If one

party fails to appear or participate in the proceedings, the Commission shall close the proceedings and shall draw up a report noting that party's failure to appear or participate.

Article 35

Except as the parties to the dispute shall otherwise agree, neither party to a conciliation proceeding shall be entitled in any other proceeding, whether before arbitrators or in a court of law or otherwise, to invoke or rely on any views expressed or statements or admissions or offers of settlement made by the other party in the conciliation proceedings, or the report or any recommendations made by the Commission.

CHAPTER IV

Arbitration

SECTION 1

Request for arbitration

Article 36

(1) Any Contracting State or any national of a Contracting State wishing to institute arbitration proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to arbitration in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

SECTION 2

Constitution of the Tribunal

Article 37

(1) The Arbitral Tribunal (hereinafter called the Tribunal) shall be constituted as soon as possible after registration of a request pursuant to article 36.

(2) (a) The Tribunal shall consist of a sole arbitrator or any uneven number of arbitrators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of arbitrators and the method of their appointment, the Tribunal shall consist of three arbitrators, one arbitrator appointed by each party and the third, who shall be the president of the Tribunal, appointed by agreement of the parties.

Article 38

If the Tribunal shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of article 36, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the arbitrator or arbitrators not yet appointed. Arbitrators appointed by the Chairman

pursuant to this article shall not be nationals of the Contracting State party to the dispute or of the Contracting State whose national is a party to the dispute.

Article 39

The majority of the arbitrators shall be nationals of States other than the Contracting State party to the dispute and the Contracting State whose national is a party to the dispute; provided, however, that the foregoing provisions of this article shall not apply if the sole arbitrator or each individual member of the Tribunal has been appointed by agreement of the parties.

Article 40

(1) Arbitrators may be appointed from outside the Panel of Arbitrators, except in the case of appointments by the Chairman pursuant to article 38.

(2) Arbitrators appointed from outside the Panel of Arbitrators shall possess the qualities stated in paragraph (1) of article 14.

SECTION 3

Powers and functions of the Tribunal

Article 41

(1) The Tribunal shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Tribunal, shall be considered by the Tribunal which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 42

(1) The Tribunal shall decide a dispute in accordance with such rules of law as may be agreed by the parties. In the absence of such agreement, the Tribunal shall apply the law of the Contracting State party to the dispute (including its rules on the conflict of laws) and such rules of international law as may be applicable.

(2) The Tribunal may not bring in a finding of *non liquet* on the ground of silence or obscurity of the law.

(3) The provisions of paragraphs (1) and (2) shall not prejudice the power of the Tribunal to decide a dispute *ex aequo et bono* if the parties so agree.

Article 43

Except as the parties otherwise agree, the Tribunal may, if it deems it necessary at any stage of the proceedings:

(*a*) call upon the parties to produce documents or other evidence, and

(*b*) visit the scene connected with the dispute, and conduct such inquiries there as it may deem appropriate.

Article 44

Any arbitration proceeding shall be conducted in accordance with the provisions of this Section and, except as the parties otherwise agree, in accordance with the Arbitration

Rules in effect on the date on which the parties consented to arbitration. If any question of procedure arises which is not covered by this Section or the Arbitration Rules or any rules agreed by the parties, the Tribunal shall decide the question.

Article 45

(1) Failure of a party to appear or to present his case shall not be deemed an admission of the other party's assertions.

(2) If a party fails to appear or to present his case at any stage of the proceedings the other party may request the Tribunal to deal with the questions submitted to it and to render an award. Before rendering an award, the Tribunal shall notify, and grant a period of grace to, the party failing to appear or to present its case, unless it is satisfied that that party does not intend to do so.

Article 46

Except as the parties otherwise agree, the Tribunal shall, if requested by a party, determine any incidental or additional claims or counter-claims arising directly out of the subject-matter of the dispute provided that they are within the scope of the consent of the parties and are otherwise within the jurisdiction of the Centre.

Article 47

Except as the parties otherwise agree, the Tribunal may, if it considers that the circumstances so require, recommend any provisional measures which should be taken to preserve the respective rights of either party.

SECTION 4

The award

Article 48

(1) The Tribunal shall decide questions by a majority of the votes of all its members.

(2) The award of the Tribunal shall be in writing and shall be signed by the members of the Tribunal who voted for it.

(3) The award shall deal with every question submitted to the Tribunal, and shall state the reasons upon which it is based.

(4) Any member of the Tribunal may attach his individual opinion to the award, whether he dissents from the majority or not, or a statement of his dissent.

(5) The Centre shall not publish the award without the consent of the parties.

Article 49

(1) The Secretary-General shall promptly dispatch certified copies of the award to the parties. The award shall be deemed to have been rendered on the date on which the certified copies were dispatched.

(2) The Tribunal upon the request of a party made within 45 days after the date on which the award was rendered may after notice to the other party decide any question which it had omitted to decide in the award, and shall rectify any clerical, arithmetical or similar error in the award. Its decision shall become part of the award and shall be notified to the parties in the same manner as the award. The periods of time provided for under paragraph (2) of article 51 and paragraph (2) of article 52 shall run from the date on which the decision was rendered.

SECTION 5

Interpretation, revision and annulment of the award

Article 50

(1) If any dispute shall arise between the parties as to the meaning or scope of an award, either party may request interpretation of the award by an application in writing addressed to the Secretary-General.

(2) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter. The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision.

Article 51

(1) Either party may request revision of the award by an application in writing addressed to the Secretary-General on the ground of discovery of some fact of such a nature as decisively to affect the award, provided that when the award was rendered that fact was unknown to the Tribunal and to the applicant and that the applicant's ignorance of that fact was not due to negligence.

(2) The application shall be made within 90 days after the discovery of such fact and in any event within three years after the date on which the award was rendered.

(3) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter.

(4) The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Tribunal rules on such request.

Article 52

(1) Either party may request annulment of the award by an application in writing addressed to the Secretary-General on one or more of the following grounds:

(*a*) that the Tribunal was not properly constituted;

(*b*) that the Tribunal has manifestly exceeded its powers;

(*c*) that there was corruption on the part of a member of the Tribunal;

(*d*) that there has been a serious departure from a fundamental rule of procedure; or

(*e*) that the award has failed to state the reasons on which it is based.

(2) The application shall be made within 120 days after the date on which the award was rendered except that when annulment is requested on the ground of corruption such application shall be made within 120 days after discovery of the corruption and in any event within three years after the date on which the award was rendered.

(3) On receipt of the request the Chairman shall forthwith appoint from the Panel of Arbitrators an *ad hoc* Committee of three persons. None of the members of the Committee shall have been a member of the Tribunal which rendered the award, shall be of the same nationality as any such member, shall be a national of the State party to the dispute or of the State whose national is a party to the dispute, shall have been designated to the Panel

of Arbitrators by either of those States, or shall have acted as a conciliator in the same dispute. The Committee shall have the authority to annul the award or any part thereof on any of the grounds set forth in paragraph (1).

(4) The provisions of articles 41-45, 48, 49, 53 and 54, and of Chapters VI and VII shall apply *mutatis mutandis* to proceedings before the Committee.

(5) The Committee may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until Committee rules on such request.

(6) If the award is annulled the dispute shall, at the request of either party, be submitted to a new Tribunal constituted in accordance with Section 2 of this Chapter.

SECTION 6

Recognition and enforcement of the award

Article 53

(1) The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant to the relevant provisions of this Convention.

(2) For the purposes of this Section, "award" shall include any decision interpreting, revising or annulling such award pursuant to articles 50, 51 or 52.

Article 54

(1) Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent state.

(2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Contracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation.

(3) Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.

Article 55

Nothing in article 54 shall be construed as derogating from the law in force in any Contracting State relating to immunity of that State or of any foreign State from execution.

CHAPTER V

Replacement and disqualification of conciliators and arbitrators

Article 56

(1) After a Commission or a Tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that if a conciliator or

an arbitrator should die, become incapacitated, or resign, the resulting vacancy shall be filled in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

(2) A member of a Commission or Tribunal shall continue to serve in that capacity notwithstanding that he shall have ceased to be a member of the Panel.

(3) If a conciliator or arbitrator appointed by a party shall have resigned without the consent of the Commission or Tribunal of which he was a member, the Chairman shall appoint a person from the appropriate Panel to fill the resulting vacancy.

Article 57

A party may propose to a Commission or Tribunal the disqualification of any of its members on account of any fact indicating a manifest lack of the qualities required by paragraph (1) of article 14. A party to arbitration proceedings may, in addition, propose the disqualification of an arbitrator on the ground that he was ineligible for appointment to the Tribunal under Section 2 of Chapter IV.

Article 58

The decision on any proposal to disqualify a conciliator or arbitrator shall be taken by the other members of the Commission or Tribunal as the case may be, provided that where those members are equally divided, or in the case of a proposal to disqualify a sole conciliator or arbitrator, or a majority of the conciliators or arbitrators, the Chairman shall take that decision. If it is decided that the proposal is well-founded the conciliator or arbitrator to whom the decision relates shall be replaced in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

CHAPTER VI

Cost of proceedings

Article 59

The charges payable by the parties for the use of the facilities of the Centre shall be determined by the Secretary-General in accordance with the regulations adopted by the Administrative Council.

Article 60

(1) Each Commission and each Tribunal shall determine the fees and expenses of its members within limits established from time to time by the Administrative Council and after consultation with the Secretary-General.

(2) Nothing in paragraph (1) of this article shall preclude the parties from agreeing in advance with the Commission or Tribunal concerned upon the fees and expenses of its members.

Article 61

(1) In the case of conciliation proceedings the fees and expenses of members of the Commission as well as the charges for the use of the facilities of the Centre, shall be borne equally by the parties. Each party shall bear any other expenses it incurs in connection with the proceedings.

(2) In the case of arbitration proceedings the Tribunal shall, except as the parties otherwise agree, assess the expenses incurred by the parties in connection with the proceedings,

and shall decide how and by whom those expenses, the fees and expenses of the members of the Tribunal and the charges for the use of the facilities of the Centre shall be paid. Such decision shall form part of the award.

CHAPTER VII

Place of proceedings

Article 62

Conciliation and arbitration proceedings shall be held at the seat of the Centre except as hereinafter provided.

Article 63

Conciliation and arbitration proceedings may be held, if the parties so agree:

(*a*) at the seat of the Permanent Court of Arbitration or of any other appropriate institution, whether private or public, with which the Centre may make arrangements for that purpose; or

(*b*) at any other place approved by the Commission or Tribunal after consultation with the Secretary-General.

CHAPTER VIII

Disputes between Contracting States

Article 64

Any dispute arising between Contracting States concerning the interpretation or application of this Convention which is not settled by negotiation shall be referred to the International Court of Justice by the application of any party to such dispute, unless the States concerned agree to another method of settlement.

CHAPTER IX

Amendment

Article 65

Any Contracting State may propose amendment of this Convention. The text of a proposed amendment shall be communicated to the Secretary-General not less than 90 days prior to the meeting of the Administrative Council at which such amendment is to be considered and shall forthwith be transmitted by him to all the members of the Administrative Council.

Article 66

(1) If the Administrative Council shall so decide by a majority of two-thirds of its members, the proposed amendment shall be circulated to all Contracting States for ratification, acceptance or approval. Each amendment shall enter into force 30 days after dispatch by the depositary of this Convention of a notification to Contracting States that all Contracting States have ratified, accepted or approved the amendment.

(2) No amendment shall affect the rights and obligations under this Convention of any Contracting State or of any of its constituent subdivisions or agencies, or of any national of such State arising out of consent to the jurisdiction of the Centre given before the date of entry into force of the amendment.

CHAPTER X

Final provisions

Article 67

This Convention shall be open for signature on behalf of States members of the Bank. It shall also be open for signature on behalf of any other State which is a party to the Statute of the International Court of Justice and which the Administrative Council, by a vote of two-thirds of its members, shall have invited to sign the Convention.

Article 68

(1) This Convention shall be subject to ratification, acceptance or approval by the signatory States in accordance with their respective constitutional procedures.

(2) This Convention shall enter into force 30 days after the date of deposit of the twentieth instrument of ratification, acceptance or approval. It shall enter into force for each State which subsequently deposits its instrument of ratification, acceptance or approval 30 days after the date of such deposit.

Article 69

Each Contracting State shall take such legislative or other measures as may be necessary for making the provisions of this Convention effective in its territories.

Article 70

This Convention shall apply to all territories for whose international relations a Contracting State is responsible, except those which are excluded by such State by written notice to the depositary of this Convention either at the time of ratification, acceptance or approval or subsequently.

Article 71

Any Contracting State may denounce this Convention by written notice to the depositary of this Convention. The denunciation shall take effect six months after receipt of such notice.

Article 72

Notice by a Contracting State pursuant to articles 70 or 71 shall not affect the rights or obligations under this Convention of that State or of any of its constituent subdivisions or agencies or of any national of that State arising out of consent to the jurisdiction of the Centre given by one of them before such notice was received by the depositary.

Article 73

Instruments of ratification, acceptance or approval of this Convention and of amendments thereto shall be deposited with the Bank which shall act as the depositary of this

Convention. The depositary shall transmit certified copies of this Convention to States members of the Bank and to any other State invited to sign the Convention.

Article 74

The depositary shall register this Convention with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations and the Regulations thereunder adopted by the General Assembly.

Article 75

The depositary shall notify all signatory States of the following:

(*a*) signatures in accordance with article 67;

(*b*) deposits of instruments of ratification, acceptance and approval in accordance with article 73;

(*c*) the date on which this Convention enters into force in accordance with article 68;

(*d*) exclusions from territorial application pursuant to article 70;

(*e*) the date on which any amendment of this Convention enters into force in accordance with article 66; and

(*f*) denunciations in accordance with article 71.

DONE at Washington in the English, French and Spanish languages, all three texts being equally authentic, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to fulfil the functions with which it is charged under this Convention.

Chapter V

DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

A. Decisions of the Administrative Tribunal of the United Nations[1]

1. JUDGEMENT NO. 98 (11 MARCH 1966):[2] GILLMAN v. SECRETARY-GENERAL OF THE UNITED NATIONS

Termination of the employment of a staff member holding a permanent appointment, on the ground of unsatisfactory service—Staff member's right to a complete, fair and reasonable procedure—Application of article 9.2 of the Statute of the Tribunal

The applicant requested the Tribunal to order the rescinding of the decision by which the Secretary-General had terminated her permanent appointment on the grounds of unsatisfactory service and record of attendance. The Tribunal noted that the contested decision had been taken on the basis of a recommendation by a working group of the Appointment and Promotion Board. It found that, as regards the appraisal of the applicant's performance, the report of the working group did not give an accurate account of the situation revealed by the periodic reports on the applicant, a situation confirmed by the evidence received by the Tribunal. As regards the finding by the working group that the applicant's record of attendance was unsatisfactory, the Tribunal observed that the group had not inquired whether part of the applicant's sick leave could have been caused by injuries sustained in a service-incurred accident. It considered, therefore, that one at least of the grounds for the termination was directly attributable to statements in the working group's report which failed to take into account all the factors in the case and, in particular, the circumstances of the accident in which the applicant had been injured. The Tribunal concluded that the applicant had been deprived of the complete, fair and reasonable procedure which must be carried out before the termination of a permanent appointment. On

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[1] Under article 2 of its Statute, the Administrative Tribunal of the United Nations is competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. Article 14 of the Statute states that the competence of the Tribunal may be extended to any specialized agency upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. By the end of 1966, two agreements of general scope, dealing with the non-observance of contracts of employment and of terms of appointment, had been concluded, pursuant to the above provision, with two specialized agencies: the International Civil Aviation Organization; the Inter-Governmental Maritime Consultative Organization. In addition, agreements limited to applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund had been concluded with the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the International Civil Aviation Organization, the World Meteorological Organization and the International Atomic Energy Agency.

The Tribunal is open not only to any staff member, even after his employment has ceased, but also to any person who has succeeded to the staff member's rights on his death, or who can show that he is entitled to rights under any contract or terms of appointment.

[2] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. S. Petrén.

the basis of a request made by the respondent under article 9.2 of the Statute, the Tribunal remanded the case for correction of procedure and ordered that the applicant be paid as compensation an amount equivalent to three months' net base salary for the prejudice caused by the procedural delay.

2. JUDGEMENT NO. 99 (16 MARCH 1966):[3] MR. A. v. SECRETARY-GENERAL OF THE UNITED NATIONS

Claim for compensation for damage suffered by a staff member as a result of measures taken by the Medical Director and other officials—The conditions under which sick leave can be imposed constitute an element of the contractual relationship between the employee and employer—Respondent's right to impose sick leave upon a staff member but not to order him to undergo any special medical treatment

In September 1961 the applicant, who held at the time a fixed-term appointment with the Special Fund, was ordered by the United Nations Medical Director to take sick leave and instructed not to return to the office. When, on 5 October 1961, he disregarded that instruction and attempted to resume his duties with the Fund, he was committed to a private mental institution upon a petition signed by the Medical Director under the provisions of the applicable municipal law. Two weeks later, the applicant was repatriated to his home country. The applicant contended that the action taken by the Medical Director violated United Nations Staff Regulations and Rules and requested compensation for the injury sustained.

The Tribunal first considered a plea by the respondent that the application did not fall within its competence on the ground, *inter alia*, that the allegations contained therein were allegations of wrongful acts, not of violations of terms of appointment or contract of employment. The Tribunal observed that conditions under which sick leave could be granted to or imposed upon an employee necessarily constituted an element of the contractual relationship between the employee and his employer. Allegations that, in the case of a staff member of the United Nations, sick leave had been either refused or imposed and enforced in a wrongful way, including commitment to an institution for the mentally ill, implied that the staff member's terms of appointment had not been observed. The Tribunal decided, therefore, that the application fell within its competence as defined in article 2.1 of the Statute.

As regards substance, the Tribunal observed that, while the Staff Regulations and Rules should be interpreted as authorizing directed sick leave under certain conditions, they did not empower the Administration to order a staff member to undergo any special medical treatment. Furthermore, nothing in the applicant's behaviour had indicated a dangerous or violent mood calling for drastic measures. The Tribunal found, therefore, that the commitment of the applicant to a mental institution had violated his contractual rights. It decided, however, that such was not the case with his subsequent repatriation since the evidence showed that he had agreed to that measure.

As regards the prejudicial effect of the applicant's commitment, the Tribunal observed that any decrease in the applicant's possibilities of securing new employment had been caused not by the commitment but by the decision not to extend his appointment with the United Nations beyond 3 January 1962, a decision subsequently upheld by the Tribunal in Judgement No. 86. Finding, however, that the manner in which the commitment had been carried out had caused the applicant injury in the form of moral prejudice, the Tribunal ordered the payment of compensation in the amount of one thousand dollars.

[3] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. S. Petrén.

3. JUDGEMENT NO. 100 (16 MARCH 1966):[4] MÉLY v. SECRETARY-GENERAL OF THE UNITED NATIONS

Right of a staff member holding a fixed-term appointment, improperly terminated before the expiration of his contract, to the total amount of his salary for the period from the date of the termination to the date of the end of the contract

The applicant requested the Tribunal to order the rescinding of the termination in 1961 of her one-year fixed-term appointment nine months before its expiration date and her reinstatement in the Secretariat of the United Nations or, alternatively, the payment of a lump sum compensation for the injury sustained.

The Tribunal observed that, after receiving in 1965 the report of the Joint Appeals Board on the case, the Secretary-General had decided that the termination of the applicant's appointment had been ill-founded and had awarded her part of the salary due for the uncompleted period of the appointment. The Tribunal found that, in view of that decision, the applicant was entitled to receive the total amount of the salary due for the uncompleted part of the appointment. The Tribunal ordered, therefore, that the necessary additional payment should be made to the applicant. Finding that the applicant's fixed-term appointment carried no expectancy of continuation of service beyond its expiration date, the Tribunal rejected her requests for reinstatement and additional compensation.

4. JUDGEMENT NO. 101 (5 OCTOBER 1966):[5] RAU v. SECRETARY-GENERAL OF THE UNITED NATIONS

Request for rescission of a decision by which a probationary appointment was converted into a fixed-term appointment not receivable, since the staff member concerned accepted the conversion—Rejection of a subsidiary request for rescission of a decision refusing a renewal of a fixed-term appointment—Discretionary power of the Secretary-General

The applicant, who entered the service of the United Nations in May 1961 under a short-term appointment with UNICEF as an IBM keypunch operator, received a probationary appointment, with the same assignment, in August 1961. In view of anticipated changes in the machine operation, she received, on the expiration of her probationary appointment in May 1963, a fixed-term appointment for one year which, in February 1964, was extended for one year. In April 1964, the applicant, rated as "a staff member who maintains a good standard of efficiency" in periodic reports for the periods from May 1961 to April 1963 and from May 1964 to April 1965, was informed that her conduct and work had been criticized by her supervisor. She challenged the validity of the criticism, asked to be transferred to another office and received several other assignments in succession. As her contract was not renewed on its expiry in April 1965, she instituted proceedings before the Joint Appeals Board which were unsuccessful. She then filed an application with the Tribunal, which included a request that it rescind the decision by which her probationary appointment was converted, in May 1963, into a fixed-term appointment and not into a permanent or regular appointment, or, as a subsidiary plea, that it rescind the decision by which she was refused a renewal of her fixed-term appointment in May 1965.

The Tribunal found that the principal pleas were not receivable since they were directed against a decision taken in 1963, which was not contested by her at that time under the applicable appeals procedure. It found the subsidiary pleas ill founded and noted that, under the terms of staff rule 104.12 (*b*), the fixed-term appointment does not carry any

[4] The Lord Crook, Vice-President, presiding; Mme P. Bastid, President of the Tribunal; Mr. S. Petrén.

[5] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. L. Ignacio-Pinto.

expectancy of renewal or of conversion to any other type of appointment. The Tribunal noted that the respondent had been fully informed by the Joint Appeals Board of the manner in which the applicant's service had been evaluated and that, in those circumstances, the conclusion finally reached by the respondent was a matter within his discretion.

5. JUDGEMENT NO. 102 (10 OCTOBER 1966):[6] FORT V. SECRETARY-GENERAL OF THE UNITED NATIONS

Rejection of a request for rescission of a decision of the Secretary-General refusing to convert a short-term appointment into a one-year fixed-term appointment, there being no legal right to such appointment—Rejection of a subsidiary request for the payment of the allowances and benefits corresponding to such appointment

The applicant, having entered the service of the United Nations at Geneva in July 1964 on a short-term appointment which did not entitle him to any allowances, requested that the appointment should be converted into a one-year fixed-term appointment with retroactive effect to the date of his entry into service. This would have entitled him to an installation grant and, at the yearly rate, an education grant, post adjustment, assignment allowance and dependency allowance. The Administration granted him only a fixed-term six-month appointment, which entailed no installation grant and only half the amount of the yearly rate of the other grants. The applicant requested the Tribunal, as a principal plea, to rescind that decision and, as a subsidiary plea, to order the payment of grants and benefits appropriate to the appointment requested by him.

The Tribunal rejected the pleas. After consideration of the circumstances relating to the applicant's contractual situation, it observed that at no time did the applicant receive from any authorized official any communication promising or holding out any hopes that his request would be satisfied. It therefore found that the applicant had no legal right to receive a fixed-term appointment for one year and that, by the same token, he was not entitled to the allowances and other benefits which would have resulted from the granting of such an appointment.

6. JUDGEMENT NO. 103 (11 OCTOBER 1966):[7] AZZU V. SECRETARY-GENERAL OF THE UNITED NATIONS

Request for rescission of a decision taken by the Secretary-General on the recommendation of the Advisory Board on Compensation Claims, on the grounds that the procedure did not meet the requirements of due process—Duty of the Respondent to respect the general principle that the requirements of due process must be observed

The applicant fell in the performance of his duties and in December 1961, on the recommendation of the Advisory Board on Compensation Claims, the Secretary-General determined that the applicant was suffering from total incapacity and authorized payment of the appropriate benefits and allowances. Since it appeared that his health had improved, the Advisory Board reviewed his case in January 1963 and recommended that all payments should be discontinued. The Secretary-General approved that recommendation and the applicant appealed to the Advisory Board which, in February 1965, reaffirmed its recommendation. When the Secretary-General decided in March 1965 again to approve the recommendation of the Board, the applicant submitted an application to the Tribunal and made the principal request that the Tribunal should rescind the decision of the Secretary-General

[6] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. F.T.P. Plimpton.

[7] Mme P. Bastid, President; Mr. H. Gros Espiell; Mr. F.T.P. Plimpton; Mr. L. Ignacio-Pinto, Alternate Member.

on the grounds that the procedure followed by the Board did not meet the requirements of due process.

The Tribunal noted that the applicant had been given no opportunity to explain his position on the issues which were to serve as a basis for the decision of the Advisory Board on Compensation Claims. It therefore found that the procedure followed by the Advisory Board in arriving at the recommendation approved by the respondent in March 1965 failed to meet the requirements of due process and, without determining the merits, remanded the case for correction of the procedure.

B. Decisions of the Administrative Tribunal of the International Labour Organisation[8, 9]

1. Judgement No. 91 (11 October 1966): Deschamps v. International Labour Organisation

Time-limit for appeal to the Tribunal—Mandatory character of the time-limit

The complainant, appointed as an expert for the ILO, had addressed a memorandum to the Resident Representative of the TAB on 2 May 1963, following differences with his supervisor, indicating his intention of submitting a complaint to the Director-General of the ILO and, possibly, of requesting its transmission to the Administrative Tribunal. On the advice of the Resident Representative, no further action was taken on the matter. On 10 May 1963, the complainant was informed that the ILO did not propose to renew his appointment, and his service came to an end on 31 October 1963. He made no formal appeal at that time. On 28 January 1965, the complainant asked for a review of his case. On 25 February 1965, his request was denied. He then filed a complaint, dated 30 July 1965 and actually dispatched on 9 August 1965. The complainant prayed the Tribunal to recognize that he had given a notice of his case on 2 May 1963 and that the absence of offers of further appointments which he had hoped to receive confirmed that he had been arbitrarily dismissed.

The Tribunal declared that the complaint was not receivable. It stated that article VII, paragraph 2 of the Statute of the Tribunal provided that to be receivable a complaint must have been filed within ninety days after the complainant was notified of the decision impugned. The memorandum submitted by the complainant to the Resident Representative on 2 May

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[8] The Administrative Tribunal of the International Labour Organisation is competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment, and of such provisions of the Staff Regulations as are applicable to the case, of officials of the International Labour Office and of officials of the international organizations that have recognized the competence of the Tribunal, namely, as at 31 December 1966, the World Health Organization, the United Nations Educational, Scientific and Cultural Organization, the International Telecommunication Union, the World Meteorological Organization, the Food and Agriculture Organization of the United Nations, the European Organization for Nuclear Research, the Interim Commission for the International Trade Organization/General Agreement on Tariffs and Trade, the International Atomic Energy Agency, the United International Bureaux for the Protection of Intellectual Property, the European Organization for the Safety of Air Navigation and the Universal Postal Union. The Tribunal is also competent to hear disputes with regard to the execution of certain contracts concluded by the International Labour Office and disputes relating to the application of the Regulations of the former Staff Pensions Fund of the International Labour Organisation.

The Tribunal is open to any official of the International Labour Office and of the above-mentioned organizations, even if his employment has ceased, and to any person on whom the official's rights have devolved on his death, and to any other person who can show that he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.

[9] Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

1963 could not be deemed to have the effect of bringing the matter before the Tribunal, since it referred only to an intention and was not meant for the Tribunal itself. The complaint itself had been dispatched on 9 August 1965—the only date which, under article 6, paragraph 3, of the Rules of Court, could be taken into account for the application of article VII, paragraph 2, of the Statute of the Tribunal—i.e. more than ninety days after the notification of the last of the decisions impugned.

In so far as the complaint might relate to the legality of the non-renewal of the complainant's appointment, the decision not to renew his appointment had been communicated to him on 10 May 1963; in so far as it might relate to the ILO's letter of 25 February 1965—even assuming that that might have implied a new decision—it was sufficient to note that any time-limit would have run from 25 February 1965. The Tribunal could not take into account the arguments based on equity which the complainant had put forward since the time-limit provided in its Statute was mandatory.

2. JUDGEMENT NO. 92 (11 OCTOBER 1966): VARLACOSTA PATRONO v. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Ground relied on for termination—Official's right to be heard before a decision to his detriment is taken—Establishment of the date of termination

The complainant entered the service of FAO in 1956 under a contract of indefinite duration, and was informed on 29 December 1964 that her appointment would be terminated on 31 January 1965 in the interests of the Organization, under Staff Regulation 301.0913. On the appeal of the complainant, the decision to terminate her appointment was confirmed by a decision of 1 February 1965, but on the grounds of unsatisfactory service (Section 314.221 of the FAO Administrative Manual), while the period of notice was altered to begin as from the date of that new decision. The complainant appealed to the Appeals Committee of FAO, which recommended that the decision to terminate her appointment should be confirmed on the ground of the interests of the Organization instead of unsatisfactory service. The recommendation was accepted by the Director-General and, on 9 June 1965, the complainant was informed that her appointment had been terminated under Staff Regulation 301.0913. The complainant then prayed the Tribunal to rescind Section 331.332 of the Manual, on the basis of which she had been refused access to the full text of the report of the Appeals Committee, and to quash the decision to terminate her contract, on the grounds of incorrect application of Staff Regulation 301.0913 and of the retroactive character of the decision of 9 June 1965.

The Tribunal dismissed the complaint. On the rescinding of Section 331.332 of the Manual, it stated that since no provision in its Statute allowed it to rescind a general provision, it could only consider the legality of the provision impugned and, where appropriate, rescind the decision by which it was applied. In that connexion, it recognized that every official had the right to be heard before a final decision to his detriment was taken, and that that right implied the opportunity to consult the documents on which such a decision was based. The Tribunal considered therefore that, in transmitting to the complainant only the recommendations of the report of the Appeals Committee, the Organization had ignored the official's right to be heard. It observed, however, that the violation of that right could not constitute the basis of a claim unless it had actually affected the sense of the decision concerned. That had not happened in the case considered.

On the decision concerning termination, the Tribunal observed that, since the complainant had shown herself to be unfit for any permanent assignment and had received written warning, she could legitimately be terminated for unsatisfactory service under Section 314.221 of the Manual. In his subsequent decision to rely on Staff Regulation 301.0913, the Director-General had been acting at the request of the complainant who,

by pointing out in her memorandum to the Appeals Committee that the reproach of unsatisfactory service might reduce her chances of finding other employment, had implicitly asked that if the termination of her appointment were to be maintained it should be based on Staff Regulation 301.0913.

On the retroactivity of the decision impugned, the Tribunal observed that, although the decision of 1 February 1965 and the decision of 9 June 1965 relied upon different provisions, they were based on the same facts. The last decision, taken as a result of the complainant's appeal, confirmed the solution adopted earlier. Therefore, in taking that decision on 9 June 1965, the Director-General had acted correctly in fixing the date previously decided upon as the date at which the complainant's services should terminate.

3. Judgement No. 93 (11 October 1966): Saini v. Food and Agriculture Organization of the United Nations

Termination of appointment "in the interests of the Organization"—Cases in which that ground for termination may be exercised—Requirement that extraordinary circumstances must exist—Extent of the Tribunal's authority to review when it is satisfied that such circumstances exist—Time-limit for appeal to the Tribunal

The complainant had been given a fixed-term appointment in Jordan. Following difficulties with his supervisor, the complainant was notified on 19 February 1965 that the Director-General had decided to terminate his services in the interests of the Organization. When the complainant asked why he had not been awarded an annual increment for the year 1964, he was advised, on 17 March 1965, that having regard to his conduct no increment could be awarded. On 23 April 1965, the complainant appealed against the decision to withhold his increment. He also appealed to the Tribunal to quash the decision to terminate his appointment on the grounds of illegality, and to order either that he be reinstated or that he be paid an indemnity.

The Tribunal allowed the complaint on the last two points. With regard to the decision to terminate the complainant's appointment, it stated that the Director-General had correctly based himself on Section 370.831 of the FAO Administrative Manual. That Section lists six grounds for termination, the sixth (paragraph (vi)) being that of the interests of the Organization on which the Director-General had based his decision. The Tribunal pointed out that if paragraph (vi) was read as granting an absolute power to the Director-General, all the other provisions in the section would be superfluous since in each of the five preceding cases it would inevitably be in the interests of the Organization to terminate the appointment. Moreover, if the power was absolute, it could be used to substitute the test of the Director-General's opinion for the test of fact. Paragraph (vi) therefore must be read subject to a condition limiting the type of case in which it could be exercised and would normally be used in the case of a satisfactory officer, when extraordinary circumstances required the termination of his appointment. The Tribunal emphasized that it was for the Organization to satisfy it that such extraordinary circumstances existed, and added:

> "If the Organization satisfies the Tribunal of this, the power arises. It is then for the Director-General to decide whether in these circumstances the interests of the Organization require the termination of the officer's appointment and the Tribunal will not interfere with that decision unless, on the one hand it may have been taken by a person without authority, or in an irregular form, or there has been a failure to comply with recognized procedure, or, on the other hand, it is tainted by an error of law or based upon materially incorrect facts, or essential material elements have been left out of account or obviously wrong conclusions have been drawn from the evidence in the dossier."

In the case in question, the Organization had failed to satisfy the Tribunal that any extraordinary circumstances existed. The facts it had relied on might justify action under

paragraphs (iv) or (v), but not under paragraph (vi). Having been satisfied that the request for rescission was well-founded, the Tribunal, exercising the option open to it under article VIII of its Statute, awarded compensation to the complainant.

On the withholding of increment, the Tribunal considered that the letter of 17 March 1965, even if constituting an explanation rather than a notification, had been unambiguous; the complainant had therefore been put in a position to lodge an appeal from that date. In view of Staff Rule 303.131, which provided a time-limit of two weeks, the appeal of 23 April 1965 was time-barred and could not be considered.

4. JUDGEMENT NO. 94 (11 OCTOBER 1966): PRASAD V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (EXECUTION OF JUDGEMENT NO. 90)

Procedure for application of article VIII of the Statute of the Tribunal—Res judicata

In its Judgement No. 90 of 6 November 1965,[10] the Administrative Tribunal had quashed the decision of the Director-General of FAO to terminate the appointment of the complainant for unsatisfactory service. On 21 December 1965, FAO informed the Tribunal that it had assumed that, if the complaint was allowed, the Tribunal would make provision for alternative relief in lieu of reinstatement, and had therefore made no submissions on the matter. Having found, following Judgement No. 90, that reinstatement was impossible, it requested the Tribunal to decide, on the basis of article VIII of its Statute, that the complainant should be awarded compensation for the injury caused by the termination of his appointment. When informed of that application, the complainant submitted that he had requested reinstatement, that it was the Organization's responsibility to invoke article VIII of the Statute of the Tribunal before judgement was handed down, and that the Organization's application was therefore in violation of article VI of the Statute and should be dismissed.

The Tribunal dismissed the application of FAO. It recalled article VIII of its Statute, stating that, if the rescinding of the decision impugned or the performance of the obligation relied upon "is not possible or advisable, the Tribunal shall award the complainant compensation for the injury caused to him", and observed that the choice would be made either in the light of written or oral observations of the parties or of its own motion. By quashing, in its Judgement No. 90, the decision to terminate the complainant's appointment, the Tribunal had found that reinstatement was possible and not inadvisable. Its Judgement had disposed of the issues raised and the Organization could not reopen them. The Tribunal also stated that the complainant could in fact be reinstated, particularly since the Organization was not obliged to offer him the identical post he had occupied.

5. JUDGEMENT NO. 95 (11 OCTOBER 1966): L'ÉVÊQUE V. INTERNATIONAL TELECOMMUNICATION UNION

Since the parties were opposed with regard to the facts, the Tribunal had decided, in its Judgement No. 76,[11] to carry out an investigation of the case. In view of the fact that the complainant had accepted ITU's offer to settle the case out of court, the Tribunal recorded the complainant's withdrawal of suit.

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[10] See *Juridical Yearbook*, 1965, p. 217.

[11] See *Juridical Yearbook*, 1964, p. 215.

6. JUDGEMENT NO. 96 (11 OCTOBER 1966): JURADO v. INTERNATIONAL LABOUR ORGANISATION (NO. 17—TERMINATION OF APPOINTMENT)

Challenge to the competence of the Judges who examined an earlier action brought by the same complainant—Tribunal incompetent formally to communicate the dossier of a complainant to a Government—Abuse of the right of appeal to the Tribunal

The complainant, whose appointment had been terminated with an indemnity equal to three months' salary, requested the Tribunal, *inter alia*: (1) to declare certain Judges of the Tribunal disqualified; (2) to authorize him to communicate the dossier of his case to the Government of the country of which he was a national, and (3) to rescind the decision to terminate his appointment. The Tribunal dismissed the complaint. On point (1), it stated that neither the fact that two of the Judges who had sat in the case previously brought by the complainant[12] had been called upon to hear the present case, nor the fact that one was of Swiss nationality and sat on the Supreme Court could be regarded as a valid ground for objection to those Judges. On point (2), it stated that it was not competent. On point (3), the Tribunal observed that, while complainants had an absolute right to apply to the Administrative Tribunal without any restriction, that right was granted to ensure respect for their terms of appointment. It pointed out that by making repeated complaints against decisions which, in general, did not affect his rights as an official, the complainant had entirely perverted from its proper purpose the right of appeal to the Administrative Tribunal afforded to officials; his behaviour had shown repeated infringements of articles 1.1, 1.2 and 1.7 of the Staff Regulations and constituted serious misconduct which, under article 12.8 of the Staff Regulations, was such as legally to justify his summary dismissal without notice. Even assuming that the conditions specified in article 12.8 of the Staff Regulations had not been fulfilled there could be no question of quashing the decision impugned, but only of awarding the complainant compensation which, in the circumstances of the case, could not exceed the amount which the Organization had seen fit to award him *ex gratia*.

[12] See Judgement No. 70 of 11 September 1964 (*Juridical Yearbook*, 1964, p. 209).

Chapter VI

SELECTED LEGAL OPINIONS OF THE SECRETARIAT OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

A. Legal opinions of the Office of Legal Affairs of the United Nations

1. Resumed participation of Indonesia in the activities of the United Nations

Aide-mémoire to the Secretary-General

Introduction

1. By telegram of 19 September 1966, the Ambassador of Indonesia to the United States of America transmitted the following message to the Secretary-General:

> "With reference to the letter of 20 January 1965 from the First Deputy Prime Minister and Minister for Foreign Affairs of Indonesia and to your letter of 26 February 1965 in answer thereto, I hereby have the honour upon instruction of my Government to inform you that my Government has decided to resume full co-operation with the United Nations and to resume participation in its activities starting with the twenty-first session of the General Assembly. A delegation headed by the Foreign Minister will arrive to attend the Assembly."

Upon receipt of this telegram, the Secretary-General circulated it to the Security Council (S/7498) and to the General Assembly (A/6419).

2. The previous history of this matter, and some of the practical issues arising from the foregoing telegram are briefly set out in the present aide-mémoire.

Previous history of the matter

3. By letter of 20 January 1965, the First Deputy Prime Minister and Minister for Foreign Affairs of Indonesia confirmed information orally given the Secretary-General on 31 December 1964 that "Indonesia has decided at this stage and under present circumstances to withdraw from the United Nations." The principal reason advanced for this decision related to the seating of Malaysia as a member of the Security Council for the year 1966. The letter also stated, in answer to an earlier appeal by the Secretary-General not to adopt this course of action, that "Indonesia still upholds the lofty principles of international co-operation as enshrined in the United Nations Charter." Finally, it was requested that the Secretary-General make arrangements for the Indonesian Mission in New York to "maintain its official status" until 1 March 1965.

4. Upon receipt of the foregoing letter, the Secretary-General circulated it to the Security Council (S/6157) and to the General Assembly (A/5857), these being the two bodies concerned with membership questions, and transmitted it directly to all Governments of Member States, as the Governments of the States Parties to the Charter. He also held private consultations with Members of the Organization (i.e. members of the Security Council and heads of regional groups). Neither the Security Council, nor the General Assembly, took any formal action on the Indonesian letter.

5. In the course of the Secretary-General's consultations just mentioned, he distributed an informal aide-mémoire, dated 29 January 1965, concerning the letter he had received from Indonesia. That aide-mémoire noted, *inter alia*, that the letter "gives rise to a situation for which there is no precedent in the history of the Organization and for which no express provision is made in the Charter." It concluded with certain comments on "some practical effects of the letter of 20 January 1965". It was suggested that, after consultations with Member States, the Secretary-General would give instructions "for the necessary administrative actions (such as the removal of the Indonesian flag, name-plate, etc.) to be taken at the relevant time".

6. After the consultations with Member States mentioned in paragraph 4 above, the Secretary-General, on 26 February 1965, replied to the letter of 20 January 1965 from the Indonesian Foreign Minister. This reply (S/6202-A/5899) recorded the steps taken by the Secretary-General in paragraph 4 above, and continued:

> "Your statement that 'Indonesia has decided at this stage and under present circumstances to withdraw from the United Nations' and your assurance that 'Indonesia still upholds the lofty principles of international co-operation as enshrined in the United Nations Charter' have been noted.
>
> "As you requested, arrangements have been made for the Indonesian Mission in New York to 'maintain its official status' until 1 March 1965.
>
> "In conclusion, I wish to express the profound regret which is widely felt in the United Nations that Indonesia has found it necessary to adopt the course of action outlined in your letter and the earnest hope that in due time it will resume full co-operation with the United Nations."

7. On 1 March 1965, pursuant to the Secretary-General's instructions, the necessary "administrative actions" were taken by the Secretariat to remove the Indonesian name-plate, flag, etc. Thereafter, Indonesia ceased to be listed as a Member of the Organization, or of United Nations principal and subsidiary organs of which it had been a member solely by virtue of its membership in the United Nations itself. Furthermore, the name of Indonesia does not appear in resolution 2118 (XX) of 21 December 1965, whereby the Assembly fixed the scale of assessments of Member States for the financial years 1965, 1966 and 1967 (nor is it assessed in the same resolution as a non-member for the expenses of certain organs in which non-members participate).

Some practical effects of the telegram of 19 September 1966

8. From the telegram set out in paragraph 1 of this aide-mémoire, which refers to the decision of the Government of Indonesia "to resume full co-operation with the United Nations", it would appear that that Government considers that its recent absence from the Organization was based not upon a withdrawal from the United Nations but upon a cessation of co-operation. The action taken by the United Nations in the past on this matter would not appear to preclude this view. After it has been ascertained whether this is the general view of the membership, the Secretary-General would give instructions for the necessary administrative actions to be taken for Indonesia to participate once again in the proceedings of the Organization. It may be assumed that, from the time that Indonesia resumes participation, it will meet in full its budgetary obligations. For the period of non-participation, if it is the general view that the bond of membership continued, it would be the intention of the Secretary-General to negotiate a requisite payment with the representatives of Indonesia.

22 September 1966

2. EXEMPTION OF THE UNITED NATIONS FROM CENTRAL EXCISE DUTY ON GASOLINE PURCHASED FOR OFFICIAL VEHICLES OF THE UNITED NATIONS DEVELOPMENT PROGRAMME—SECTIONS 7 (*a*) AND 8 OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS[1]

Memorandum to the Acting Director of the Bureau of Administrative Management and Budget, United Nations Development Programme

1. You have referred to us the question whether the Resident Representative of the United Nations Development Programme in a Member State may claim a refund of "central excise duty" paid by his office on the purchases of gasoline for official vehicles. We note that the Ministry of External Affairs of the Government concerned has declined to recognize the exemption of the United Nations from the said excise duty and has referred to section 8 of the Convention on the Privileges and Immunities of the United Nations as the basis for its position.

2. From the correspondence attached to your memorandum it is not clear to us whether the "central excise duty" paid by the Office of the Resident Representative on the purchase of gasoline for its official vehicles formed part of the price of the gasoline or whether the said duty figured as a separate item on the invoice. Only if the duty in fact formed part of the price of the gasoline could section 8 of the Convention be applicable. The said section reads as follows:

> "*Section 8.* While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax."

3. Should it be the case that the central excise duty in question in fact formed part of the price paid, the Resident Representative may, on the basis of the latter part of the above-quoted section 8 of the Convention, request the Government to "make appropriate administrative arrangements for the remission or return of the amount of duty". He may do so in view of the fact that purchase by his office of gasoline for official use was on a recurring basis and amounted to a sizeable sum per month on the average. Both the recurring nature of the purchases and the amount of the duty involved render the purchases of gasoline "important" in the sense of the section 8 of the Convention. We have consistently taken this position vis-à-vis various Governments in similar cases and these Governments, for instance Canada and the United Kingdom, have taken appropriate measures for the exemption or refund of similar taxes.

4. Should it be found that the "central excise duty" paid by the Office of the Resident Representative in fact figured as separate items on the invoices, it would be a "direct tax" on the UNDP within the meaning of section 7 (*a*) of the Convention. Under the said section 7, "the United Nations ... shall be: (*a*) exempt from all direct taxes...".

5. In view of the foregoing, we are of the opinion that the Resident Representative may further pursue the matter with the Government with a view to securing a refund of the amounts of "central excise duty" paid by his office on the purchases of gasoline for vehicles of his office. He may further request an exemption, or appropriate arrangements for the remission or return, of the duty in respect of future purchases. Should his efforts be unsuccessful, we shall be glad to render further assistance.

6 October 1966

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[1] United Nations, *Treaty Series*, vol. 1, p. 15.

3. Question whether telegrams sent by a United Nations Information Centre are entitled to press rates or other favourable treatment—Section 9 of the Convention on the Privileges and Immunities of the United Nations[2]

Memorandum to the Chief of the Field Operations Service, Office of General Services

1. According to your memorandum of 6 October 1966, the Director of a United Nations Information Centre in a Member State states that he intends to approach the authorities "with a request to grant press rates to OMNIPRESS cables emanating from this office". Before doing so, he wishes to have advice as to whether there exists some legal background to such a request.

2. It is our understanding that cablegrams to and from United Nations Information Centres are, by their content, differentiated into various classes. One of these is what is known as "press telegrams" which, under international regulations, are confined to "telegrams, the text of which is made up of information and news for publication in newspapers and other periodical publications or for radio sound or television broadcasting." In contemplating making a request to the authorities for press rate, the Director of the Information Centre apparently has in mind only such press telegrams and not others.

3. If our understanding is correct, we are of the opinion that the Director of the Information Centre would be well-advised to ask the Government to grant the press rate for press telegrams that his centre may send. In so doing, he will find support in the Convention on the Privileges and Immunities of the United Nations, to which the Government is a party. Section 9 of the said Convention provides, in part, that "the United Nations shall enjoy in the territory of each Member ... press rates for information to the press and radio". You may wish to so advise the Director, and we shall appreciate being informed of developments.

4. With regard to telegrams from the Information Centre which are not in the nature of press telegrams, we might add that under section 9 of the above Convention the Information Centre should enjoy "treatment not less favourable than that accorded by the Government ... to any other Government including its diplomatic mission in the matter of ... rates and taxes ...".

1 December 1966

4. Patent practice and policy of the United Nations

Memorandum to the Bureau of Operations and Programming. United Nations Development Programme

1. The practice of the United Nations with respect to work financed by it which is susceptible to patent or copyright is to retain for itself the proprietary rights in the work, including the right to take out any copyright or patent in such work. Provisions reflecting this practice may be found in Staff Rules 112.7 and 212.6, in United Nations special service agreements, and in other agreements entered into by the United Nations with contractors, including agreements relating to a project in which the United Nations is Executing Agency for the UNDP (Special Fund).

2. The foregoing practice is a manifestation of a general policy aimed at the widest possible dissemination and use of work performed under the auspices of or financed by the Organization and is thus directed not so much towards acquiring a source of revenue in the

[2] United Nations, *Treaty Series*, vol. 1, p. 15.

form of royalties from the use of patent rights but to ensuring the general availability of techniques developed by the Organization or under its aegis. In retaining the rights in question, the Organization prevents any single individual or entity from taking out a patent or copyright over a work and from acquiring exclusive rights to control its exploitation and use. The Organization itself does not normally take out patents or copyrights. It achieves its purposes by publication or disclosure of the work, which has the effect of yielding it into the public domain.

3. It has of course been recognized that cases may arise in which it is necessary or appropriate to grant to an outside entity or person the right to take out a patent or a copyright on work performed under the auspices of the United Nations, such as when the provision of a financial incentive to others is required to encourage the development or exploitation of a work.

4. The foregoing practice and policy would seem to be as valid for the UNDP as for the United Nations, if not more so.

5. In this connexion, it may be noted that patent rights are assets in the same way as other intangible assets and thus constitute property from the point of view of both the Organization and the Special Fund. There is no provision in the Financial Regulations of the Special Fund which relates specifically to such assets, but the Financial Rules of the United Nations contain provisions dealing with the disposal of property in general, e.g., United Nations Financial Rules 110.32(*c*) and 110.33(*a*)(ii). The Financial Regulations of the Special Fund stipulate (Article 22.2, SF/2/Rev.1) that the appropriate provisions of the United Nations Rules should apply in regard to any matter not specifically governed by the Special Fund Regulations.

19 September 1966

5. PROTECTION OF THE EMBLEM OF THE UNITED NATIONS DEVELOPMENT PROGRAMME—ARTICLE 6 *ter* OF THE CONVENTION OF PARIS FOR THE PROTECTION OF INDUSTRIAL PROPERTY AS REVISED AT LISBON ON 31 DECEMBER 1958—QUESTION WHETHER THE EMBLEM SHOULD, OR COULD, BE REGISTERED AS A TRADEMARK

Memorandum to the Assistant to the Administrator, United Nations Development Programme

1. The Convention of Paris for the Protection of Industrial Property as revised in Lisbon on 31 October 1958 contains specific measures of protection for "armorial bearings, flags and other emblems, abbreviations and titles of international inter-governmental organizations". Under article 6 *ter* of the revised Convention, the countries of the Union have agreed to "refuse or to invalidate the registration and to prohibit by appropriate measures the use, without authorization by the competent authorities, either as trademarks or as elements of trademarks", of emblems of inter-governmental organizations. These provisions would be applicable, in our opinion, to the UNDP emblem, even if it is used only as a decorative device and together with the United Nations emblem.

2. In order that this protection of the UNDP emblem should be effective under the Convention, it is necessary that the countries of the Union should be formally notified of the existence of the emblem through the International Bureau of the Union, which is located in Geneva. As soon as the UNDP symbol is formally approved a suitable communication should therefore be addressed to the International Bureau. We shall be glad to assist you in formulating it.

3. In the light of the foregoing, it is doubtful whether it is necessary or even appropriate to seek trademark registration in the United States. It is indeed questionable whether

emblems pertaining to United Nations activities are suitable for trademark registration. In this connexion, you may note that a "Model Law on Trademarks and Trade Names and Unfair Competition" adopted by the Council of the International Chamber of Commerce in November 1959 specifically states in its article 3 that "Armorial bearings, flags and other emblems, abbreviations or titles of international inter-governmental organizations" shall not be deemed trademarks and cannot be validly registered.

23 March 1966

6. Status of a draft resolution submitted at a previous session of the General Assembly

Memorandum to the Secretary of the Economic and Social Council

1. Concerning the status of draft resolutions submitted at a previous session of the General Assembly and relating to an agenda item which had been postponed from that previous session to the succeeding one, we have reviewed recent practice of the main committees of the General Assembly. We have not, however, been able to find a definitive decision on the point in question.

2. In the cases examined, draft resolutions have normally been resubmitted in slightly altered form at the later session of the Assembly. When so resubmitted they have been issued under a new symbol number and not as a revision of the previous document. The following examples may be noted:

(i) At its fifteenth session the General Assembly included on its agenda the item "Question of Oman" (agenda item 89). During the consideration of the item in the Special Political Committee the representatives of Afghanistan, Guinea, Indonesia, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Tunisia, the United Arab Republic, Yemen and Yugoslavia submitted a draft resolution (A/SPC/L.67). No action was taken on this draft resolution and the Committee decided to recommend to the General Assembly that further consideration of the item be deferred until its sixteenth session. At its 995th plenary meeting, on 21 April 1961, the Assembly took note of the report of the Committee.

In accordance with the General Assembly's decision of 21 April 1961, the item entitled "Question of Oman" was included in the agenda of the sixteenth session of the Assembly (agenda item 23). A group of States composed of the sponsors of the draft resolution in document A/SPC/L.67 and of Syria submitted a draft resolution (A/SPC/L.78) similar (but not identical) in substance with that in document A/SPC/L.67. This draft resolution was adopted by the Special Political Committee. However, the General Assembly failed to adopt it.

(ii) At its fifteenth session, the General Assembly included in the agenda the item entitled "The Korean question: report of the United Nations Commission for the Unification and Rehabilitation of Korea" (agenda item 21). During the consideration of this item in the First Committee the representatives of Australia, Belgium, Colombia, France, Greece, Luxembourg, the Netherlands, the Philippines, Thailand, Turkey, South Africa, the United Kingdom and the United States submitted a draft resolution (A/C.1/L.269). No action was taken on this draft resolution, and the Committee decided to recommend to the General Assembly that consideration of the item should be adjourned until the sixteenth session.

At the sixteenth session of the Assembly, where the Korean question was discussed (agenda item 20), the representatives of the States which have sponsored the draft resolution in document A/C.1/L.269 and of Canada and New Zealand submitted a draft resolution (A/C.1/L.305) resembling in many aspects the draft in document

A/C.1/L.269. The fifteen-power draft resolution was adopted by the Committee and by the General Assembly at its 1087th meeting, on 20 December 1961.

(iii) At the request of Honduras (A/5022) the General Assembly included in the agenda of its sixteenth session the item entitled "Organization of peace" (agenda item 96). An explanatory memorandum on the question submitted by Honduras contained a draft resolution. The question was not discussed at the sixteenth session. At its 1083rd plenary meeting, on 19 December 1961, the General Assembly decided to include this item in the agenda of the sixteenth session but to place it on the provisional agenda of the seventeenth session.

The item "Organization of peace" was included in the agenda of the Assembly's seventeenth session (agenda item 23). Honduras submitted a draft resolution (A/L.403) which repeated verbatim the provisions of the draft resolution in document A/5022 with the only exception that a committee to be established by the General Assembly was to submit its report to the eighteenth session of the General Assembly while, according to the previous text, this report was to be submitted to the Assembly's seventeenth session.

The General Assembly decided, at the request of Honduras, to postpone until its eighteenth session the consideration of the item. However the item was not included in the agenda of the eighteenth session.

3. A special case which may be noted concerns the draft declaration on the right of asylum, consideration of which was begun in the Third Committee at the seventeenth session of the General Assembly in 1962. The Assembly did not complete its work on this item at its seventeenth session and successively postponed it to the eighteenth, nineteenth and twentieth sessions, at which latter session it was allotted to the Sixth Committee.

4. During the seventeenth session several amendments to the draft declaration were proposed in the Third Committee and issued as documents at that Committee. These were listed in notes by the Secretary-General at subsequent sessions (see A/5461, para. 3 (18th session) and A/5926, para. 4 (20th session)).

5. The Sixth Committee, to which the item was referred at the twentieth session, established a Working Group to examine procedural questions arising in connexion with this item. One of these procedural items was "whether the amendments to the draft declaration submitted to the Third Committee are to be considered as still subsisting, or whether they should be resubmitted". The report of the Working Group (A/C.6/L.581) contains the following conclusion:

> "12. In discussing the above question, attention was drawn to the fact that the amendments previously submitted took the form of Third Committee documents. It was agreed that the Secretary-General should consult with the sponsors of amendments previously submitted and ascertain whether they wished those amendments to be presented, with or without modification, to the Sixth Committee. In all cases where the sponsors indicated that they maintained their amendments, they would be issued as Sixth Committee documents."

6. The foregoing conclusion was incorporated in the report of the Sixth Committee (A/6163, para. 13).

7. While no records of the discussion in the Working Group have been published, it is understood that the members chose a pragmatic solution to the particular problem before them and specifically avoided any decision of principle on the question whether the amendments were still subsisting. It seems preferable to continue to deal with issues of this kind on a practical basis by ascertaining, to the extent that this is possible, the wish of the sponsors. There is no rule of procedure dealing specifically with this issue. Likewise, United Nations practice does not furnish a basis for a definitive conclusion, nor does parliamentary practice appear to provide a consistent or appropriate analogy.

8. If, however, it becomes necessary to formulate an opinion, the following is suggested as a basis for decision.

9. The provisional agenda of a regular session under rule 13 (*c*) of the rules of procedure of the General Assembly will include "all items the inclusion of which has been ordered by the General Assembly at a previous session." However, the provisional agenda, under rules 21 and 22, must be submitted to the General Assembly for approval and items may be amended or deleted by the Assembly by a majority vote of the members present and voting. As the carry-over of an agenda item from one session to the next is not automatic but must be approved at the latter session, it may be argued that the presumption should be against a draft resolution submitted at one session automatically carrying over to the next.

10. It would, therefore, appear that generally a draft resolution submitted at one session will not be before the subsequent session unless (1) it is resubmitted, (2) there is an express desire on the part of the sponsors to maintain it, or (3) the General Assembly in recommending postponement and/or in placing the item on the agenda has expressly transmitted all documents relating thereto. This conclusion seems to be borne out by the recent consideration of the item on permanent sovereignty over natural resources in the Second Committee. Under this item a draft resolution submitted by Ceylon and Ecuador (A/C.2/L.806/Rev.1) at the previous session was not taken up at the current session although the co-sponsors had not expressly withdrawn it.

11. There are, however, special cases such as the draft International Covenants on Human Rights and similar texts before the Third Committee in which these texts and related proposals of governments have continued before successive sessions of the General Assembly. (see document A/6342, particularly paragraph 2.)

14 November 1966

7. Explanation of vote by the proposer of a proposal or of an amendment—Rule 90 of the rules of procedure of the General Assembly

Memorandum to the Executive Office of the Secretary-General

1. In regard to the question which was put to us this morning, the attention of the President of the General Assembly should be drawn to the unequivocal provision of rule 90 of the rules of procedure that he "shall not permit the proposer of a proposal or of an amendment to explain his vote on his own proposal or amendment". This rule, however, does not bar the intervention of (*a*) a "proposer of a proposal" to explain his vote on an amendment before or after the amendment has been adopted or rejected by the Assembly or (*b*) a "proposer of an amendment" to explain his vote on the proposal before or after the proposal has been adopted or rejected by the Assembly. The term "proposer" must be deemed to cover "co-sponsor" of a proposal. There is, of course, nothing to prevent a "proposer of a proposal or of an amendment" to intervene in exercise of his right of reply or for the purpose of raising a point of order in accordance with the Assembly's rules of procedure.

2. On one occasion, a co-sponsor of a draft resolution was permitted to explain the vote of his delegation after the resolution had been adopted by the Assembly (see A/PV. 1405, paras. 247-253). On another occasion, a co-sponsor of a draft resolution was given the floor to make a statement after the adoption of the resolution (see A/PV.1356, paras. 64-68). Other similar cases might have existed. From a legal point of view, a practice which is clearly contrary to the provisions of a rule of procedure cannot negate the rule itself. But we feel that the President should be informed of the existence of those cases together with the legal position set forth herein. Should the question of the application of rule 90 be raised from the floor when a proposer or co-sponsor has asked to explain his vote, the

President would have no choice but to apply the rule by refusing the floor to the proposer or co-sponsor.

19 October 1966

8. SUSPENSION OR ADJOURNMENT OF THE MEETING—WITHDRAWAL AND RE-INTRODUCTION OF PROPOSALS—INTRODUCTION OF AN AMENDMENT AFTER THE CLOSURE OF DEBATE—RULES 119 AND 121 OF THE RULES OF PROCEDURE OF THE GENERAL ASSEMBLY

Note to the Chairman of the Third Committee of the General Assembly

1. In connexion with the various questions raised in the Third Committee, we would like to submit the observations set out below.

Suspension or adjournment of the meeting

2. Rule 119 of the rules of procedure of the General Assembly provides as follows:

"During the discussion *of any matter*, a representative may move the suspension or the adjournment of the meeting. *Such motions shall not be debated, but shall be immediately put to the vote.* The Chairman may limit the time to be allowed to the speaker moving the suspension or the adjournment of the meeting." (Italics added.)

The wording of the foregoing rule makes it clear that adjournment may be proposed at any juncture of the discussion, and that a motion for adjournment has absolute priority over all other matters before a committee, as it is to be put immediately to the vote, without debate.

Withdrawal and re-introduction of proposals

3. When a proposal has been withdrawn, or not pressed to a vote, there is nothing in the rules of procedure to prevent the author from re-introducing it or raising it again at a later date either in its original or in an amended form if the time-limit for the submission of proposals has not lapsed. On some occasions in the past, even when the time-limit has lapsed, a proposal has in fact been entertained when no objection to its submission was raised. In the present case, since there was no objection at the time the proposal was submitted and since the Committee proceeded with its discussion, there is no reason why the Chairman should not put it to the vote.

Introduction of an amendment after closure of debate

4. Rule 121 of the rules of procedure provides as follows:

Rule 121

"Proposals and amendments shall normally be introduced in writing and handed to the Secretary-General, who shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the committee unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day."

This rule vests in the Chairman a discretion to permit the consideration of oral amendments subject to any prior decisions of the Committee regarding the time-limit for the submission of proposals or amendments. However, even if the time-limit has passed and debate has closed, committees have entertained amendments the purpose of which is to solve a procedural difficulty facing the committee. In the light of such a practice, a chairman is not necessarily required to rule such an amendment out of order.

9 December 1966

9. RESPONSIBILITIES OF A CHAIRMAN OF A COMMITTEE OF THE GENERAL ASSEMBLY WITH RESPECT TO THE CIRCULATION OF COMMUNICATIONS FROM NON-MEMBERS—RULE 108 OF THE RULES OF PROCEDURE OF THE GENERAL ASSEMBLY

Memorandum to the Secretary of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa

1. You have asked for our views on the responsibilities of a chairman of a subsidiary organ of the General Assembly with respect to communications addressed to the chairman by non-members and requesting that their contents be circulated or brought to the attention of the members of the subsidiary organ concerned. It is our understanding that the communications involved are ones not specifically requested from a non-member by the relevant subsidiary organ. You have also asked for some information with respect to the means usually adopted in handling such communications, particularly when they emanate from areas or authorities the status of which is unclear.

2. Pursuant to rule 162 of the rules of procedure of the General Assembly, the procedures of committees of the Assembly normally apply to the procedure of subsidiary organs. It is our understanding that this is the situation in the case in question.

3. Unlike the rules of procedure of certain other principal organs, the General Assembly's rules do not lay down any specific procedures for handling communications addressed to the Assembly, or its presiding officers. Nor do rules 108 and 109, concerning the functions of a chairman of a committee of the Assembly, invest him with any specific responsibility with respect to communications addressed to him by non-members and dealing with some topic with which the committee over which he presides is seized. However, rule 108 invests the chairman with broad powers, including the power to "put questions" and, subject to the rules, to exercise "complete control of the proceedings of the committee...". Rule 109 provides that "the Chairman, in the exercise of his functions, remains under the authority of the committee."

4. Taking account of the broad powers vested in the chairman by rule 108, it would appear that a chairman is not precluded and, indeed, may deem it his responsibility to consult with the members of his committee with respect to the manner in which a communication received from a non-member, and requesting transmission to the committee, should be handled. In so doing, under rule 109, the chairman is "under the authority of the committee", the decision of which is final.

5. As regards past practice with respect to communications from non-members, it would appear that, for the past several years, no communications received from non-members and addressed to the President, on subjects on which comments were not specifically requested from such non-members, have been circulated to the plenary meetings of the Assembly in the full "A" series. A number of such communications have, at the request of a Member State, been circulated under cover of a *note verbale*. On a very few occasions a number have also been circulated to main committees of the Assembly, as committee documents, when the non-member concerned has a direct and immediate interest in the agenda item concerned (i.e. the Republic of Korea and the Democratic People's Republic of Korea with respect to the Korean question).

6. The practice of subsidiary organs of the Assembly in respect of communications of the nature here involved does not appear to have been entirely uniform. In one subsidiary organ two such communications have been informally circulated without document symbol. Considerations of time have not permitted any detailed enquiry into the practices of other subsidiary organs. However, no examples in the last few years have been brought to our attention where a communication of the nature here envisaged has been circulated in document form without a specific written request from a Member State.

7. Some variation from the General Assembly practice of circulation under cover of a *note verbale*, as described in paragraph 5 above, appears to exist in the practice of certain other principal organs, such as the Economic and Social Council and the Security Council. In the Economic and Social Council, for example, a few communications of the nature here envisaged have, provided this is requested by a Member State, been circulated as an annex to the letter from the Member State concerned. A similar example also exists in the recent practice of the Security Council.

2 August 1966

10. ELIGIBILITY OF WESTERN SAMOA TO PARTICIPATE IN THE JOINT UNITED NATIONS/FAO WORLD FOOD PROGRAMME

Letter to the Legal Counsel of the Food and Agriculture Organization of the United Nations

1. This is in response to your letter of 18 February 1966 concerning the eligibility of Western Samoa to participate in the Joint United Nations/FAO World Food Programme.

2. With respect to your inquiry as to the basis for its participation in the Special Fund, Western Samoa became a member of the WHO on 16 May 1962. Accordingly, it meets the requirement in General Assembly resolution 1240 (XIII) of membership in the United Nations or one of the specialized agencies or the International Atomic Energy Agency and is eligible to participate in the Special Fund. The Agreement between the Special Fund and the Government of Western Samoa signed on 5 June 1963 reflects this eligibility.

3. Although it is true, as you say, that Western Samoa is a member of ECAFE, the United Nations Secretariat has in the past hesitated to determine on its own responsibility that membership in a regional economic commission satisfies the requirement of membership in the United Nations for purposes of determining eligibility to participate in United Nations assistance programmes, such as the regular programme of technical assistance under General Assembly resolution 200 (III). What the Secretariat did in the case of the regular programme was to bring to the attention of the Technical Assistance Committee the general question of the participation of non-member States which were formerly Trust Territories and were members of a regional economic commission.[3] Thus the Commissioner for Technical Assistance informed the Technical Assistance Committee in June 1963 (E/TAC/L.302, p. 10) that the Secretariat would with the agreement of the Committee consider such States eligible to receive assistance under resolution 200 (III). The report of the Technical Assistance Committee on this point reads as follows:

> "With respect to the operation of the programme, the Commissioner drew attention to the fact that certain countries had not been considered eligible for technical assistance under General Assembly resolution 200 (III) although other resolutions did not exclude them. These were States which were former trust territories and which were members of regional economic commissions but not members of the United Nations. The Commissioner proposed, particularly in the light of resolution 1527 (XV) of the General Assembly and resolution 231 of the Economic Commission for Asia and the Far East, that the Secretary-General should make the interpretation that such States were eligible to receive assistance under resolution 200 (III). In commenting upon this proposal a number of members of the Committee agreed that the interpretation suggested by the Commissioner should be made." (E/3783, para. 49).

The same solution could be utilized in the case of the World Food Programme and the question brought to the United Nations/FAO Inter-Governmental Committee.

4 March 1966

[3] See *Juridical Yearbook*, 1963, pp. 172-174.

11. Participation by Puerto Rico in ECLA seminars and conferences

Memorandum to the Chief of the Regional Commissions Section, Department of Economic and Social Affairs

1. The letters transmitted to us on the subject of Puerto Rican participation in ECLA conferences and seminars seem to us to raise the following questions:

(i) Whether Puerto Rico's participation in ECLA conferences and seminars is permissible;

(ii) If such participation is not permissible, whether there are ways in which Puerto Ricans might participate in ECLA conferences and seminars;

(iii) Whether it would be appropriate for the ECLA Secretariat to regularly keep the Government of Puerto Rico advised as to ECLA's activities, in particular, as to conferences and seminars being organized by ECLA.

2. The Commission's terms of reference do not, as you know, contain provisions which could be regarded as entitling Puerto Rico to participate in the Commission's sessions, or in meetings of its committees or sub-committees, or in conferences or seminars convened by the Commission; nor do the Commission's terms of reference contain provisions which could be regarded as empowering the Commission to invite such participation. The Economic and Social Council has not specifically authorized such participation or specifically empowered the Commission to do so. In these circumstances it would not, in our opinion, be permissible for Puerto Rico to participate in ECLA conferences and seminars, in the absence of specific authorization by the Economic and Social Council. We should, in this connexion, draw attention also to the rules adopted by the General Assembly, in resolution 366 (IV), for the calling of international conferences by the Economic and Social Council. The rules do provide, in rule 4, for "a territory which is self-governing in the fields covered by the terms of reference of the conference but which is not responsible for the conduct of its foreign relations" being invited to participate, but the rule requires, as conditions precedent to such an invitation, the approval of the State responsible for the conduct of the territory's foreign relations and a decision by the Economic and Social Council in favour of such participation.

3. Notwithstanding Puerto Rico's inability to participate in ECLA conferences and seminars, it would of course be possible for the Government of the United States (which is a member of ECLA and the authority responsible for Puerto Rico's international relations) to include Puerto Ricans in its own delegation to conferences and seminars of interest to Puerto Rico, or, in cases where such conferences or seminars involved the participation of experts, to designate experts from Puerto Rico. This, however, is a matter entirely within the discretion of the United States Government.

4. We are doubtful as to whether it would be appropriate for ECLA to keep the Government of Puerto Rico regularly advised on ECLA's activities. Puerto Rico is not a member or an associate member of ECLA, and for the Secretariat to keep Puerto Rico so informed would create a precedent which may give rise to difficulties in the future. It would seem to us that the appropriate source from which the Government of Puerto Rico should obtain such information is the Government of the United States which, as a member of ECLA, is regularly kept advised by the Secretariat as to ECLA's activities and programmes.

1 June 1966

12. ADDITIONAL PLEDGE BY THE NETHERLANDS GOVERNMENT TO THE UNITED NATIONS DEVELOPMENT PROGRAMME FOR PURPOSES OF INDUSTRIAL DEVELOPMENT—QUESTION OF THE ESTABLISHMENT OF A TRUST FUND BY THE ADMINISTRATOR OF THE UNITED NATIONS DEVELOPMENT PROGRAMME—QUESTION OF THE ESTABLISHMENT OF A TRUST FUND BY THE SECRETARY-GENERAL

Memorandum to the Director of the Division of Financial Management and Administrative Policy, United Nations Development Programme

1. This refers to your memorandum of 20 December 1965, and subsequent consultations, requesting our views on some questions arising from the Netherlands Government's offer of an additional contribution to the UNDP in the field of industrial development.

2. In the course of the discussion in the Second Committee of the General Assembly on agenda item 40 (activities in the field of industrial development) the Netherlands representative made the following statement on 6 November 1965:

> "... [The Netherlands] Government had decided to make, before the end of 1965, an additional contribution to the United Nations Development Programme amounting to 3 million guilders. Conforming to paragraph 15 of the Secretary-General's report (A/6070/Rev.1), that sum would be earmarked for special industrial services. The additional contribution would be given on the understanding that it should indeed be supplementary—not a substitute of what the United Nations Development Programme would in any case spend on activities in the field of industrial development." (A/C.2/SR.1004, para. 28.)

3. We understand that some other governments intend to make contributions for the purpose of industrial development on terms similar to those indicated by the Netherlands Government.

4. In your memorandum it is stated that, in view of the conditions attached to it, the Netherlands' offer could not be accepted as a contribution to "the resources" of either the Special Fund or the Expanded Programme of Technical Assistance. In order to overcome the difficulty you have suggested that a trust fund be established by the Administrator of the UNDP for the purpose of administering the funds donated by the Netherlands Government on the terms and conditions specified by the Netherlands representative at the Second Committee.

5. The first question to be considered is whether, under the applicable resolutions and rules, the Administrator of the UNDP would have the authority to establish a trust fund for the above-mentioned purpose.

6. General Assembly resolution 2029 (XX) establishing the UNDP provides in paragraph 2 that the principles, procedures and provisions governing the Expanded Programme of Technical Assistance and the Special Fund not inconsistent with the resolution shall continue to apply to the relevant activities of the UNDP. In particular, paragraph 1 provides that "the special characteristics and operations of the two programmes, as well as two separate funds, will be maintained and that, as hitherto, contributions may be pledged to the two programmes separately". Accordingly, the basic resolutions governing the Special Fund and the Expanded Programme of Technical Assistance are applicable to the extent that they are compatible with resolution 2029 (XX), and in particular the financial regulations of the Special Fund and of the Expanded Programme of Technical Assistance apply to the functions and the administration of the UNDP.

7. Article 4.1 of the Financial Regulations of the Special Fund (SF/2/Rev.1) reads:

> "There shall be established a Special Fund Account to which shall be credited all voluntary contributions, counterpart contributions in cash provided under gross project budgets, payments towards local operating costs, donations and miscellaneous income for the Special Fund and against which all payments on behalf of the Special Fund shall be charged."

Article 2.4 of the Financial Regulations of the Expanded Programme of Technical Assistance (TAB/CM/1170) reads:

> "All contributions of countries whether in cash, services or materials shall be credited to the Special Account."

8. Neither the Financial Regulations of the Special Fund nor those of the Expanded Programme of Technical Assistance contain any provision for the establishment of trust funds or for the payment of contributions into any account other than the Special Fund Account or the Special Account of the Expanded Programme of Technical Assistance. Accordingly, the Administrator would not seem to be vested with the formal authority to establish a trust fund for the purpose of administering additional voluntary contributions from the Netherlands and other governments for industrial development.

9. While it would not be legally permissible to accept the Netherlands contribution as a contribution to the UNDP to be credited to a trust fund set up by the Administrator, it may be considered whether this and other similar contributions could be accepted by the Secretary-General for purposes and under conditions such as those indicated by the Netherlands representative.

10. Regulation 7.2 of the Financial Regulations of the United Nations provides that

> "Voluntary contributions, whether or not in cash, may be accepted by the Secretary-General provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Organization...".

11. Contributions for the purpose of industrial development would clearly meet the requirements of Financial Regulation 7.2. In this connexion, it may be recalled that the Economic and Social Council, in paragraph 6 of its resolution 1030A (XXXVII), specifically requested the Secretary-General

> "... to draw the attention of Governments of States Members of the United Nations or members of the specialized agencies to his authority to receive voluntary contributions for special purposes in accordance with sections 7.2 and 7.3 of the United Nations Financial Regulations, and to inform them that such voluntary contributions may be made for activities in the field of industrial development, including joint or participation projects."

12. Under Regulation 7.3 of the Financial Regulations of the United Nations,

> "Moneys accepted for purposes specified by the donor shall be treated as trust funds or special accounts under Regulations 6.6 and 6.7."

13. The Regulations governing trust funds established by the Secretary-General for the purposes specified by the donor are as follows:

> "*Regulation 6.6.* Trust funds, reserve and special accounts may be established by the Secretary-General and shall be reported to the Advisory Committee.
>
> "*Regulation 6.7.* The purpose and limits of each trust fund, reserve and special account shall be clearly defined by the appropriate authority. Unless otherwise provided by the General Assembly, such funds and accounts shall be administered in accordance with the present Regulations."

14. It follows from the foregoing provisions that it would be permissible for the Secretary-General to accept voluntary contributions from the Netherlands and other governments for purposes of industrial development; that such contributions could be credited to a trust fund; and that the Secretary-General, being the "appropriate authority" under Financial Regulation 6.7, could define the purpose and limits of the trust fund in accordance with the terms specified by the donors provided, of course, that such terms are consistent with the policies, aims and activities of the Organization.

15. In his statement in the Second Committee the Netherlands representative said that the special industrial services financed from his Government's additional contribution

should be rendered on the basis of a co-operative effort of UNDP and—as long as UNIDO does not yet exist—the Centre for Industrial Development. He also said that the contribution would be given on the understanding that it would be supplementary to the UNDP activities in the field of industrial development.

16. In order to comply substantially with these and similar conditions laid down by other prospective donors, and at the same time to make it possible to commence industrial development projects financed from these contributions without delay, it is suggested that the Secretary-General should establish a trust fund to be administered in accordance with the following purposes, limits and conditions:

(i) The Secretary-General will establish a trust fund under United Nations Financial Regulations 6.6 and 6.7 for the purpose of receiving voluntary contributions from States Members of the United Nations or members of the specialized agencies for expanded activities in the field of industrial development.

(ii) Activities to be financed from the trust fund will consist of:

(*a*) Special industrial services of the type listed in paragraph 10 of the report of the Secretary-General on organizational arrangements for industrial development and provision of additional financing on a voluntary basis for operational activities (A/6070/Rev.1); and

(*b*) Other activities in the field of industrial development additional to those carried out by the UNDP and the Centre for Industrial Development.

(iii) Disbursements from the trust fund will be authorized, for activities referred to in paragraph (ii), by the Secretary-General upon the joint recommendation of the Administrator of the UNDP and the Commissioner for Industrial Development.

(iv) The Secretary-General will issue periodic reports to the contributing governments, at least twice a year, on the activities financed from the trust fund and the financial status of the fund. Copies of such reports will also be communicated to the competent United Nations organs.

17. While the arrangement suggested in the preceding paragraphs would seem legally permissible and administratively feasible for the purpose of accepting and utilizing without delay the contributions from the Netherlands and other governments, the question arises whether this arrangement may be continued after the establishment of UNIDO.

18. Paragraph 2 of General Assembly resolution 2089 (XX) provides that the operational activities of UNIDO

"... shall be financed from voluntary contributions to it by Governments of the States Members of the United Nations and members of the specialized agencies and of the International Atomic Energy Agency, as well as through participation in the United Nations Development Programme on the same basis as other participating organizations."

19. It follows that after the establishment of UNIDO voluntary contributions by governments made directly to the Organization will be administered in accordance with the financial procedures to be prepared by the *Ad Hoc* Committee of thirty-six Member States established under paragraph 6 of General Assembly resolution 2089 (XX); in addition, UNIDO will be entitled to participate in the UNDP "on the same basis as other participating organizations".

20. The question of whether, when UNIDO comes into existence, it would still be permissible to carry out substantial activities in the field of industrial development financed from a third source, namely a trust fund established by the Secretary-General, should be re-examined in the light of any decision as may be adopted by the General Assembly with respect to United Nations assistance in the field of industrial development and in particular

with respect to the scope of responsibility of UNIDO. Accordingly, in our view, the trust fund arrangement suggested in this memorandum should be reviewed after the establishment of UNIDO, and if necessary appropriate changes may have to be agreed with the donors.

21. It is concluded:

(i) It would not be legally permissible for the Administrator of the UNDP to establish a trust fund for the purpose of administering the contributions from the Netherlands and other Governments. However, it would be permissible for the Secretary-General to accept such voluntary contributions and to credit them to a trust fund to be administered in accordance with the purposes, limits and conditions indicated in paragraph 16 (i), (ii), (iii) and (iv) above. This trust fund could then be used without delay to finance projects for industrial development.

(ii) The trust fund arrangements should be reviewed when UNIDO comes into existence in the light of any decision as may be adopted by the General Assembly with respect to United Nations assistance in the field of industrial development and in particular with respect to the scope of responsibilities and the financial administration of UNIDO. Any necessary modification of those arrangements would then be made with the concurrence of the donors.

27 January 1966

13. USE OF FUNDS FROM THE TECHNICAL ASSISTANCE COMPONENT OF THE UNITED NATIONS DEVELOPMENT PROGRAMME FOR THE PROVISION OF OPERATIONAL PERSONNEL TO GOVERNMENTS—QUESTION WHETHER THE GOVERNING COUNCIL OF THE UNITED NATIONS DEVELOPMENT PROGRAMME MAY ALLOCATE FUNDS FOR SUCH PROVISION WITHOUT FURTHER REFERENCE TO THE ECONOMIC AND SOCIAL COUNCIL AND THE GENERAL ASSEMBLY

Memorandum to the Secretary of the Governing Council of the United Nations Development Programme

1. In your memorandum of 1 June 1966, you have raised the question whether action on the part of the Economic and Social Council and the General Assembly would be necessary in order to continue the use of funds from the technical assistance component of UNDP for the provision of operational personnel to governments.

2. The question should be considered from the point of view of:

(i) the continuation of the authorization given in Economic and Social Council resolution 951 (XXXVI) and General Assembly resolution 1946 (XVIII) to use expanded programme funds to meet requests from governments for operational personnel; and

(ii) the actual allocation of funds from the technical assistance component of UNDP for the purpose of meeting specific requests presented in the usual way by governments within their duly approved country programmes.

3. The first involves a basic policy decision as to the use of technical assistance funds. The existing authorization to use such funds for operational personnel was given by the General Assembly on the recommendation of the Economic and Social Council, covers only the years 1964 to 1966, and would thus expire with the present calendar year. As noted in your memorandum, the resolutions of these two organs on this point expressly indicate that such authorization was given on an experimental basis. Moreover, the Assembly asked the Economic and Social Council to review in due course the results of this experiment and report thereon to the General Assembly at its twenty-first session, which indicates that the Assembly expected to take the final decision on the question of continuing the authorization under discussion. In the light of these considerations and of the fact that the plenary financial powers of the Organization reside in the General Assembly, action

on the part of the latter would be necessary in order to continue beyond its stated cut-off date the authorization given in the earlier resolutions. From the legal point of view, a decision by the Governing Council of UNDP to continue such authorization would require approval on the part of the Economic and Social Council and the Assembly.

4. As regards the question whether the Governing Council of UNDP may allocate funds for the provision of operational personnel without further reference to the Economic and Social Council and the General Assembly, it would be legally possible for the Governing Council to do so, provided of course that the earlier authorization for the years 1964 to 1966 is extended by the Economic and Social Council and the Assembly as indicated above either permanently or with respect to the years for which Governing Council approval is sought. As noted by you, the understanding in the Second Committee of the General Assembly, recorded in its report, was that

> "... the new Governing Council of the United Nations Development Programme would have, in respect of both the Expanded Programme and the Special Fund sectors of its activities, the same final authority to allocate funds as was previously vested in the Governing Council of the Special Fund." (A/6111, para. 23.)

While it also appears (*ibid.*) that some members of the Second Committee questioned whether such an understanding was consistent with paragraphs 1 and 2 of the draft resolution which subsequently became resolution 2029 (XX), the foregoing passage from the report of the Committee provides a legal basis to interpret the terms of reference of the Governing Council as granting it final authority on the allocation of funds for specific operational assistance projects in the same way as for other projects which qualify for financing from the technical assistance component of the UNDP under the resolutions of the Economic and Social Council and the Assembly.

5. The report (DP/TA/1/Add.1) submitted by the Administrator to the second session of the Governing Council recommends that the latter continue authorization to use funds from the technical assistance component beyond 1966 for the provision of operational personnel by the participating agencies. Since, as explained above, action on the part of the General Assembly and the Economic and Social Council would also be required, the Governing Council should, in our opinion, recommend to the Economic and Social Council that the latter in turn recommend to the General Assembly continuation of the authorization given earlier by it at its eighteenth session and perhaps make such authorization permanent. The review which the Economic and Social Council is required to undertake would provide an appropriate occasion for the adoption of such a recommendation, which could then be transmitted in the report to the General Assembly at its twenty-first session under the terms of the last paragraph of Assembly resolution 1946 (XVIII). Should the General Assembly decide to place the existing experimental authorization on a permanent basis, it would be possible thereafter for the Governing Council of the UNDP to give final approval to the allocation of funds for the provision of operational personnel to governments as part of their country programmes without further reference to the Council and the General Assembly.

3 June 1966

14. FUND FOR THE ECONOMIC DEVELOPMENT OF BASUTOLAND, BECHUANALAND AND SWAZILAND—QUESTION WHETHER CONTRIBUTIONS FROM NON-MEMBER STATES SHOULD BE INVITED—QUESTION WHETHER CONTRIBUTIONS FROM NON-GOVERNMENTAL SOURCES SHOULD BE ACCEPTED—INTERPRETATION OF PARAGRAPH 7 OF GENERAL ASSEMBLY RESOLUTION 2063 (XX) OF 16 DECEMBER 1965

Memorandum to the Director of the Department of Trusteeship and Non-Self-Governing Territories

1. This is in reply to your memorandum of 14 January 1966, in which you request our opinion on two questions relating to General Assembly resolution 2063 (XX).

2. The text of paragraph 7 of the resolution offers little direct guidance for determining what Governments it would be appropriate for the Secretary-General to approach with a view to soliciting contributions to the Fund for the Economic Development of Basutoland, Bechuanaland and Swaziland. However, the General Assembly resolution is an endorsement of the recommendation of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on a proposal of the Secretary-General contained in paragraph 19 of his report on Basutoland, Bechuanaland and Swaziland (A/5958). In his proposal the Secretary-General stated that "such a fund would be made up of voluntary contributions by Member States...". No reference here is made to any other States. However, having regard in particular to the purpose of the Fund, which is the economic development of the three Territories, and the specific reference to the co-operation of the Special Fund, the Technical Assistance Board and the specialized agencies—all of whose activities involve the participation of certain non-Member States—as well as the experience of similar United Nations activities in the past, it would not appear to us to be inconsistent with the resolution if the Secretary-General were to add to the category of potential donors member States of the specialized agencies who are not Member States of the United Nations.

3. There is nothing in the report of the Secretary-General (A/5958), the debates of the Special Committee (A/AC.109/SR.369, 372, 383-387), the debates of the Fourth Committee (A/C.4/SR.1539, 1543, 1545, 1546, 1549, 1551 and 1552), nor in General Assembly resolution 2063 (XX) which would indicate that contributions from non-governmental sources were contemplated with respect to the Fund for Economic Development. However, on the basis of regulation 7.2 of the Financial Regulations and relevant financial rules, it is possible for the Secretary-General to accept voluntary contributions from suitable non-governmental sources, if the purposes for which such contributions are made are consistent with the policies, aims and activities of the Organization. Contributions from non-governmental sources intended for the Fund for Economic Development established by resolution 2063 (XX) could therefore be accepted consistently with the above-mentioned regulation.

10 February 1966

15. Draft International Covenant on Economic, Social and Cultural Rights—Legal implications of a proposal to extend participation in the Covenant to all States

Statement made by the Legal Counsel at the 1409th meeting of the Third Committee of the General Assembly on 1 November 1966

1. The Legal Counsel, replying to [a] question asked by the Hungarian representative at the previous meeting as to whether any multilateral treaties deposited with the Secretary-General provided for the participation of "all States" or "any State" and, if so, whether the Secretary-General had encountered any difficulties in that regard, said that none of the multilateral treaties concluded under the auspices of the United Nations contained such a provision. A number of League of Nations treaties contained the provision that they would remain open for accession by members of the League of Nations and any non-member States and the Secretary-General had received a number of ratifications and accessions to those treaties since their transfer to the custody of the United Nations. However, all the instruments of ratification or accession had emanated from States Members of the United Nations, and, therefore, no question had arisen in regard to their deposit.

2. The problem of the "all States" formula had been considered by the General Assembly in connexion with the question of extended participation in League of Nations

treaties. The Secretary-General, in his statement at the 1258th plenary meeting,[4] had declared that when he addressed an invitation or when an instrument of accession was deposited with him, he had certain duties to perform: he must ascertain that the invitation was addressed to, or the instrument emanated from, an authority entitled to become a party to the treaty in question and, furthermore, where an instrument of accession was concerned, the instrument must, *inter alia*, be brought to the attention of all other States concerned and the deposit of the instrument must be recorded in the various treaty publications of the Secretariat, provided it emanated from a proper authority. If he were to invite or to receive an instrument of accession from an area in the world the status of which was not clear, he would be in a position of considerable difficulty unless the Assembly gave him explicit directives on the areas coming within the "any State" formula. Accordingly, if the Secretary-General received an instrument from one of the areas the status of which was unclear, he would refer it to the General Assembly for advice on the action which he should take.[5]

16. DRAFT INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS—QUESTION WHETHER, IN THE ABSENCE OF A TERRITORIAL APPLICATION CLAUSE, A STATE PARTY WOULD BE AUTOMATICALLY BOUND TO APPLY THE COVENANT'S PROVISIONS TO ALL ITS TERRITORIES

Statement made by the Legal Counsel at the 1411th meeting of the Third Committee of the General Assembly on 2 November 1966

1. The Legal Counsel wished to answer the Mauritanian representative's question whether, in the absence of a territorial application clause such as was contained in article 28, a State, on becoming a party to the Covenant, would be automatically bound to apply the provisions of the Covenant to all its territories.

2. He referred, in answering that question to the practice followed in that respect by the Third Committee and by the Secretary-General as depositary of multilateral agreements concluded under United Nations auspices. During the discussions in the Committee at

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[4] *Official Records of the General Assembly, Eighteenth Session, Plenary Meetings, vol. II*, 1258th meeting, paras. 99-101.

[5] The following statement relating to a similar matter was made by the Legal Counsel at the 918th meeting of the Sixth Committee of the General Assembly on 25 October 1966:

1. The Legal Counsel, replying to [a] question by the New Zealand representative, said that the amendment contained in document A/C.6/L.598 [by which the General Assembly would invite all States to send delegations to participate in the work of an international conference of plenipotentiaries on the law of treaties] would confer on the Secretary-General, as the authority issuing invitations to the conference, a function that he had repeatedly declined to assume, as he considered it to be outside his sphere of competence.

2. Some delegations had expressed confidence that the Office of Legal Affairs would be able to advise the Secretary-General in the interpretation of the all-States formula so as to enable a satisfactory solution to be reached. But even though it was theoretically true that there were various legal tests for determining whether or not an entity was a State, it was practically true that in the United Nations the question was primarily a political one that should properly be decided by the competent organs and not by the chief administrative officer of the Organization. He had therefore been instructed to inform the Committee that the Secretary-General still adhered to the position he had expressed at the 1258th plenary meeting of the General Assembly on 18 November 1963, which had been cited by several representatives in the course of the debate. In other words, the Secretary-General considered that it was outside his proper sphere of competence to decide the highly political and controversial question of whether certain entities, not Members of the United Nations or members of the specialized agencies or parties to the Statute of the International Court of Justice, came within the all-States formula. If that formula were adopted, the Secretary-General would immediately ask the Sixth Committee and the General Assembly for a list of those States covered by the formula other than Members of the United Nations, members of the specialized agencies and parties to the Statute of the Court.

the second session of the General Assembly on the transfer to the United Nations of the functions and powers exercised by the League of Nations under the 1921 Convention for the Suppression of the Traffic in Women and Children, the 1933 Convention for the Suppression of the Traffic in Women of Full Age and the 1923 Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, each of which contained a territorial application clause, it had been proposed that the relevant clauses should be deleted. Those clauses permitted the acceding States to exclude from the application of the Conventions any or all of their territories, whereas article 28 of the draft Covenant provided for its application to all territories. Those who had favoured deletion of the clauses he had mentioned had pointed out that the Conventions in question were of humanitarian character and should therefore be applied as widely as possible, while States having responsibility for the external affairs of non-metropolitan territories had argued, *inter alia*, that some of those territories enjoyed local autonomy and self-government, and that their consent had to be secured in advance. The Third Committee (63rd meeting) had recommended the deletion of the territorial clause from the Conventions in question and its recommendation had been adopted by the General Assembly on 20 October 1947 (resolution 126 (II)).

3. Turning to the practice followed by the Secretary-General, he recalled that, in the case of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946 (resolution 22 (I)), and the Convention on the Privileges and Immunities of the Specialized Agencies, adopted by the General Assembly on 21 November 1947 (resolution 179 (II)), the Secretary-General had, as a matter of principle, taken the position that, in view of their nature, those Conventions should be regarded as applying to the territories for whose international relations the acceding States were responsible; that, indeed, appeared to be in accordance with the practice followed by the States Parties to those conventions.

4. It appeared therefore that, in principle, the absence of a territorial application clause from a treaty laid upon States which became parties to it an obligation to apply it to their non-metropolitan territories. However, the nature of the treaty and the intention of the negotiating States had to be taken into account.

5. The practice of the Secretariat had recently been confirmed by the International Law Commission, which had given final approval in 1966 to draft articles on the law of treaties. Article 25 of that draft provided the following:

> "Unless a different intention appears from the treaty or is otherwise established, the application of a treaty extends to the entire territory of each party."[6]

The Commission's commentary on that article stated in paragraph (2):

> "State practice, the jurisprudence of international tribunals and the writings of jurists appear to support the view that a treaty is to be presumed to apply to all the territory of each party unless it otherwise appears from the treaty. Accordingly, it is this rule which is formulated in the present article."[7]

6. The answer to the Mauritanian representative's question therefore was that, in the absence of a territorial clause, a State on becoming a party to the Covenant would be bound in principle to apply the provisions of the Covenant to all its territories.

[6] See *Official Records of the General Assembly, Twenty-first Session, Supplement No. 9*, p. 44.
[7] *Ibid.*, p. 45.

17. DRAFT PROTOCOL TO THE CONVENTION OF 28 JULY 1951 RELATING TO THE STATUS OF REFUGEES[8]—QUESTION OF THE ADOPTION BY THE GENERAL ASSEMBLY OF AN INSTRUMENT AMENDING OR EXTENDING AN INTERNATIONAL INSTRUMENT CONCLUDED PREVIOUSLY AT A CONFERENCE OF STATES

Memorandum to the Director of the Legal Division. Office of the United Nations High Commissioner for Refugees

1. We refer to recent discussions here at Headquarters during which you asked us to inform you of instances in which the General Assembly has adopted or approved a protocol or other instrument amending, revising or extending an international instrument which had previously been concluded at an international conference of States, without convening a new international conference for this purpose.

2. We would like to place the following information at your disposal. You will recall that the General Assembly has taken action in order to extend, revise or amend certain international instruments concluded under the auspices of the League of Nations.

3. By resolution 54 (I) of 19 November 1946 the General Assembly approved the Protocol[9] amending the Agreements, Conventions and Protocols on Narcotic Drugs concluded at the Hague on 23 January 1912, at Geneva on 11 February 1925 and 19 February 1925, and 13 July 1931, at Bangkok on 27 November 1931 and at Geneva on 26 June 1936.

4. The Protocol in question, dated 11 December 1946, amended the enumerated instruments, all of which had been previously concluded at international conferences. It is of interest to note that the first of these instruments had been concluded at an international conference convoked by the Government of the Netherlands.

5. The relevant paragraphs of General Assembly resolution 54 (I) are as follows:

"*The General Assembly,*

Desirous of continuing and developing the international control of narcotic drugs,

Approves the Protocol which accompanies this resolution;

Urges that it shall be signed without delay by all the States who are Parties to the Agreements, Conventions and Protocols mentioned in the Annex;

Recommends that, pending the entry into force of the aforesaid Protocol, effect be given to its provisions by the Parties to any of these Agreements, Conventions and Protocols;

Instructs the Secretary-General to perform the functions conferred upon him by the Protocol, signed on 11 December 1946, amending the international Agreements, Conventions and Protocols relating to narcotic drugs which were concluded in the years 1912, 1925, 1931 and 1936;

..."

6. The General Assembly has also taken similar action with respect to other international instruments. We should mention in this connexion General Assembly resolution 126 (II) of 20 October 1947 approving the Protocols[10] to amend the Convention for the Suppression of the Traffic in Women and Children concluded at Geneva on 30 September 1921, the Convention for the Suppression of the Traffic in Women of Full Age concluded at Geneva on 11 October 1933, and the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications concluded at Geneva on 12 September 1923. The relevant paragraphs of General Assembly resolution 126 (II) are as follows:

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[8] United Nations, *Treaty Series*, vol. 189, p. 137.

[9] *Ibid.*, vol. 12, p. 179.

[10] *Ibid.*, vol. 53, p. 13 and vol. 46, p. 169.

"*The General Assembly*,

Desirous of continuing international co-operation in order to suppress the traffic in women and children and in obscene publications,

Approves the Protocols which accompany this resolution;

Urges that they shall be signed without delay by all the States which are Parties to the above-mentioned Conventions;

Recommends that, pending the entry into force of the aforesaid Protocols, effect be given to their provisions by the Parties to any of the Conventions;

Instructs the Secretary-General to perform the functions conferred upon him by the aforesaid Protocols upon their entry into force;

..."

7. The international instruments in question had been concluded at international conferences convened in Geneva under the auspices of the League of Nations.

8. Reference should also be made to General Assembly resolution 256 (III) of 3 December 1948 by which the Assembly approved the Protocol[11] amending the International Agreement of 18 May 1904 and the International Convention of 4 May 1910 for the Suppression of the White Slave Traffic, and the Protocol[12] amending the Agreement of 4 May 1910 for the Suppression of the Circulation of Obscene Publications. Each of the enumerated instruments had been concluded at international conferences convoked by the French Government.

9. We trust that the foregoing examples will be of interest to you. It is of course true that the examples cited do not completely meet the point you raised. The Protocols in question approved by the relevant resolutions of the General Assembly contained amendments, extensions or revisions of previous international instruments which had been concluded at conferences convened under the auspices of the League of Nations or, in certain cases, by individual States. The General Assembly has not taken action to approve or adopt protocols amending, revising or extending international instruments which had been previously concluded at international conferences convened under the auspices of the United Nations. Nonetheless it is believed that the precedents cited above may be of assistance in supporting the action to be proposed to the General Assembly in respect of the Draft Protocol to the Convention of 28 July 1951 relating to the Status of Refugees.

10. You may also wish to take note of the procedure followed with respect to the Protocol[13] extending the period of validity of the Convention on Declaration of Death of Missing Persons. In that instance the basic instrument, which had been concluded at an international conference, was extended without referral of the matter to a new international conference and indeed without action by the General Assembly. The proposed Protocol was circulated at the request of one Party to the other Parties to the Convention and, subsequently, to other States entitled to become Parties to it. The Protocol provided that it would enter into force upon the deposit of the second instrument of accession with the Secretary-General. Accordingly, it entered into force on 22 January 1957.[14]

16 November 1966

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[11] *Ibid.*, vol. 30, p. 23.

[12] *Ibid.*, vol. 30, p. 3.

[13] *Ibid.*, vol. 258, p. 392.

[14] By resolution 2198 (XXI) of 16 December 1966, the General Assembly took note of a Protocol extending the scope of the Convention and requested the Secretary-General to transmit it to the States mentioned in Article V thereof, with a view to enabling them to accede to the Protocol.

18. PROCEDURE FOR AMENDING THE SCHEDULES ANNEXED TO THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961 [15]—INTERPRETATION OF ARTICLES 3 AND 47 OF THE CONVENTION

Letter to the Director of the Division of Narcotic Drugs, United Nations Office at Geneva

1. You will have received already our cable of 29 November in reply to your letter of 21 October 1966, asking for advice on the implementation of the Single Convention on Narcotic Drugs, 1961 in connexion with recommendations by the World Health Organization to amend the Schedules annexed to the Convention. Here follows a more detailed reply to your letter.

2. Our answer to your first question is that the outstanding recommendations by the WHO for amending Schedules I and III of the Single Convention, as contained in document E/CN.7/463/Add.2 and Corr. 1 [English only] and 2 [Spanish only] and in a recent communication from the WHO cited in your letter, should be treated in accordance with the amendment procedure set forth in article 3 and that article 47 is not applicable to these proposed amendments.

3. We base this conclusion on the following reasons.

There are two articles in the Single Convention dealing with the question of amendments to the Convention and the Schedules annexed to it: (*a*) Article 47 which provides the procedure for amending the Convention, and (*b*) Article 3 which sets forth the procedure for amending the Schedules annexed to the Convention.

According to article 47, the procedure set forth in this article applies to "an amendment to this Convention". Does it mean that the term "Convention" embraces the Schedules or excludes them for the purpose of this article?

It appears that the term "Convention" in the context of article 47 should be understood as meaning only the Convention as such and thus excluding the Schedules annexed to it.

This is evident if we consider article 47 in the light of the provision of article 11 (*u*) defining the Schedules as "the correspondingly numbered lists of drugs or preparations annexed to this Convention, as amended from time to time in accordance with article 3", and if we take into consideration that this provision of article 1 was included in the Single Convention in the course of the Plenipotentiary Conference in 1961 in place of paragraph 5 of article 2 of the third draft of the Single Convention (E/CN.7/AC.3/9) [16] which stipulated that the Schedules formed an integral part of the Convention.

It is also relevant to recall that an amendment proposed by Canada and the United Kingdom (E/CONF.34/L.29), [17] which forms the basis of the present article 47, in paragraph 4 clearly stipulated that "the provisions of this article shall not apply to the amendment of the Schedules in accordance with article 3...". This paragraph did not raise any objections when the amendment was discussed at the Conference. [18] Although this paragraph was withdrawn by the sponsors of the amendment, this was done on the understanding that the amendment of the Schedules was one of the functions of the Commission on Narcotic Drugs for which provision would be made elsewhere in the Convention.

To recapitulate, the scope of application of article 47 of the Single Convention is limited to the provisions of the Convention as such, excluding the Schedules annexed thereto, and

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[15] United Nations, *Treaty Series*, vol. 520, p. 151.

[16] *United Nations Conference for the Adoption of a Single Convention on Narcotic Drugs, Official Records*, vol. II, p. 3.

[17] *Ibid.*, p. 50.

[18] *Ibid.*, vol. I, pp. 175-177.

the procedures provided for in this article cannot be considered as an alternative to those specifically set forth in article 3 for the purpose of amending the Schedules.

The procedures for amending the Schedules are contained in article 3 of the Single Convention and this article is the sole source in the Convention of such procedures.

This follows from the language of articles 11 (*u*), 3 and 8 (*a*) of the Convention. It also seems to have been the general understanding at the Plenipotentiary Conference, as expressed by delegates during the consideration of the amendment procedures for the Convention and the Schedules, and the functions of the Commission on Narcotic Drugs etc., that the procedure for amendment of the Schedules should differ from that of article 47 and should be formulated in a separate article.

In considering the question of the applicability of articles 3 and 47 it is necessary to have in mind that as distinguished from article 47 which provides that only Parties to the Convention are entitled to submit amendments under this article, article 3 stipulates that amendments to the Schedules may be submitted both by a Party and by the WHO. Therefore, for this reason alone, the amendments proposed by the WHO cannot be dealt with under article 47 but only in accordance with article 3.

4. In raising the question concerning the applicability of article 3 or 47 to the amendments of the WHO you mention that at the Commission's twentieth session reference was made to the discussions at the Plenipotentiary Conference when some of the proposals now being made by the WHO had been voted down. Indeed, the proposal of the WHO to delete the words "when such material is made available in trade" from Schedule I corresponds to a similar proposal which was debated and finally rejected at the Conference.[19]

There may arise in this connexion a question whether this proposal of the WHO falls within the scope of article 3 and in particular, whether the Commission is authorized under article 3 to take a decision on this proposal.

In our opinion the fact that a proposed amendment to a Schedule was rejected at the Conference at the time when the lists of drugs and substances to be included in the Schedules were debated has no legal bearing on the requirements of article 3.

The Convention does not differentiate between the provisions of the Schedules approved at the Conference and those introduced into the Schedules later. It also does not differentiate between those provisions of the Schedules which were included unanimously or were included as a result of the rejection of an opposing proposal.

Article 3 does not provide any objective criteria to indicate what kind of amendments to the Schedules are contemplated or permissible but the general tenor of the article is that the World Health Organization has a duty to initiate the prescribed amendment procedures whenever it is satisfied on the information before it that an amendment should be considered by the Commission. Although it cannot be said that the WHO is the only body authorized to initiate action for amendment of the Schedules, it can be said that the Convention relies heavily on the WHO to determine when action for amendment should be commenced.

Therefore, for the purpose of amending the Schedules in accordance with article 3 all the provisions of the Schedules have the same legal standing. From the legal standpoint the proposal of the WHO concerning the deletion of the words "when such material is made available in trade" from Schedule I, as well as any other similar proposal contained in document E/CN.7/463/Add.2 and Corr. 1 [English only] and 2 [Spanish only], falls within the provisions of article 3, notwithstanding that it may repeat an analogous proposal rejected at the Plenipotentiary Conference in 1961. Further, and as article 3 does not stipulate otherwise, a decision of the Commission on Narcotic Drugs taken in accordance with the

[19] *Ibid.*, p. 193.

recommendations of the WHO to delete the above-mentioned words from Schedule I, would be legally tenable as being within the lawful powers of the Commission.

5. A further question which may arise in connexion with the recommendations of the WHO is under which particular provisions of article 3 the Commission would have to act on these recommendations.

Under article 3 the Commission may take the following actions in accordance with the recommendations of the WHO: to add a substance not already in Schedules I or II to those Schedules (paragraph 3 (iii)); to add a preparation to Schedule III (paragraph 4); to place a drug already in Schedule I in Schedule IV (paragraph 5); to transfer a drug from Schedule I to Schedule II or from Schedule II to Schedule I (paragraph 6 (*a*)); and to delete a drug or a preparation from a Schedule (paragraph 6 (*b*)). Therefore the Commission may, by virtue of the provisions of article 3, make three types of changes in the Schedules: to add a narcotic drug to a Schedule, to delete a narcotic drug from a Schedule and to transfer a narcotic drug from one Schedule to another.

In the case of the first of the WHO recommendations to add a new paragraph after the entry "Trimeperidine" in Schedule I, it is clear that since the Commission's decision to add this new paragraph in Schedule I would amount to the addition of a new drug to the Schedule, the Commission is empowered to act under the provision of paragraph 3 (iii) of article 3.

The difficulty, however, arises with regard to the other outstanding recommendations of the WHO designed to delete only certain words and expressions in the entry "Concentrate of Poppy Straw" in Schedule I and in sections 1, 2 and 3 of Schedule III, which do not seem to fall within the specified types of amendments which the Commission is expressly authorized to make in accordance with article 3 of the Convention.

In spite of this possible discrepancy between the scope of amendments to be submitted under paragraph 1 of article 3 and the scope of amendments on which the Commission may take decisions under paragraphs 3-6 of article 3, in our opinion it appears to be appropriate, in order to avoid a hiatus in the machinery of narcotics control, to reach the conclusion that the Commission is authorized by necessary implication to take those decisions on the amendments to the Schedules which do not constitute an action expressly provided for in paragraphs 3-6 of article 3, and that such decisions should be considered as taken in accordance with article 3 which in turn would permit the invocation of the provisions of paragraphs 7-9 of article 3.

6. The following considerations might be submitted in favour of such interpretation of the Single Convention.

Article 3 of the Single Convention provides for the procedures under which the Commission is authorized to make rather far-reaching changes in the scope of narcotics control either by adding to or deleting from a Schedule, or by transferring from one Schedule to another and thus radically changing the scope of the applicable measures of control. In comparison with these wide powers, amendments limited to changes within a Schedule, as in the case with the amendments recommended by the WHO, would be as a rule less significant from the viewpoint of changes in the scope of narcotics control, and therefore it would be illogical if the Commission would not have a right to make such amendments to the Schedules.

Although comparatively not very significant, the amendments recommended by the WHO are, nevertheless, not merely of a technical nature. According to the explanation of the WHO cited in your letter, the proposed amendment of Schedule I would enable extension of control to all stages of the concentrate of poppy straw, while the proposed amendments of Schedule III would clarify and emphasize the essential criteria for exemption of preparations under this Schedule. Thus these amendments are designed to introduce changes in Schedules I and III, as a result of which the amended entries would differ from the original ones in substance and in a way may be viewed as new provisions of the Schedules.

For these reasons the amendments in question, which are submitted in the form of deletions of certain expressions from Schedules I and III, might have been submitted by resorting to the following alternate procedure to achieve the same purpose: first, to delete completely from the Schedules the entries to be amended, and second, to add to the Schedules new entries which would differ from the deleted ones to the extent corresponding to the deletions proposed by the WHO. In this case no question would arise with regard to the powers of the Commission to take decisions on the recommendations of the WHO under review, since the Commission's decisions would be based on the provisions of paragraphs 6 and 3 (iii) of article 3.

Finally, it seems to be useful to recall that the text of article 3 of the third draft of the Single Convention [20] did not contain an enumeration of the actions which the Commission on Narcotic Drugs might take in order to amend the Schedules. All that article provided for was that the Commission might amend any of the Schedules and place a substance in Schedule IV. And although in the course of the Plenipotentiary Conference this draft article was considerably enlarged to contain, in particular, the enumeration of certain actions which the Commission may take to amend the Schedules, there is nothing in the proceedings of the Conference to indicate that this was done intentionally in order to prevent the Commission from taking the actions not directly specified in paragraphs 3-6 of article 3 of the Single Convention, e.g. to prohibit indirectly the Commission from introducing in the Schedules the amendments such as those contained in the recommendations of the WHO in question.

7. With regard to your second question we would suggest the following observations.

According to article 3, paragraph 5 of the Single Convention, the Commission on Narcotic Drugs may place a drug contained in Schedule I in Schedule IV if the WHO finds that such a drug is particularly liable to abuse and to produce ill-effects and that such liability is not offset by substantial therapeutic advantages not possessed by substances other than drugs in Schedule IV. Such decision of the Commission becomes effective with respect to each Party on the date of its receipt of a corresponding notification, and the Parties thereupon take such action as may be required by the Convention (article 3, paragraph 7).

However, according to article 2, paragraph 5, the drug placed in Schedule IV under article 3, paragraph 5, may be subject to measures of control other than those applicable to the drugs in Schedule I only at the discretion of a Party itself. Support for this view can be found in the opinion of the Working Group on the Revised Draft Administrative Guide which was submitted to the Commission on Narcotic Drugs at its twentieth session (E/CN.7/L.281). Paragraph 14 of the Report of this Group states that "the purpose of Schedule IV is to show separately the substances that are particularly dangerous and consequently can be made the object of stricter national control at the discretion of governments". Thus, for instance, notwithstanding the decision of the Commission to place a drug in Schedule IV, it remains with the Party concerned to prohibit the use of such a drug except for amounts which may be necessary for medical and scientific research only.

As for the functions of the WHO in connection with the inclusion of a drug in Schedule IV, they are limited only to supplying the Commission with a finding set forth in article 3, paragraph 5 and a recommendation to place the drug in Schedule IV. The Convention does not empower the WHO to make other recommendations concerning the drugs in Schedule IV, nor does it permit the WHO to impose or include conditions in its recommendation to place a drug in Schedule IV. This can only be interpreted as meaning that findings or recommendations of the WHO other than those set forth in article 3, paragraph 5 should be considered as falling outside the scope of the Single Convention and, however competent and well-founded they may be, of no legal consequence for the Parties to the Convention.

30 November 1966

[20] *United Nations Conference for the Adoption of a Single Convention on Narcotic Drugs, Official Records*, vol. II, p. 3.

19. Procedural and organizational problems involved in a possible diplomatic conference on the law of treaties[21]

Memorandum by the Secretary-General

Introduction

1. In the course of the consideration by the Sixth Committee at the twentieth session of the General Assembly of agenda item 87, relating to the reports of the International Law Commission on the work of its sixteenth session and the first part of its seventeenth session, the representative of Israel,[22] with the support of the representatives of Austria, Canada and Sweden,[23] requested that the Secretariat should prepare, for submission to the next session of the General Assembly, a paper discussing the problems of procedure and organization likely to arise in a possible codification conference on the law of treaties. The Secretariat agreed to the preparation of such a paper,[24] which would be informally discussed with the International Law Commission. The first draft of the present memorandum, prepared in accordance with the request of the Sixth Committee, has been the subject of informal consultations with the International Law Commission during its eighteenth session in the summer of 1966, after which the memorandum was revised and completed for submission to the General Assembly.

2. The International Law Commission has recommended "that the General Assembly should convene an international conference of plenipotentiaries to study the Commission's draft articles on the law of treaties and to conclude a convention on the subject" (see A/6309, para. 36). This memorandum explores the implications of that recommendation, but it is not intended to prejudice the decision of the General Assembly on that question.

3. The practice of past codification conferences will first be examined as a background for the discussion of a possible future conference on the law of treaties. The memorandum will also examine the nature of the Commission's draft articles on the law of treaties, with a view to identifying any special characteristics and problems of the draft which may create special requirements in regard to the organization and procedures of the conference.

I. Previous codification conferences

4. The first codification conference which may be mentioned in the present connexion is the Conference for the Codification of International Law, held at The Hague in 1930 under the auspices of the League of Nations. In the period of the United Nations, five conferences have been convened to deal with areas of the law which have been studied by the International Law Commission. The first was the United Nations Conference on the Law of the Sea, which met in Geneva from 24 February to 27 April 1958. It adopted four conventions, one optional protocol, nine resolutions, and a Final Act. The second conference was the United Nations Conference on the Elimination or Reduction of Future Statelessness, of which the first part was held in Geneva from 24 March to 18 April 1959, and the second part in New York from 15 to 28 August 1961. This conference adopted the Convention on the Reduction of Statelessness, four resolutions and a Final Act. The third conference was the Second United Nations Conference on the Law of the Sea, which met in Geneva from 17 March to 26 April 1960. This conference, which was called for the purposes of considering further the questions of the breadth of the territorial sea and

[21] Document A/C.6/371.

[22] See *Official Records of the General Assembly, Twentieth Session, Sixth Committee*, 840th meeting, paras. 4 and 5; 850th meeting, para. 42.

[23] *Ibid.*, 851st meeting, para. 26; 845th meeting, para. 15; and 844th meeting, para. 13.

[24] *Ibid.*, 850th meeting, para. 43.

fishery limits, which had not been resolved at the first Conference on the Law of the Sea, was not successful in dealing with those questions, and adopted only two resolutions and a Final Act. The fourth conference was the United Nations Conference on Diplomatic Intercourse and Immunities, held in Vienna from 2 March to 14 April 1961. This conference adopted the Vienna Convention on Diplomatic Relations, two optional protocols, four resolutions and a Final Act. The most recent conference was the United Nations Conference on Consular Relations, held in Vienna from 4 March to 22 April 1963. This conference adopted the Vienna Convention on Consular Relations, two optional protocols, three resolutions and a Final Act.

5. The conferences whose experience seems likely to be the most useful in planning for a Conference on the Law of Treaties are the first Conference on the Law of the Sea and two Vienna Conferences on Diplomatic and Consular Relations. The Conference on the Elimination or Reduction of Future Statelessness was relatively small, since only thirty-five States attended the first part and thirty States attended the second part, and consequently the problems of procedure were quite different from those of the others, which were each attended by approximately ninety States. The second Conference on the Law of the Sea did not have the problem of dealing with an extensive draft prepared by the International Law Commission, but only examined certain questions which had not been settled by the first conference.

II. Nature of the draft articles on the law of treaties

6. The draft articles on the law of treaties as finally adopted by the International Law Commission at its eighteenth session consist of seventy-five articles, and thus are comparable in length with the longest drafts submitted to previous codification conferences (those considered by the First Conference on the Law of the Sea and by the Conference on Consular Relations, each of which had seventy-one articles). The draft on the law of treaties is more complex than any draft which the Commission has yet prepared. The parts of the draft are intimately interrelated, and consistency of terminology and a close relationship between the articles in the different parts of the draft must be maintained. At previous conferences, the connexion between the various parts was not so close, and it was not difficult to consider separately, for example, the various branches of the law of the sea, or to separate the provisions on consular privileges and immunities from the other parts of the draft on consular relations. In the draft on the law of treaties such a division may be more difficult.

7. Some indication of the relative complexity of the various topics dealt with in the drafts submitted to codification conferences may perhaps be gathered from the number of meetings devoted by the International Law Commission to each. On this basis, it would appear that the law of treaties is by far the most difficult topic with which the Commission has yet dealt. By the end of its eighteenth session in summer 1966, the Commission, between 1961 and 1966, had devoted 229 meetings, in whole or in part, to the law of treaties. To this figure may be added the 60 meetings which the Commission, with different Special Rapporteurs, devoted to the topic between 1950 and 1960, making a total of 289 meetings. The next most difficult subject, the law of the sea, took 175 meetings (in whole or in part) between 1950 and 1956; consular relations took 110 between 1956 and 1961; diplomatic relations 64 in 1957 and 1958; and statelessness 51 between 1952 and 1954. There are, however, two circumstances which make these figures somewhat unreliable as a guide to the probable length of conferences on the various topics. The first is that by resolution 1103 (XI) of 18 December 1956 the General Assembly increased the number of members of the Commission from fifteen to twenty-one, and by resolution 1647 (XVI) of 16 November 1961 from twenty-one to twenty-five; and the length of discussions tends to vary with the number of members participating. The second is that it may be argued that, if the Commission, with the participation of members from a broad spectrum of different legal systems, has

been able to work out compromise texts on many controversial issues, those issues should be considerably simpler to deal with in a codification conference.

III. Preparation for the conference

8. Before all previous codification conferences except the Second Conference on the Law of the Sea, the General Assembly has requested the comments of Governments on the final draft prepared by the International Law Commission. The General Assembly may find especially strong reasons for doing so again in regard to the Commission's final text on the law of treaties, since there are considerable differences in drafting and arrangement between the first draft circulated for comments of Governments and the final text adopted by the Commission, which became available to Governments only shortly before the discussions at the twenty-first session of the Assembly; moreover, the draft deals with some of the most complex questions of modern international law. In addition to the comments of Governments, the General Assembly may wish to invite comments on the draft on the law of treaties from the Secretary-General and from the Directors-General of those specialized agencies which serve as depositaries of multilateral conventions, since they have special experience of the problems arising in connexion with depositary procedure. The period allowed for the preparation of the comments of Governments has been about one year, and in some cases has been greater.

9. For example, the first Conference on the Law of the Sea, dealing with a draft submitted by the Commission in 1956, was convened by General Assembly resolution 1105 (XI) of 21 February 1957, and began on 24 February 1958. The Second Conference on the Law of the Sea was convened by General Assembly resolution 1307 (XIII) of 10 December 1958, and began on 17 March 1960. The draft on diplomatic intercourse and immunities was first considered by the General Assembly in 1958, when the Assembly adopted resolution 1288 (XIII) of 5 December 1958, reserving the question of the body which should be entrusted with the formulation of a convention on the topic; at the following session the Assembly adopted resolution 1450 (XIV) of 7 December 1959, pursuant to which the Conference began on 2 March 1961. Thus in the case of diplomatic relations something over two years elapsed, and two sessions of the Assembly discussed the topic, between the first receipt of the Commission's report and the holding of the Conference. This delay was in part due to the decision to hold the Second Conference on the Law of the Sea in 1960. On consular relations, the Commission's report was received in 1961. The General Assembly by resolution 1685 (XVI) of 18 December 1961 decided to convene the Conference in March 1963, but the general discussion of the draft articles took place only at the seventeenth session of the Assembly in 1962. At that session the Assembly adopted resolution 1813 (XVII) of 18 December 1962, whereby it, *inter alia*, invited States to submit amendments in advance of the opening of the Conference. Thus the interval between submission of the draft to the Assembly and the beginning of the Conference was one year and a few months, though the draft was before two successive sessions of the General Assembly.

10. The Secretariat has always prepared the draft agenda of a conference, the draft rules of procedure, a memorandum on the methods of work and procedures of the conference, and nearly always a guide to the draft articles to be considered and a bibliography. These documents, together with the comments received from Governments, have been published in time for consideration before the opening of the conference. It is assumed that the same kinds of background documents would be prepared for a conference on the law of treaties.

11. In connexion with the first of the United Nations codification conferences, that on the Law of the Sea, the Secretary-General was requested by General Assembly resolution 1105 (XI)

> "... to invite appropriate experts to advise and assist the Secretariat in preparing the conference, with the following terms of reference:

"(*a*) To obtain, in the manner which they think most appropriate, from the Governments invited to the conference any further provisional comments the Governments may wish to make on the Commission's report and related matters, and to present to the conference in systematic form any comments made by the Governments, as well as the relevant statements made in the Sixth Committee at the eleventh and previous sessions of the General Assembly;

"(*b*) To present to the conference recommendations concerning its method of work and procedures, and other questions of an administrative nature;

"(*c*) To prepare, or arrange for the preparation of, working documents of a legal, technical, scientific or economic nature in order to facilitate the work of the conference;".

In all other cases, however, there has been no formal appointment of experts and the Secretariat, at the request of the General Assembly in the various relevant resolutions, has made the preparations for the conference with the assistance only of informal consultations with interested delegations. While the assistance of experts was desirable in the case of the first Conference on the Law of the Sea because it was the first codification conference and because of the wide range of technical, scientific and economic matters which had to be considered, the experience accumulated in previous codification conferences and the more purely legal nature of the draft on the law of treaties seem to make the assistance of experts unnecessary in this case. The General Assembly can consider as fully as need be any problems of procedure or organization which appear important, and appropriate instructions can be given to the Secretary-General during the discussion of the relevant item at the present session of the General Assembly, possibly on the basis of a study by a working group of the Sixth Committee if such a group is found necessary.

12. It would be highly desirable if during the period of preparation for the conference on the law of treaties delegations could consult one another in order to explore the possibilities of agreement and compromise on various issues on which controversy would otherwise be likely to arise in the conference. It would not, however, seem useful to formalize these discussions in a preparatory committee, but would be preferable to leave them on an informal basis. The initiative for such discussions can appropriately be left in the hands of the Governments concerned. The resolution convening the conference could contain a paragraph like operative paragraph 11 of General Assembly resolution 1105 (XI), convening the first Conference on the Law of the Sea, which

"*Calls upon* the Governments invited to the conference and groups thereof to utilize the time remaining before the opening of the conference for exchanges of views on the controversial questions relative to the law of the sea;".

IV. The date of the conference

13. The drafts of the Commission with the full commentaries are generally not available until September of the year in which they are submitted; thus it is difficult for Governments to formulate their positions on the drafts in the General Assembly of the same year. In the cases of diplomatic and consular relations, the General Assembly had the Commission's drafts before it at two successive sessions. Moreover if, as suggested above, the General Assembly desires to leave a period for the preparation of written comments on the draft by Governments, it follows that the conference can take place no earlier than the spring of 1968, or later if it is desired to leave a longer interval for preparation. In the informal discussions in the International Law Commission, there was no suggestion of a date earlier than 1968; two members stated that it was desirable to hold the conference in that year in order to avoid loss of momentum. Two others suggested that 1969 would also be a possible date, and one member expressed a preference for 1969. All previous codification conferences have begun in February or March. In view of the pattern of other meetings, it would be difficult to begin a conference on the law of treaties at another time of year.

V. The question of the division of the draft articles among two or more main committees

14. The first Conference on the Law of the Sea had five main committees, four of which were referred various sections of the draft articles prepared by the International Law Commission. The Conference on Consular Relations had two main committees. Three of the conferences, however, conducted their business first in a Committee of the Whole, to which the entire draft or question before the conference was referred, and then in final plenary meetings. The question arises whether division of the articles among committees is desirable in the case of the draft on the law of treaties. A decision on this question is essential because the whole time schedule and consequently the financial implications of the conference depend upon it.

15. In the informal discussions in the International Law Commission the number of members favouring the division of the draft articles between two committees and the number opposing it were nearly equal. Those who doubted the advisability of such a division stressed the unity and interdependence of the parts of the draft. The arbitrary nature of any scheme of division, the difficulties of co-ordination of the work of two committees, the size of the delegations necessary for a conference with two committees, and the difficulty of transferring provisions from parts dealt with by one committee to parts dealt with by another. Other members, however, including the Special Rapporteur on the Law of Treaties, saw no technical or theoretical objections to a division; it was suggested that co-ordination could be effectively dealt with by a drafting committee with appropriate powers, or that the plenary conference could meet whenever necessary to resolve divergencies that might arise between the committees.

16. If it is desired to divide the draft articles, one distinction which might be considered is between, on the one hand, the articles which deal primarily with the birth of treaty obligations and with events during their life, and, on the other hand, those which deal primarily with the modification, invalidity and extinction of such obligations. As the second group of articles would be somewhat smaller than the first, some general provisions (Parts I [25] and VI, both of which deal with the general scope of the draft as a whole) could be added to the work of the committee dealing with the second group. This division might be the basis of organization of the conference into two main committees; in view of the nature of the draft articles, it does not seem possible to have more than two. Undoubtedly there is an arbitrary element in any scheme of division, but the following allocation of articles could serve as an initial basis of discussion:

First committee:

	Articles
Part II. (Conclusion and entry into force of treaties) articles 5-22	18
Part III. (Observance, application and interpretation of treaties) articles 23-34	12
Part VII. (Depositaries, notifications, corrections and registration) articles 71-75	5
TOTAL	35

Second committee:

	Articles
Part I. (Introduction) articles 1-4	4
Part IV. (Amendments and modification of treaties) articles 35-38	4
Part V. (Invalidity, termination and suspension of the operation of treaties) articles 39-68	30
Part VI. (Miscellaneous provisions) articles 69-70	2
TOTAL	40

[25] Article 2 entitled "Use of terms" in Part I would of course be of equal concern to the two committees, and would be reviewed by the Drafting Committee near the end of the conference.

17. It still remains to discuss which committee should deal with the preamble to the Convention on the Law of Treaties, with the final clauses of the convention, and with the Final Act of the conference. There is also a possibility that the conference, like other codification conferences, may decide to draft one or more optional protocols. The preparation of these texts could be assigned from the outset to whichever committee appeared to have the lighter workload, or alternatively, since none of these texts could in any event be drafted before the final stages of the conference, a decision on assignment could be delayed until the relative rates of progress of the two committees became clear.

VI. Estimated duration of the conference

18. From the standpoint of United Nations budget and conference planning, and equally from that of participating Governments, the duration of the conference must be estimated accurately in advance; it is not possible to leave the question of duration to be decided at the conference in the light of the progress made, though a conference which was unable to finish its work in the time allotted could of course decide to recommend a second session or a new conference at a later date. An estimate of duration is particularly difficult in the case of a conference on the law of treaties, because of the importance and difficulty of the problems which are to be discussed.

19. It is assumed that there will be no need for a general debate at the conference, since general views of the draft can be expressed in the Sixth Committee or in written comments, and since there do not seem to be any special circumstances which would make such a debate particularly useful. It has been the practice of all the codification conferences to dispense with a general debate, except for the first and second Conferences on the Law of the Sea, where the committees devoted between ten and twenty-three meetings to a general debate. It can therefore be expected that, at the conference on the law of treaties, the two committees or the Committee of the Whole can start at once to examine the articles one by one.

20. The draft to be considered contains seventy-five articles. The attempt must be made to estimate how long it will take to examine those articles. Statistics regarding previous codification conferences may be of help, but the special nature of the articles on the law of treaties must be borne in mind. For examination of articles at the committee stage, the best rate of progress was that made by the Committee of the Whole at the Conference on Diplomatic Intercourse and Immunities, which examined forty-five articles prepared by the Commission in a total of forty-one meetings, extending over twenty-one working days. The next most rapid progress was made by the First Committee at the Conference on Consular Relations, which received thirty-three articles drafted by the Commission, and examined them in a total of thirty-five meetings extending over twenty working days. Work in committees of other conferences has been slower. It results that the best rate of progress which can be hoped for at the committee stage is an average of one article per meeting. At previous conferences committees have in general met twice a day.

21. At this rate, the examination of a draft of seventy-five articles by a committee of the whole would require a minimum of thirty-seven and a half working days, or seven and a half weeks. In view of the complexity of the articles on the law of treaties and also in view of the need to prepare new texts not based on the draft articles (a preamble, final clauses, a final act and possibly protocols), more time must be allowed, and if it is found impossible to divide the articles between two committees, the duration of the committee stage alone of a conference on the law of treaties would probably be eight and a half or nine weeks. The entire first Conference on the Law of the Sea took place in about nine weeks, but all other codification conferences have been considerably shorter.

22. On the other hand, if it is decided to divide the draft articles between two committees, the length of the committee stage would be reduced, but the need for co-ordination of

the texts produced by the two committees would mean that the estimated time for a committee of the whole could not simply be cut in half. A duration of five weeks for the two committees seems probable.

23. The length of the plenary stage is more difficult to estimate, since there has been considerable variation in past codification conferences, and since the rate of progress evidently depends upon how satisfactorily problems are settled at the committee stage and by the drafting committee. The plenary stage of a conference having a committee of the whole would probably last four weeks. If it is decided to have two main committees, additional time will be required for the plenary, with the help of the drafting committee, to settle divergencies in substance and terminology between the committees, and five weeks would have to be allowed for the plenary stage.

24. Thus it appears that the total duration of the conference can be estimated as follows:

A. *Conference with a Committee of the Whole:*

	Weeks
Committee stage	9
Plenary stage	4
TOTAL	13

B. *Conference with two main committees:*

	Weeks
Committee stage	5
Plenary stage	5
TOTAL	10

VII. Suggested division of the conference into two parts, with an interval between them

25. It has been suggested by various persons of experience, including initially a member of the International Law Commission and later the representative of Austria,[26] that a conference on the law of treaties, after full debate and thorough consideration of the draft articles, should adjourn for several months in order to give Governments time to reconsider the results reached at the first phase of the conference. Only after such an interval, in their view, should the conference reconvene and in a second reading elaborate the final text.

26. This suggestion would allow more time for reflection by Governments, and would avoid a situation where mere pressure of time might tend to prevent arriving at the most satisfactory solution of technical and political problems. Great pressure of time has undoubtedly existed in some of the codification conferences, and while its effect on the resulting conventions would be difficult to assess and may in some respects have been beneficial by promoting agreement, similar pressure might better be avoided in dealing with a subject as complicated as the law of treaties. A division of the conference into two parts might also make it easier for Governments to send representatives of the high technical qualifications required by the subject. While it might be difficult for Governments or universities to spare their experts in treaty law for as long as ten or even thirteen weeks at a stretch, they might better be able to do so for two shorter periods. In the informal discussions in the International Law Commission, a considerable majority of the members who spoke accepted the idea of dividing the conference into two parts.

[26] See *Official Records of the General Assembly, Twentieth Session, Sixth Committee*, 851st meeting, para. 25.

27. On the other hand, division of the conference might perhaps create a risk that new representatives would be sent to the second part and that they, lacking experience of the first part, would tend to be ineffective and would needlessly prolong the plenary debate. There is also a risk of reopening with renewed zeal the issues fought out at the committee stage. In the informal discussions in the International Law Commission, two members opposed division of the conference on the grounds that it would involve needless duplication of work, that it might harden the divergent positions of Governments and might result in the replacement of open discussion by private negotiations, perhaps even by restricted or bilateral negotiations.

28. Nevertheless, on balance, it seems more advantageous to divide the conference into two parts. At the first part the plenary would hold only the few meetings necessary to elect officers, constitute the necessary committees and take the other decisions relevant to the general organization of the conference. Thereafter it would adjourn,[27] to enable the two committees or the committee of the whole to complete an examination of the entire draft and to adopt a text for consideration by the plenary at the second part of the conference. At the first part, the drafting committee would also review all articles adopted to ensure the conformity of the text as a whole. At the second part of the conference, the plenary would take up and finalize the text adopted at the first part. The General Assembly could instruct the Secretary-General, in issuing invitations to the conference, to stress the importance of having the same representatives at both parts, and to state that credentials, unless the issuing Government expressly stated otherwise, would be regarded as valid for both parts. As for the danger of repetition of debates, it would be hoped that Governments, in issuing their instructions for the second part of the conference, would not insist on raising again issues which had been squarely decided by considerable majorities at the first part; but even if there would be some repetition of debate, it is evident that general satisfaction with solutions is more important than brevity of discussion.

29. What dates should be set for the first and second parts of the conference, and what should be the interval between the parts? The dates of the session of the International Law Commission must also be borne in mind, as many of its members, and also its secretariat, may be expected to attend the conference. If the first part were to begin in February, then that part would occupy the months of February and all or part of March. Thereafter a gap of several months would be necessary, in order not to conflict with the annual session of the Commission, which normally meets from early May to mid-July. The second part could not therefore begin before late July at the earliest, and would extend into August which, because of normal scheduling of vacations, is not usually considered a convenient month for a large conference of plenipotentiaries. Postponing the second part until September would produce a conflict with the normal date of opening of the General Assembly.[28] The second part could, however, be held after the end of the Assembly in January, and thus there would be an interval of nearly a year between the two parts. Though this solution might produce a certain loss of momentum, it may be the most practical one.

VIII. Committees of the conference other than main committees

30. It may be assumed that the conference would have, in addition to a committee of the whole or two main committees, the other organs which have been usual at codification conferences. These would include:

[27] If two committees were decided upon, it might be necessary for the plenary to hold occasional meetings to decide upon points of divergence between the two committees.

[28] It may be recalled that the General Assembly opened late in 1952, 1956 and 1964, and that 1968 will be a year in the same quadrennial cycle. Delay in opening the Assembly in 1968 would considerably simplify the planning of the conference, but is now such an uncertain prospect that it must here be left out of account.

(*a*) A General Committee of possibly twenty-one members (as at the Conference on Consular Relations),[29] composed of the President of the Conference (who would preside over the Committee), the Chairman of the Committee of the Whole or the chairmen of the main committees, and as many Vice-Presidents of the conference as are necessary to make up the total of twenty-one members;

(*b*) A Drafting Committee. While for effectiveness of work it is desirable to keep the Drafting Committee as small and as highly qualified as possible, political and geographical considerations may require a membership of fifteen,[30] to allow the composition to follow the model of the Security Council. The functions of the Drafting Committee are discussed in paragraphs 42-43 below;

(*c*) A Credentials Committee of nine members, as at the General Assembly and all codification conferences except that on statelessness (where the President and Vice-Presidents examined credentials).

31. The Drafting Committee and Credentials Committee would each elect a single presiding officer, the Chairman, in accordance with the general practice of such committees.

IX. Draft rules of procedure of the conference

32. As has been stated above, the rules of procedure of the first and second Conferences on the Law of the Sea and the Diplomatic and Consular Conferences are substantially similar, while the rules of the Conference on Statelessness, being designed for a conference of relatively limited participation, were on a different model. The rules of the four conferences are mainly based on or inspired by the rules of procedure of the General Assembly. The following Assembly rules are the basis for rules of the four conferences: 25-29, 31-39, 41-42, 45-47, 51-56, 69-84, 88-98, 101-102 and 105.

33. The main differences from the General Assembly's rules are dictated by the different nature of the work of a conference. Some of the more important of the provisions which differ from those of the General Assembly will be examined hereafter.

34. *Basic Proposal.* The rules of the Diplomatic and Consular Conferences provide in rule 29 that "The draft articles adopted by the International Law Commission shall constitute the basic proposal for discussion by the Conference." It is desirable to maintain this rule, which makes explicit a basic assumption made by the General Assembly in convening codification conferences.

35. *Voting.* While the rules of procedure of the General Assembly provide for voting in accordance with the relevant provisions of the Charter, the rules of the two Conferences on the Law of the Sea and of the Diplomatic and Consular Conferences provided that in the plenary, decisions on matters of substance should be taken by a two-thirds majority of the representatives present and voting, and decisions on matters of procedure should be taken by a simple majority of such representatives; in committees and sub-committees, however, all decisions were taken by a majority of the representatives present and voting, except in the case of reconsideration. These rules were adopted as the most suitable after exhaustive consideration of the alternatives by the experts appointed to advise the Secretary-General on the preparation for the first Conference on the Law of the Sea.

36. It was suggested by the representative of Austria that this system of voting led to a vagueness in the resulting text as political compromises had to be made to secure a two-

[29] At the first and second Conferences on the Law of the Sea the General Committee was composed of nineteen members. At the Conference on Diplomatic Intercourse and Immunities it consisted of twenty-two members.

[30] The Drafting Committee at the first Conference on the Law of the Sea and the two Vienna Conferences were composed of nine and twelve members respectively.

thirds majority in plenary.[31] The voting methods of a conference on the law of treaties will no doubt merit the attention of the General Assembly when it comes to decide whether to convene such a conference. There are numerous and varied precedents in the rules of procedure of United Nations conferences.

37. The same voting rule as in the four codification conferences has been adopted by certain other United Nations conferences called upon to draft conventions, e.g., the United Nations Conference on International Commercial Arbitration, 1958, the United Nations Conference for the Adoption of a Single Convention on Narcotic Drugs, 1961, and the United Nations Conference on Transit Trade of Land-locked Countries, 1965.

38. On the other hand, a rule requiring only a simple majority for all decisions has sometimes been adopted. The Conference on the Elimination or Reduction of Future Statelessness, 1959 and 1961, and a number of other United Nations conferences including the United Nations Maritime Conference, 1948, the Conference on Freedom of Information, 1948, the United Nations Conference on Road and Motor Transport, 1949, the Conference on Declaration of Death of Missing Persons, 1950, the Conference on the Status of Refugees and Stateless Persons, 1951, the Conference on Maintenance Obligations, 1956, and the Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956, all adopted a rule providing that decisions on all questions were made by a simple majority of representatives present and voting.

39. The Conference on the Statute of the International Atomic Energy Agency, 1956, had a rule whereby decisions to amend the provisions of the existing basic draft were taken by a two-thirds majority and—unless otherwise provided for—all other decisions were taken by a simple majority.

40. The Hague Codification Conference in 1930 had very complicated provisions[32] whereby committees could embody in draft conventions or protocols any provisions adopted by a two-thirds majority of the delegations present; provisions which had secured only a simple majority could be the object of special protocols if requested by at least five delegations and decided by simple majority; and recommendations and *vœux* could be adopted by simple majority. In the full conference, however, all texts had to obtain only a simple majority of the delegations present. Thus The Hague Conference followed nearly the converse of the rules of the United Nations codification conferences.

41. Thus, on the basis of precedent, there is a wide choice concerning methods of voting. It may be doubted, however, that any other method would produce markedly superior results to the one used at the four codification conferences. A requirement of more than a simple majority at the committee stage might well have the effect of preventing the adoption of important parts of a draft convention. A vote by simple majority in committee allows the conference to know accurately the views of delegations on the issues presented, and to take all necessary steps to arrive at compromise solutions. Moreover, the requirement of a two-thirds majority in plenary seems important in the case of a codification conference as the resulting text must obtain the widest acceptance if it is to serve its purposes. In the informal consultations with the International Law Commission, all of the members who spoke on the subject favoured a two-thirds voting rule for final decisions on questions of substance.

42. *Drafting Committee.* One of the essential differences between the procedure of a codification conference and the General Assembly is that all of the conferences except the

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[31] See *Official Records of the General Assembly, Twentieth Session, Sixth Committee*, 851st meeting, para. 23.

[32] League of Nations, document C. 351.M.145.1930.V, annex 1.

second Conference on the Law of the Sea have had Drafting Committees. The Drafting Committee at the first Conference on the Law of the Sea and the Conference on Diplomatic Intercourse and Immunities were "responsible for the final drafting and co-ordination of the instruments approved by the countries of the Conference". This rule was revised for the Conference on Consular Relations to provide that the Drafting Committee, in addition to responsibilities and co-ordination of all texts adopted, whether by the committees or the plenary, "shall give advice on drafting as requested by other committees and by the Conference". Thus the competence of the Drafting Committee at the Consular Conference was broader than under the other rules, and it reviewed not only the texts approved by the committees of the Conference, but also those approved by the plenary itself, before those texts were finally adopted; moreover, there was a provision for advice by the Drafting Committee at stages earlier than adoption of texts. The rule as formulated for the Consular Conference worked well in practice, and should be followed in any future conference.

43. In the informal consultations with the International Law Commission, it was agreed by the members that the Drafting Committee should be given broad authority regarding the drafting and co-ordination of the text. Some members suggested that a procedure should be followed like that in the International Law Commission whereby, after discussion and before texts are put to a vote, the Drafting Committee examines the points of view expressed and tries to formulate a text that will be generally satisfactory.

44. Some of the conferences have used less formal drafting groups to prepare texts on certain questions. While this practice is useful in settling political differences, it would seem preferable to refer all problems relating to drafting to the Drafting Committee, which can take an over-all view of the whole of the draft articles.

45. *General Committee.* The first Conference on the Law of the Sea and the Conference on Consular Relations both had more than one main committee, and consequently a possible need for the co-ordination of the work of committees was apparent. The rules of those two conferences, therefore, provided that committees could refer questions affecting the co-ordination of their work to the General Committee which might make such arrangements as it thought fit, including the holding of joint meetings of committees or subcommittees and the establishment of joint working groups. At the first Conference on the Law of the Sea, in particular, the General Committee played a very active part in co-ordinating the work of the various committees of the Conference. Rule 50 of the rules of procedure of the Consular Conference had a provision inspired by rule 42 of the General Assembly, to the effect that the General Committee might meet from time to time to review the progress of the conference and its committees and to make recommendations for furthering such progress; it would also meet at such other times as the President deemed necessary or upon the request of any other of its members. This rule was, in fact, acted upon during the Consular Conference, when the General Committee made various recommendations concerning the progress of the conference. It seems a useful addition which should be incorporated in the rules of a conference on the law of treaties. One member of the International Law Commission suggested that, if divergencies arose between the main committees of the conference, the plenary conference should at once meet to settle the matter. If this procedure seems useful at the conference, it could be arranged through a recommendation of the General Committee.

46. *Experts and observers.* The rules of the four conferences provide that the conference "may invite to one or more of its meetings any persons whose technical advice it may consider useful for its work". This rule has generally been applied through the invitation of experts, in particular of the persons who served as Special Rapporteurs of the International Law Commission on the topic being considered by the conference, and it is assumed that similar arrangements should be made in advance of a conference on the law of treaties. One member of the International Law Commission stressed that the Special Rapporteur

and the Secretariat should be entitled to give explanations of the Commission's draft, so that there would be no risk of misunderstanding it in the conference.

47. There is also a rule on observers of specialized agencies and inter-governmental bodies invited to the conference, who may participate, without the right to vote, in the deliberations of the conference and its main committees, upon the invitation of the President or Chairman, and may also have their written statements distributed to delegations.

48. *Division of proposals and amendments.* The representative of Austria raised the question whether rules based on those of the General Assembly were really appropriate to the proceedings of a codification conference and whether additional changes might not be advisable.[33] In particular, he expressed the view that the application of rules like General Assembly rule 91 on division of proposals and amendments and rule 92 on voting on amendments had unfortunate effects. Though the application of these rules may sometimes be complicated, in the view of the Secretariat they are necessary to the work of a codification conference. If restrictions are placed upon the possibility of separate vote on parts of proposals or amendments, the result may be that the whole proposal or amendment is rejected, and that may have more serious effects than would be the case if only a few words are deleted.

49. *Order of voting on amendments.* While the rule on voting on amendments may sometimes be complicated to apply in view of the fact that the amendment "furthest removed in substance from the original proposal" must be voted on first, some order of priority must be set for voting on amendments, and the "furthest removed" rule is no more difficult to apply than any other system would be.

50. *Limitation of the number of speakers on motions for division.* It must be observed, however, that in codification conferences there have been special difficulties in observing the provisions of rules based on Assembly rule 91 to the effect that when a motion for division has been made, "permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against". The effect of the deletion of a few words from complicated legal texts like those before codification conferences is often difficult to understand at first, since other related provisions of the draft may be affected. While the limitation of the number of speakers on a motion for division is useful in the General Assembly, which generally considers simpler texts and where motions for division are generally made late in the debate upon particular proposals and amendments, the circumstances are different in codification conferences where such motions are sometimes made at the very outset, and can scarcely be dealt with until a considerable number of delegations have had an opportunity to express their views. It is therefore suggested that in the rules of future codification conferences the sentence quoted above limiting the number of speakers on the motion for division should be omitted.

51. *Powers of the President.* The representative of Austria also suggested that:

> "... It would be desirable for the President to be able to suspend a meeting or adjourn debate on an agenda item in order to give delegates time for reflection. In addition, the President should be authorized to suspend a meeting briefly for the purpose of consulting with heads of delegations, vice-presidents of the conference or a representative of the United Nations Secretariat. Furthermore, delegations should have the possibility of moving the short suspension of a meeting, in order to ascertain, by examination and by consultation, the legal implications of new amendments or of a proposed separate vote. At a codification conference delegations should even be encouraged by the chairman to ask questions concerning the legal implications of amendments and of a proposed separate vote."[34]

[33] See *Official Records of the General Assembly, Twentieth Session, Sixth Committee*, 851st meeting, para. 23.

[34] *Ibid.*, para. 24.

52. As for the suggested conferment on the President of the power to suspend a meeting or adjourn a debate, it is to be expected that a conference would normally agree to such suggestions out of courtesy to its President, whenever he felt such measures were necessary to untangle a difficulty. There may be doubts, however, about giving the President an absolute right to such measures by means of the rules of procedure, since to do so might be in conflict with the rule, based on rules 36 and 109 of the General Assembly, which enunciates the fundamental principle that the President, in the exercise of his functions, remains under the authority of the conference. The other suggestions of the representative of Austria seem likewise better to leave to practice than to incorporate in formal rules.

X. Summary and conclusions

53. The present memorandum, in accordance with the requests of delegations at the twentieth session of the General Assembly, is based on the hypothesis that a conference of plenipotentiaries on the law of treaties will be held, as has now been recommended by the International Law Commission, but is not intended to prejudice the decision of the General Assembly on that question.

54. The draft articles on the law of treaties are closely interrelated, and the draft is the most complex which the Commission has ever prepared (see paras. 6 and 7 above). These facts make necessary the thorough preparation of a conference, in which Governments and depositaries would have a new chance to consider and comment on the draft articles as finally redrafted, rearranged and approved by the Commission in 1966 (see paras. 8 and 9 above). This need means that a conference could begin no earlier than the spring of 1968, or possibly later if it is desired to leave a longer interval for preparation. In the interval, the Secretariat would prepare a draft agenda, draft rules of procedure, a memorandum on methods of work and procedures, a guide to the draft articles and a bibliography (see para. 10 above). There would be no need to provide for other formal steps in preparation for a conference, but it would be hoped that Governments would use the time for informal discussions of the main issues.

55. The question arises whether the draft articles can appropriately be divided between two main committees, or whether on the other hand they must be dealt with by a Committee of the Whole, in preparation for their final adoption by the plenary conference (see paras. 14 and 15 above). On this question the opinions expressed in the International Law Commission were nearly equally divided. One division of the draft articles which might be considered is between those dealing with the birth of treaty obligations and events during their life, and the articles dealing with the modification, invalidity and termination of such obligations. Various general provisions at the beginning and end of the draft, as well as the preamble and final clauses of the convention, the Final Act of the conference, and any other texts which had to be prepared, could be referred to whichever committee made the best progress in its work (see paras. 16 and 17 above).

56. It appears that a conference which had a Committee of the Whole would last about thirteen weeks, and that one which divided up the work between two main committees would last about ten weeks (see paras. 18-24 above). On balance, it appears that it would be advantageous to divide the conference into two parts, the first consisting principally of the committee stage and the examination by the Drafting Committee of texts prepared at that stage, and the second part consisting of final consideration and adoption by the plenary conference. If the first part begins in February of one year, the second part could perhaps most easily be held in January of the following year (see paras. 25-29 above).

57. It is presumed that the conference would have the usual specialized committees including a General Committee, a Drafting Committee and a Credentials Committee (see paras. 30 and 31 above).

58. The draft rules of procedure of a conference would mainly follow those of previous codification conferences (particularly the Conference on Consular Relations) which are based on the rules of procedure of the General Assembly (see paras. 32-52 above). The only departure would be in the rule on division of proposals and amendments, where in the light of experience at previous conferences it seems undesirable to limit the number of speakers on a motion for division (see para. 50 above).

59. The present memorandum does not attempt to deal with the financial implications of holding a conference nor with its general bearing on the pattern of United Nations conferences, because at the present time there are several basic choices which remain open for discussion. After the discussion in the Sixth Committee has proceeded to a point where the general current of opinion has become clear, appropriate statements will, if necessary, be made on those matters.

20 September 1966

20. QUESTION WHETHER THE AMENDMENTS TO THE CHARTER SHOULD BE REGISTERED

Internal memorandum

1. On re-examining the question of registration of the amendments of the United Nations Charter, we are inclined to believe that the amendments should be registered. While in one sense amendments are "subsequent actions" to an agreement (the Charter) which is not itself registered, they also constitute an agreement which could be registered separately.

2. In this connexion it has been pointed out, *inter alia*, that:

(i) Declarations of new Members accepting the obligations of the Charter are registered as separate agreements;

(ii) Declarations accepting the jurisdiction of the International Court of Justice are likewise registered;

(iii) The Secretariat of the League of Nations registered amendments to the Covenant even though the Covenant itself had not been registered;

(iv) Amendments to the Constitution of the International Labour Organisation have been registered although the original Constitution was not registered with the League of Nations.

3. Doubts had originally been entertained about the registration because the amendments had been considered as part of a General Assembly resolution which was not itself registrable. However, on re-consideration, it would seem that while the resolution itself would not be subject to registration, the amendments might well be. It has been noted in this connexion that amendments to the WHO Constitution, which were also put forward by way of resolutions, were registered. The difference is that in the case of WHO its Constitution was itself registered.

4. While believing that there are arguments on both sides we are of the opinion that the weight of argument and precedent would be in favour of registration of the amendments.

14 March 1966

21. OBLIGATION TO REGISTER INTERNATIONAL AGREEMENTS UNDER ARTICLE 102 OF THE CHARTER — LEGAL EFFECT OF THE REGISTRATION BY ONE OF THE PARTIES — ARTICLE 3 OF THE REGULATIONS TO GIVE EFFECT TO ARTICLE 102 OF THE CHARTER (GENERAL ASSEMBLY RESOLUTION 97 (I) OF 14 DECEMBER 1946)

Letter to the Permanent Mission of a Member State

1. Thank you for your letter of 9 May 1966 regarding the registration of an agreement concluded between your Government and the Governments of. . . .

2. In our letter to you of 21 February 1966, we may not have sufficiently clarified the position as to the legal effect of the registration of an agreement by one of the parties thereto. The pertinent provision of article 3 of the Regulations to give effect to Article 102 of the Charter of the United Nations stipulates that the "registration by a party, in accordance with article 1 of these regulations, relieves all other parties from the obligation to register". Thus, in accordance with the said article 3, only one registration is required and once an agreement has been registered by one of the parties, the obligation to register under Article102 of the Charter has been fulfilled for all parties. An agreement may be registered jointly by two or more contracting parties — such registration actually has been effected on several occasions — but it cannot be registered twice.

3. The perusal of the records of the second part of the first session of the General Assembly, which adopted the Regulations, leaves no doubt on this point (see memorandum summarizing the discussion in Sub-Committee 1 of the Sixth Committee of the second part of the first session, which drafted the Regulations, document A/C.6/124).

4. In implementing the provision of article 3 of the Regulations, it has been the practice of the Secretariat, whenever an agreement previously registered by another party is received for registration, to inform the party concerned that the agreement has already been registered, indicating the date of registration, the number under which the agreement was registered and the name of the party which effected the registration, and to call its attention to article 3 of the Regulations, stating that the obligation of registration has already been fulfilled. It may be of interest to recall in this regard that, on a few occasions, where through an oversight an agreement has been registered twice, the second registration has subsequently been cancelled.

5. Furthermore, under the above-mentioned practice, the Secretariat checks the transmitted documentation with that provided earlier by the party which registered the agreement and, if any discrepancies are discovered, they are called to the attention of the parties. Corrections resulting from consultation with the parties are recorded and published in the *Treaty Series.*

6. Having noted that the text of the Agreement transmitted for registration by your Mission and that of the Agreement previously registered by the other Government are identical, save for minor drafting discrepancies and different names of signatories, a circumstance explainable by the fact that the Agreement was drawn up simultaneously in the two capitals, it was concluded that the two versions actually constitute one agreement. Consequently, in accordance with the above-mentioned practice, we informed you in our letter of 21 February 1966 that the Agreement had already been registered and that, pursuant to article 3 of the Regulations to give effect to Article 102 of the Charter of the United Nations, no separate registration on the part of your Government was required. At the same time, we suggested the inclusion of an appropriate note in the *Treaty Series,* when publishing the text of the Agreement registered by the other party, indicating that one of the originals of the Agreement was signed on the same date in your country and specifying the names of the plenipotentiaries who signed that original. We also suggested that certain discrepancies of a purely drafting nature could also be indicated in that note should your Government so wish.

7. In the light of the foregoing, we are sure you will appreciate that a separate registration of the Agreement would be contrary to the provision of article 3 of the Regulations and the practice followed by the Secretariat under that article.

We should, therefore, be obliged if you would refer the matter to your Government for further consideration.[35]

7 June 1966

[35] By a letter of 15 July 1966, the Permanent Mission of the Member State concerned indicated its agreement with the procedure suggested in the letter reproduced above.

22. REQUEST BY THE GOVERNMENT OF A MEMBER STATE THAT THE PRIVILEGES AND IMMUNITIES OF UNITED NATIONS OFFICIALS ASSIGNED TO A SEMINAR TO BE HELD IN THAT STATE SHOULD NOT APPLY IN CASE OF TRAFFIC INFRINGEMENTS — SECTION 18 (*a*) OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS[36]

Memorandum to the Chief of the Section for Europe, Middle East and Inter-regional Projects of the Bureau of Technical Assistance Operations, Department of Economic and Social Affairs

1. You have referred to us a question concerning the privileges and immunities of "officials of the United Nations Secretariat assigned to" a seminar to be held in the territory of a Member State.

2. It appears that in the letter of the Director of the Bureau of Technical Assistance Operations, dated 10 November 1965, addressed to the Permanent Representative of the State concerned to the United Nations, it is proposed that: "According to established practice, officials of the United Nations Secretariat assigned to the Seminar shall be accorded privileges and immunities similar to those provided under articles V and VII of the Convention on the Privileges and Immunities of the United Nations." In response, the Deputy Permanent Representative, by letter of 26 April 1966, states as follows:

> "10. The ... authorities are ready and willing to accord privileges and immunities in accordance with article V and VII of the Convention on the Privileges and Immunities of the United Nations *with the exception, however, that the immunities will not apply in case of traffic infringements*. If so desired, the exact terms can be specified in an exchange of letters as was done when the Governing Council of the United Nations Special Fund held its summer meeting (1964) in The Hague."[37] (Italics added.)

3. The proposal of the Government (in italics in the text) is tantamount to a modification of section 18 (*a*) of the Convention and is, *per se*, unacceptable. The said section reads as follows:

> "Section 18. Officials of the United Nations shall:
> (*a*) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity".

Furthermore, the Government, being a party to the Convention on the Privileges and Immunities of the United Nations, is already bound to accord "officials of the United Nations Secretariat assigned to the Seminar" all the privileges and immunities provided in articles V and VII of the Convention, which include section 18 (*a*), even without the clause which it sought to modify. The letter of the Deputy Permanent Representative makes reference to an exchange of letters covering the meeting of the Governing Council of the United Nations Special Fund held in 1964 in The Hague. In fact an examination of the record shows that the article proposed by the Netherlands concerning traffic offences was dropped from the final text of the Agreement, and it was made clear that the United Nations could not accept an alteration of the obligations of the Netherlands under the Convention to which it is a party.

4. It is however to be noted that under section 18 (*a*), officials of the United Nations are immune from legal process only in respect of "words spoken or written and all acts performed by them in their official capacity". Accordingly, an official of the Secretariat would be immune in case of traffic infringements only if he was at the time acting in his official capacity. Conversely, driving for personal convenience would not be covered by the immunity. We would therefore have no objection if the proviso proposed by the Government refers only to traffic infringements incurred in a non-official capacity. As

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[36] United Nations, *Treaty Series*, vol. 1, p. 15.

[37] See *Juridical Yearbook*, 1964, p. 26.

officials of the Secretariat assigned to the Seminar will be unlikely to drive automobiles during the short duration of the Seminar for personal pleasure, a proviso in this sense would not be of much significance. Hence it will be best if the Government could be persuaded to withdraw its amendment.

25 May 1966

23. SPECIAL INTERNATIONAL STATUS OF AN OPEX OFFICER — INTERPRETATION OF ARTICLE II, PARAGRAPHS 3 AND 4, OF THE MODEL AGREEMENT FOR THE PROVISION OF OPERATIONAL, EXECUTIVE AND ADMINISTRATIVE PERSONNEL

Memorandum to the Senior Deputy Director of the Bureau of Technical Assistance Operations, Department of Economic and Social Affairs

1. We wish to refer to your memorandum of 11 May 1966, with copy of letter from an OPEX officer in a Member State, dated 21 February 1966. The question is raised as to the implications of the "special international status" that is said to attach to OPEX officers, in terms of the OPEX Agreement with the Government concerned.

2. The "Agreement between the United Nations and the Government... for the provision of operational, executive and administrative personnel" provides:

"Article II

Functions of the Officers

"1. The officers to be provided under this Agreement shall be available to perform administrative, executive or managerial functions, including training, for the Government, or, if so agreed by the United Nations and the Government, in other public agencies or public corporations or public bodies, or in national agencies or bodies other than those of a public character.

"2. In the performance of the duties assigned to them by the Government, the officers shall be solely responsible to, and under the exclusive direction of, the Government; they shall not report to nor take instructions from the United Nations or any other person or body external to the Government except with the approval of the Government. In each case the Government shall designate the authority to which the officer will be immediately responsible.

"3. The Parties hereto recognize that a special international status attaches to the officers made available to the Government under this Agreement, and that the assistance provided the Government hereunder is in furtherance of the purposes of the United Nations. Accordingly, the officers shall not be required to perform any function incompatible with such special international status or with the purposes of the United Nations.

"4. In implementation of the preceding paragraph, but without restricting its generality or the generality of the last sentence of paragraph 1 of article I, any agreements entered into by the Government with the officers shall embody a specific provision to the effect that the officer shall not perform any functions incompatible with his special international status or with the purposes of the United Nations."

3. It will be seen that, in the above-quoted article, paragraph 1 defines the nature of the functions which the OPEX officer shall perform "for the Government". Paragraph 2 establishes the subordination of the OPEX officer to the Government, namely, that he "shall be solely responsible to, and under the exclusive direction of the Government", and that he "shall not report to nor take instructions from the United Nations". As a reservation to these positive and general provisions, paragraphs 3 and 4 impose a negative and exceptional qualification to the effect that the OPEX officer "shall not be required to perform any function incompatible with [the] special international status [which attaches to the OPEX officer] or with the purposes of the United Nations."

4. The question raised by the OPEX officer is: what functions may be regarded as "incompatible" with his "special international status or with the purposes of the United

Nations". Reference to the contract (which is the same as the standard text for all OPEX officers) signed by the officer with the United Nations may throw some light on this question. Paragraph 2 of article III of this contract, amplifying paragraphs 3 and 4 of article II of the OPEX Agreement with the Government, reads as follows:

> "2. The officer shall conduct himself at all time with the fullest regard for the aims of the United Nations and in a manner befitting his status under this contract. He shall not engage in any activity that is incompatible with the purposes of the United Nations or the proper discharge of his duties with the Government. ... He shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on his status, or on the integrity, independence and impartiality which are required by that status. While he is not expected to give up his national sentiments or his political and religious convictions, he shall at all times bear in mind the reserve and tact incumbent upon him by reason of his status."

5. Having regard, however, to the origin and object of OPEX, it is obvious that the restrictions implicit in paragraphs 3 and 4 of article II of the Agreement must be given a restrictive interpretation. The expression "purposes of the United Nations" apparently refers to those purposes enumerated in Article I of the Charter of the United Nations. Thus, for instance, activities or utterance against "international peace and security" (or those advocating war); those contrary to the "principle of equal rights and self-determination of peoples", or those detrimental to "international co-operation" may be said to be "incompatible with the purposes of the United Nations". As for the "special international status" that is said to attach to an OPEX officer, this too can only have a very narrow meaning, in view of the provisions of paragraphs 1 and 2 of article II of the Agreement as discussed in paragraph 3 of this memorandum. It means, we think, that an OPEX officer may not engage in activities or make pronouncements which are normally reserved for nationals of the country to which he is assigned. For example, activities of a political nature would be "incompatible with the special international status" attaching to the OPEX officer.

6. The foregoing paragraph deals with generalities. With reference to the specific queries of the officer as to whether one of the functions entrusted to him, namely, "direct intervention on behalf of the Government" "in the programming and co-ordination of bilateral aid activities", was incompatible with his "special international status" or with "the purposes of the United Nations", the answer is clearly in the negative. As an officer of the Government, he need have no compunction in performing such functions and he should do so with the interests of the Government primarily in view. Such functions, if performed in good faith in the interests of the Government, cannot be incompatible with the purposes of the United Nations. Indeed, they are apparently conducive to the purpose of the United Nations in extending OPEX assistance to the Government. That purpose is, to quote the preamble of the OPEX Agreement, "to join in furthering the development of the administrative services" of the Government. The same may be said of all the functions entrusted to him as specified in the letter of 11 November 1965 from the Ministry of Public Works to which he referred.

24 May 1966

B. Legal opinions of the secretariat of inter-governmental organizations related to the United Nations

1. International Labour Office

The following memorandum concerning the interpretation of international Labour Conventions was prepared by the International Labour Office at the request of a Government:

Memorandum concerning the interpretation of the Minimum Age (Fishermen) Convention, 1959 (No. 112), prepared by the International Labour Office at the request of the Government of the Republic of China, 15 November 1966, *Official Bulletin*, vol. L, No. 3, July 1967. English, French, Spanish.

2. United Nations Educational, Scientific and Cultural Organization

(a) *The autonomy of the International Institute for Educational Planning Internal Note by the Legal Adviser*

1. The meaning of the term "autonomy", with respect to the Institute, can only be considered in relation to its legal status.

2. The Institute has been established "within the framework of" UNESCO by a resolution of the General Conference. It is therefore legally part of UNESCO and any autonomy which it may enjoy is an autonomy within UNESCO. To the outside world, the Institute is but one of the forms which the activities of UNESCO may take and its aims and functions can be but a part of the aims and functions of UNESCO.

3. The term "autonomy" or other similar terms do not appear in the Statutes of the Institute. It is clear, however, from the debates of the twelfth session of the General Conference, as well as from the provisions of the Statutes as they were adopted, that the intention was to recognize to the Institute "a high degree of intellectual and administrative autonomy", as indicated in the report of the Working Party of the twelfth session of the General Conference (12C/Resolutions, p. 292).

4. This intention is reflected in various clauses of the Statutes. The Institute has its own "policy" and "activities" the nature of which is determined by the Institute's Governing Board. It also has its own "budget" which is adopted by the Governing Board. It is again the Board which decides "how the funds for the operation of the Institute are to be used" and which approves "the draft programme of work and budget estimates" prepared by the Director of the Institute.

5. The programme and budget of the Institute are therefore distinct and separate from the programme and budget adopted for the rest of the Organization by the General Conference although the "annual allocation" to the Institute, as determined by the General Conference, appears in the general budget of the Organization.

6. As regards the Director and the staff of the Institute, the decision to establish the Institute as part of UNESCO and partaking of the legal personality of UNESCO necessarily implied that the persons working for the Institute would be, in law, employees of UNESCO and that their official acts would, in relation to the outside world, engage the responsibility of UNESCO.

7. The only question which arose was the purely internal one of determining the exact status the members of the staff of the Institute would enjoy within UNESCO.

8. The decision of the General Conference was to give to the Director and the members of the staff of the Institute the status of "officials of UNESCO within the meaning of Article VI, Section 18, of the Convention on the Privileges and Immunities of the Specialized Agencies".

9. The staff of the Institute were not made officials of UNESCO "for the purpose of" the Convention but "within the meaning of" it. They are, therefore, officials of UNESCO in the same sense as all the other persons who are considered officials of UNESCO under the Convention.

10. Being officials of UNESCO, members of the staff of the Institute are, as a consequence, subject to the same Regulations and Rules and to the same conditions of service

as the other officials of UNESCO. There have been, however, departures from this basic position, some of which originated with the General Conference, others with the Director-General.

11. In paragraphs 2 and 3 of Article VII of the Statutes, the General Conference has introduced two provisions specially applicable to the staff of the Institute and which relate to the working hours of the specialized and teaching staff and to the loan of staff members to international institutions and governments.

12. The Director-General, under the Constitution, appoints the staff of the Secretariat in accordance with Staff Regulations approved by the General Conference and which "embody the fundamental conditions of service and the basic rights, duties and obligations of members of the Secretariat of UNESCO". The Director-General, as Chief Administrative Officer of UNESCO, enforces these Regulations and is empowered to lay down and enforce staff rules consistent with these Regulations.

13. Under the "Regulations", staff members are subject to the authority of the Director-General and are responsible to him in the exercise of their functions.

14. While the Director of the Institute is appointed "on the recommendation of the Board" and the Board is "consulted as to the appointment of the senior officials of the Institute", no provision of the Statutes appears to give the Governing Board any other competence in staff matters.

15. As indicated in document IGB/8 submitted to the Governing Board at its first session, in order to meet the special personnel requirements and operating conditions of the Institute which rendered it necessary to depart in some respects from the UNESCO Staff Rules, the Director-General has made certain changes in the Staff Rules to meet these needs. This document also indicates that in the application of the Staff Regulations and Staff Rules to the staff of the Institute the Director-General delegates his authority to the extent possible under these Regulations and Rules to the Director of the Institute.

16. It appears from the above that the Staff Regulations adopted by the General Conference apply to the Director and the staff of the Institute as officials of the Organization; that the Staff Rules enacted by the Director-General apply to them, except in so far as they have been modified by the enacting of special rules applicable to the Institute; that the Director-General's authority under these Regulations and Rules for their enforcement can be delegated to the Director of the Institute "to the extent possible under these Regulations and Rules".

4 May 1966

(b) *Suspension and resumption of participation in the activities of UNESCO by Czechoslovakia, Hungary and Poland*

Letter to the Secretariat of the United Nations

In answer to your letter of 29 April 1966, we transmit the following information on the circumstances in which Czechoslovakia, Hungary and Poland were led to suspend and then resume their participation in the activities of UNESCO.

Poland

On 5 December 1952, the Director-General received a communication from the Chargé d'Affaires *ad interim* of the Polish People's Republic in France, announcing, on the instructions of his Government, Poland's decision to withdraw from the organization. The communication was brought to the notice of the General Conference, which was then

holding its seventh session in Paris and which, on the recommendation of the General Committee, adopted the following resolution on 11 December 1952 (7C/Resolution 0.13):

"The General Conference,

"Having taken note of the communication addressed to the Director-General by the Chargé d'Affaires *ad interim* of the People's Republic of Poland in France, announcing, on the orders of his Government, Poland's decision to withdraw from the Organization,

"1. Declares that the allegations contained in the aforesaid communication are completely unfounded; and

"Considering that the Organization was set up to ensure the co-operation of all the nations of the world in the field of education, science and culture,

"Considering that the member States of UNESCO have, in consequence, recognized the universal character of the purposes and functions of the Organization, which has always faithfully observed the principle of universality in all its activities,

"2. Invites the Government of the People's Republic of Poland to reconsider its decision, and to resume its full collaboration in the Organization's activities."

It should be noted that at that time UNESCO's Constitution made no provision for the withdrawal of member States.

Hungary and Czechoslovakia

The Director-General later received communications from the Governments of Hungary and Czechoslovakia, the texts of which are reproduced in annexes I and II of document 2XC/6.

These communications were transmitted to the Chairman of the Executive Board (33EX/20), which, at its thirty-third session (April 1953), took the decisions referred to in paragraph 5 of that document. The document also contains a note by the Secretariat on the situation with regard to the withdrawal of member States (annex V).

At its second extraordinary session (July 1953), the General Conference adopted the following resolution on the communication from the Hungarian Government (2XC/Resolution 9.1):

"The General Conference,

"Having taken note of the communication addressed to the Acting Director-General by the Hungarian Minister for Foreign Affairs, announcing, on the orders of his Government, Hungary's decision to withdraw from the Organization,

"9.11 Declares that the allegations contained in the aforesaid communication are completely unfounded; and

"Considering that the Organization was set up to ensure the co-operation of all the nations of the world in the field of education, science and culture,

"Considering that the member States of UNESCO have, in consequence, recognized the universal character of the purposes and functions of the Organization, which has always faithfully observed the principle of universality in all its activities,

"9.12 Invites the Government of Hungary to reconsider its decision, and to resume its full collaboration in the Organization's activities."

It adopted a similar resolution on the communication from the Czechoslovak Government (2XC/Resolution 9.2).

At the same session, the General Conference adopted a resolution (2XC/9.4) in which, while hoping that UNESCO would continue to adhere to the principle of universality of membership but recognizing that withdrawals might at times become inevitable involving certain serious financial problems in drawing up the biennial budget of the Organization, it requested the Director-General and the Executive Board to consider the matter of withdrawals from the Organization and if appropriate draft amendments to the Constitution to provide for such withdrawals.

At its eighth session (November 1954), the General Conference considered and adopted a proposal to make provision in UNESCO's Constitution for a procedure for the withdrawal of member States, but it also had before it applications from Czechoslovakia, Hungary and Poland concerning the resumption of collaboration with the Organization and payment of their arrears of contributions. These applications were considered by the Committee on Contributions of the General Conference, which submitted two reports on the matter to the Administrative Commission (8C/ADM/30 and Add.1). In those reports, the Committee, *inter alia*, expressed the opinion "that Hungary had never ceased to be a member of UNESCO and that there was no basis for the cancellation of the contribution for 1953". It also found that "apart from the fact that no provision for withdrawal appears in the Constitution of UNESCO, the Governments concerned did not appear to have complied with the provisions for joining the Organization which would have been necessary if they had withdrawn". The Administrative Commission's report includes a passage on the collection of contributions from these member States (8C/Resolution, annex 2, section 17).

The General Conference adopted the resolutions appearing in document 8C/ADM/30 Add.1. These resolutions are the only texts governing the resumption of collaboration with the Organization by these States. As the report of the Committee on Contributions indicates, these texts are the result of negotiations with the delegations concerned, but do not constitute, strictly speaking, an agreement between the Organization and those States concerning the regularization of their previous situation.

The provision on the withdrawal of member States adopted at that session, which now appears in paragraph 6 of article II of the Constitution, reads as follows:

"Any Member State or Associate Member of the Organization may withdraw from the Organization by notice addressed to the Director-General. Such notice shall take effect on 31 December of the year following that during which the notice was given. No such withdrawal shall affect the financial obligations owed to the Organization on the date on which the withdrawal takes effect. Notice of withdrawal by an Associate Member shall be given on its behalf by the Member State or other authority having responsibility for its international relations."

On 5 April 1955, the Union of South Africa gave the Director-General notice of withdrawal in accordance with that provision. The withdrawal took effect on 31 December 1956. Indonesia gave the Director-General notice of withdrawal on 12 February 1965. This withdrawal will not take effect until 31 December 1966.

16 May 1966

(c) *Re-eligibility of members of the Executive Board (Part of a term of office)*

Internal Memorandum

1. The question was raised at the eighth session of the General Conference by the Japanese delegation which submitted a memorandum on the subject (8C/JUR/4).

2. The question was put in terms of the change of the Board's structure. It was examined by the Legal Committee at its sixth meeting (see 8C/Proceedings, p. 900).

3. The summary records contain the following passage:

"(72) The Chairman put to the vote the principle that any previous term served by a member of the Executive Board should be taken into account with regard to his re-eligibility, any part of a term being counted as a full term.

(73) The principle as enunciated by the Chairman was adopted by 7 votes to none, with 4 abstentions."

4. The report of the Legal Committee on this question is found in 8C/JUR/6. This report was adopted by the Administrative Commission (see 8C/Resolutions, page 81).

5. The question was raised again at the ninth session of the General Conference with reference to the specific case of persons elected to replace members who had resigned or died. It was examined by the Legal Committee at its first meeting (see 9C/Proceedings, pp. 672 and 677).

6. The report of the Legal Committee on the question is found in 9C/ADM/16. It contains the following passage:

> "The Committee noted that although the reports of the Legal Committee and the Administrative Commission at the eighth session of the General Conference specifically referred only to the terms of office of members of the Board which expired prematurely as a result of the amendment of Article V, paragraph 13 of the Constitution, the question put to the vote by the Chairman of the Legal Committee in 1954 had been couched in such very general terms as to cover not only the case of members whose term of office had been curtailed to two years as a result of the revision of the Constitution but also the case of persons elected to replace members who resigned or died while in office."

7. The Committee thought that the interpretation given in 1954 should be "confirmed and maintained".

8. The Administrative Commission endorsed the Legal Committee's conclusions on this point and recommended that the General Conference adopt them (see 9C/Resolutions, pp. 127 and 128).

18 May 1966

(d) *Interpretation of Article XIV, paragraph 2, of the Convention for the Establishment of the International Computation Centre*

Internal Memorandum

By note of 9 May 1966, you requested advice from the Bureau of Legal Affairs regarding a question of interpretation raised by the Director of the International Computation Centre.

As you know, the Secretariat of UNESCO has no special competence to interpret the provisions of an Agreement concluded between States. However and subject to this reservation, the Bureau of Legal Affairs offers the following comments.

1. Under Article XIV, paragraph 2, "acceptance", i.e. deposit of an official instrument of acceptance with the Director-General of UNESCO, renders the State on behalf of which the deposit is effected a party to the Convention.

2. This means, under general principles of international law, that no further step is required nor indeed possible to render the State concerned bound by the Convention.

3. If the constitutional requirements in a particular State make it necessary for the Government to secure Parliamentary approval, such a procedure should precede the deposit of an instrument of acceptance and not follow it. This is however a matter of internal concern for each State and the Director-General of UNESCO, as depositary of the Convention, will not enquire as to whether the required internal procedure has been followed.

4. He will not, however, following the United Nations practice, accept as a valid instrument of acceptance within the meaning of Article XIV, paragraph 2, an instrument which makes the acceptance of the Convention subject to the subsequent approval, consent or ratification of Parliament.

5. Should an instrument be deposited subject to such a condition, past practice indicates that the Director-General would inform the State concerned that the instrument would be kept in abeyance until such time as he may receive official notification that the stated condition has been fulfilled. Only then would the instrument be accepted for deposit and registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter. Deposit would be considered to have been effected on the date on which official notification has been received that the stated condition has been fulfilled.

6. It follows from the above that a State can be considered to be a member of the Centre and entitled to be represented in the General Assembly with the right to vote only when it has completed all formalities required to become bound by the Convention.

7. Such a State can, however, if a Member of the United Nations, of UNESCO or of any other specialized agencies, send an observer to sessions of the General Assembly in accordance with Article 4, 2) of the Rules of Procedure of the General Assembly.

3 June 1966

(e) *Memorandum on the practice regarding the implementation of Article XIII of the Constitution of UNESCO*

Memorandum to the Secretariat of the United Nations

1. Article XIII of the Constitution of UNESCO, as adopted by the Conference for the establishment of the United Nations Educational, Scientific and Cultural Organization held in London in November 1945, provides as follows:

> 1. Proposals for amendments to this Constitution shall become effective upon receiving the approval of the General Conference by a two-thirds majority; provided, however, that those amendments which involve fundamental alterations in the aims of the Organization or new obligations for the Member States shall require subsequent acceptance on the part of two-thirds of the Member States before they come into force. The draft texts of proposed amendments shall be communicated by the Director-General to the Member States at least six months in advance of their consideration by the General Conference.
>
> 2. The General Conference shall have power to adopt by a two-thirds majority rules of procedure for carrying out the provisions of this Article.

2. The provisions of this Article remain unchanged to this day.

3. Both draft proposals for a constitution submitted to the London Conference (draft submitted by the Conference of Allied Ministers of Education and French proposals) provided for adoption of amendments by the General Conference by a two-thirds majority and further ratification by two-thirds of the Member States.

The C.A.M.E. draft further provided that any agreement which would bring the new organization into relationship with the United Nations "may, if approved by the Conference by a two-thirds majority, involve modification of the provisions of this constitution, provided that no such agreement shall modify the purposes and limitations of the Organization".

4. The Commission of the London Conference which considered these various proposals, recognized "that, while it was necessary, in creating this new structure, to provide for ratification by States, the method of having all amendments to the Constitution submitted for ratification by individual members was a difficult and dilatory one and it was hoped that some progress might be made in future toward modifying it. Meanwhile, it would be desirable to make distinction between amendments of substance which would require ratification and adjustments of form which could be adopted by a two-thirds majority of the Conference. . . . It was proposed that the text should specify which were the articles

for which amendments would require ratification and which were those which would not, but it was agreed that this point could only be decided by the General Conference. (*Ninth Meeting, Second Commission,* November 13, 1945.) At its following meeting, the same Commission again "agreed that the Conference should decide whether an amendment involved a fundamental alteration or new obligations". (*Tenth Meeting, Second Commission,* November 13, 1945.)

5. At the Ninth Plenary Meeting, on November 15, 1945, the Chairman of the Second Commission further stated that "the question as to where alterations are fundamental and when no obligations are being incurred is one on which the General Conference must take decisions under the Rules of Procedure".

6. Amendments to the Constitution have been adopted by the General Conference at all of its sessions except the first, eleventh and thirteenth sessions. The texts of the various resolutions adopted by the General Conference for the purpose of amending the Constitution are annexed to this Memorandum.

7. In no case has it been considered that the amendment under consideration required subsequent acceptance.

8. In accordance with paragraph 2 of Article XIII of the Constitution, the General Conference adopted, at its sixth session, a new Section XIX of its Rules of Procedure entitled "Procedure for the amendment of the Constitution". This Section, as subsequently amended, reads as follows:

Rule 103 (Const. XIII.1)

DRAFT AMENDMENTS

The General Conference shall not adopt a draft amendment to the Constitution unless the draft has been communicated to Member States and Associate Members at least six months in advance.

Rule 104

PROPOSALS FOR SUBSTANTIVE CHANGES IN DRAFT AMENDMENTS

The General Conference shall not introduce substantive changes in draft amendments under the terms of the preceding rule unless the proposed changes have been communicated to Member States and Associate Members at least three months before the opening of the session.

Rule 105

AMENDMENTS OF FORM

The General Conference may, however, without prior communication to Member States and Associate Members, adopt any changes in the drafts and proposals referred to in Rules 103 and 104 which are purely matters of drafting, and any changes designed to embody, in a single text, substantive proposals communicated to Member States and Associate Members in accordance with the provisions of Rules 103 and 104.

Rule 106

INTERPRETATION OF AMENDMENTS

In case of doubt, a proposed amendment shall be deemed to be an amendment of substance unless on a vote being taken there is a two-thirds majority of the members present and voting in favour of interpreting the amendment as an amendment of form falling under the provisions of Rule 105.

9. The amendment to the Constitution adopted by the General Conference at its fourth session contains the following *considerandum*:

"*Considering* that this amendment does not involve any fundamental alterations in the aims of the Organization or new obligations for the Member States".

Similar wording is to be found in the amendments adopted at the fifth and sixth sessions but not in the amendments subsequently adopted at the seventh, eighth, ninth, tenth and twelfth sessions.

10. The report of the Procedure Committee of the fourth session *(4C/Resolutions, p. 83)* states that the Committee noted that the amendment under consideration "did not involve any fundamental alterations in the aims of the Organization or any new obligations for the Member States and that there was no necessity for this amendment to be accepted on the part of two-thirds of the Member States before coming into force".

11. The reports of the Procedure Committee to the fifth session *(5C/Resolutions, p. 129)* and to the sixth session *(6C/Resolutions, p. 84)* contain similar statements.

12. The first report of the Legal Committee to the tenth session of the General Conference states that the Committee considered that the amendment under consideration "did not involve fundamental alterations in the aims of the Organization or new obligations for the Member States and would therefore become effective upon receiving the approval of the General Conference by a two-thirds majority" *(10C/ADM/2)*. This statement was noted by the Administrative Commission which recommended the adoption of the amendment by the General Conference *(10C/Resolutions, p. 127 and 128)*.

13. Under Article IV, paragraph 8, (*a*) of the Constitution, decisions in the General Conference are made by a simple majority except in cases in which a two-thirds majority is required by the provisions of the Constitution or of the Rules of Procedure of the General Conference. Although a two-thirds majority is required for the adoption of amendments to the Constitution and for the adoption of regulations governing the procedure for amendment to the Constitution, as well as for the determination of an amendment of form (see Rule 106 quoted above), there does not appear to exist any two-thirds majority requirement for the determination of an amendment as involving fundamental alterations in the aims of the Organization or new obligations for the Member States.

31 August 1966

Part Three

JUDICIAL DECISIONS ON QUESTIONS RELATING TO THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

Chapter VII

DECISIONS OF INTERNATIONAL TRIBUNALS

International Court of Justice

SOUTH WEST AFRICA CASES (ETHIOPIA V. SOUTH AFRICA; LIBERIA V. SOUTH AFRICA); SECOND PHASE; JUDGEMENT OF 18 JULY 1966[1]

On 18 July 1966, the International Court of Justice delivered its Judgement in the second phase of the *South West Africa* cases (Ethiopia *v.* South Africa; Liberia *v.* South Africa).

These cases, relating to the continued existence of the Mandate for South West Africa and the duties and performance of South Africa as Mandatory thereunder, were instituted by Applications of the Governments of Ethiopia and Liberia filed in the Registry on 4 November 1960. By an Order of 20 May 1961 the Court joined the proceedings in the two cases. The Government of South Africa raised preliminary objections to the Court's proceeding to hear the merits of the case, but these were dismissed by the Court on 21 December 1962, the Court finding that it had jurisdiction to adjudicate upon the merits of the dispute.

In its Judgement in the second phase the Court recalled that the Applicants, acting in the capacity of States which had been Members of the former League of Nations, had put forward various allegations of contraventions of the League of Nations Mandate for South West Africa by the Republic of South Africa.

The contentions of the Parties had covered, *inter alia*, the following issues: whether the Mandate for South West Africa was still in force and, if so, whether the Mandatory's obligation to furnish annual reports on its administration to the Council of the League of Nations had become transformed into an obligation so to report to the General Assembly of the United Nations; whether the Respondent had, in accordance with the Mandate, promoted to the utmost the material and moral well-being and the social progress of the inhabitants of the Territory; whether the Mandatory had contravened the prohibition in the Mandate of the "military training of the natives" and the establishment of military or naval bases or the erection of fortifications in the Territory; and whether South Africa had contravened the provision in the Mandate that it (the Mandate) can only be modified with the consent of the Council of the League of Nations, by attempting to modify the Mandate without the consent of the United Nations General Assembly, which, it was contended by the Applicants, had replaced the Council of the League for this and other purposes.

Before dealing with these questions, however, the Court considered that there were two questions of an antecedent character, appertaining to the merits of the case, which might render an enquiry into other aspects of the case unnecessary. One was whether the Mandate still subsisted at all and the other was the question of the Applicants' standing in this phase of the proceedings—i.e., their legal right or interest regarding the subject-matter of their claims. As the Court based its Judgement on a finding that the Applicants did not possess

[1] *I.C.J. Reports 1966*, p. 6.

such a legal right or interest, it did not pronounce upon the question of whether the Mandate was still in force. Moreover, the Court emphasized that its 1962 decision on the question of competence had been given without prejudice to the question of the survival of the Mandate—a question appertaining to the merits of the case, and not in issue in 1962 except in the sense that survival had to be assumed for the purpose of determining the purely jurisdictional issue—which was all that was then before the Court.

Turning to the basis of its decision in the present proceedings, the Court recalled that the Mandates System had been instituted by Article 22 of the Covenant of the League of Nations. There were three categories of mandates, "A", "B" and "C" mandates, which had, however, various features in common as regards their structure. The principal element of each instrument of mandate consisted of the articles defining the mandatory's powers and its obligations in respect of the inhabitants of the territory and towards the League and its organs. The Court referred to these as the "conduct" provisions. In addition, each instrument of mandate contained articles conferring certain rights relative to the mandated territory directly upon the Members of the League as individual States, or in favour of their nationals. The Court referred to rights of this kind as "special interests", embodied in the "special interests" provisions of the mandates.

In addition, every mandate contained a jurisdictional clause, which, with a single exception, was in identical terms, providing for a reference of disputes to the Permanent Court of International Justice, which, the Court had found in the first phase of the proceedings, was now, by virtue of Article 37 of the Court's Statute, to be construed as a reference to the present Court.

The Court drew a distinction between the "conduct" and the "special interests" provisions of the mandates. The present dispute relating exclusively to the former, the question to be decided was whether any legal right or interest was vested in Members of the League of Nations individually as regards the "conduct" clauses of the mandates—i.e., whether the various mandatories had any direct obligation towards the other Members of the League individually, as regards the carrying out of the "conduct" provisions of the mandates. If the answer were that the Applicants could not be regarded as possessing the legal right or interest claimed, then even if the various allegations of contraventions of the Mandate for South West Africa were established, the Applicants would still not be entitled to the pronouncements and declaration which, in their final submissions, they asked the Court to make.

It was in their capacity as former Members of the League of Nations that the Applicants appeared before the Court; and the rights they claimed were those that the Members of the League were said to have been invested with in the time of the League. Accordingly, in order to determine the rights and obligations of the parties relative to the Mandate, the Court had to place itself at the point in time when the Mandates System was instituted. Any enquiry into the rights and obligations of the parties must proceed principally on the basis of considering the texts of the instruments and provisions in the setting of their period.

Similarly, attention must be paid to the juridical character and structure of the institution, the League of Nations, within the framework of which the Mandates System was organized. A fundamental element was that Article 2 of the Covenant provided that the "action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat". Individual member States could not themselves act differently relative to League matters unless it was otherwise specially so provided by some article of the Covenant.

It was specified in Article 22 of the Covenant that the "best method of giving practical effect to [the] principle" that the "well-being and development" of those peoples in former enemy colonies "not yet able to stand by themselves" formed "a sacred trust of civilization", was that "the tutelage of such peoples should be entrusted to advanced nations . . . who are

willing to accept it" and it specifically added that it was "on behalf of the League" that "this tutelage should be exercised by [those nations] as Mandatories". The mandatories were to be the agents of the League and not of each and every Member of it individually.

Article 22 of the Covenant provided that "securities for the performance" of the sacred trust were to be "embodied in this Covenant". By paragraphs 7 and 9 of Article 22, every mandatory was to "render to the Council an annual report in reference to the territory"; and a Permanent Mandates Commission was to be constituted "to receive and examine" these annual reports and "to advise the Council on all matters relating to the observance of the mandates". In addition, it was provided, in the instruments of mandate themselves, that the annual reports were to be rendered "to the satisfaction of the Council".

Individual States Members of the League could take part in the administrative process only through their participation in the activities of the organs by means of which the League was entitled to function. They had no right of direct intervention relative to the mandatories: this was the prerogative of the League organs.

The manner in which the mandate instruments were drafted only lent emphasis to the view that the Members of the League generally were not considered as having any direct concern with the setting up of the various mandates. Furthermore, while the consent of the Council of the League was required for any modification of the terms of the mandate, it was not stated that the consent of individual Members of the League was additionally required. Individual Members of the League were not parties to the various instruments of mandate, though they did, to a limited extent, and in certain respects only, derive rights from them. They could draw from the instruments only such rights as these unequivocally conferred.

Had individual Members of the League possessed the rights which the Applicants claimed them to have had, the position of a mandatory caught between the different expressions of view of some forty or fifty States would have been untenable. Furthermore, the normal League voting rule was unanimity, and as the mandatory was a member of the Council on questions affecting its mandate, such questions could not be decided against the mandatory's contrary vote. This system was inconsistent with the position claimed for individual League Members by the Applicants, and if, as Members of the League, they did not possess the rights contended for, they did not possess them now.

It had been attempted to derive a legal right or interest in the conduct of the Mandate from the simple existence, or principle, of the "sacred trust". The sacred trust, it was said, was a "sacred trust of civilization" and hence all civilized nations had an interest in seeing that it was carried out. But in order that this interest might take on a specifically legal character the sacred trust itself must be or become something more than a moral or humanitarian ideal. In order to generate legal rights and obligations, it must be given juridical expression and be clothed in legal form. The moral ideal must not be confused with the legal rules intended to give it effect. The principle of the "sacred trust" had no residual juridical content which could, so far as any particular mandate was concerned, operate *per se* to give rise to legal rights and obligations outside the system as a whole.

Nor could the Court accept the suggestion that even if the legal position of the Applicants and of other individual Members of the League were as the Court held it to be, this was so only during the lifetime of the League, and that on the latter's dissolution the rights previously resident in the League itself, or in its competent organs, devolved upon the individual States which were Members of it at the date of its dissolution. Although the Court had held in 1962 that the members of a dissolved international organization could be deemed, though no longer members of it, to retain rights which, as members, they had individually possessed when the organization was in being, this could not extend to ascribing to them, upon and by reason of the dissolution, rights which, even previously as members, they never

had individually possessed. Nor could anything that occurred subsequent to the dissolution of the League operate to invest its Members with rights they did not previously have as Members of the League. The Court could not read the unilateral declarations, or statements of intention, made by the various mandatories on the occasion of the dissolution of the League, expressing their willingness to continue to be guided by the mandates in their administration of the territories concerned, as conferring on the Members of the League individually any new legal rights or interests of a kind they did not previously possess.

It might be said that in so far as the Court's view led to the conclusion that there was now no entity entitled to claim the due performance of the Mandate, it must be unacceptable, but if a correct legal reading of a given situation showed certain alleged rights to be non-existent, the consequences of this must be accepted. To postulate the existence of such rights in order to avert those consequences would be to engage in an essentially legislative task, in the service of political ends.

Turning to the contention that the Applicants' legal right or interest had been settled by the 1962 Judgement and could not now be reopened, the Court pointed out that a decision on a preliminary objection could never be preclusive of a matter appertaining to the merits, whether or not it had in fact been dealt with in connexion with the preliminary objection. When preliminary objections were entered by the defendant party in a case, the proceedings on the merits were suspended, by virtue of Article 62, paragraph 3, of the Court's Rules. Thereafter, and until the proceedings on the merits were resumed, there could be no decision finally determining or prejudging any issue of merits. A judgement on a preliminary objection might touch on a point of merits, but this it could do only in a provisional way, to the extent necessary for deciding the question raised by the preliminary objection. It could not rank as a final decision on the point of merits involved.

While the 1962 Judgement decided that the Applicants were entitled to invoke the jurisdictional clause of the Mandate, it remained for them, on the merits, to establish that they had such a right or interest in the carrying out of the provisions which they invoked as to entitle them to the pronouncements and declarations they were seeking from the Court. There was no contradiction between a decision that the Applicants had the capacity to invoke the jurisdictional clause and a decision that the Applicants had not established the legal basis of their claim on the merits.

In respect of the contention that the jurisdictional clause of the Mandate conferred a substantive right to claim from the Mandatory the carrying out of the "conduct of the Mandate" provisions, it was to be observed that it would be remarkable if so important a right had been created in so casual and almost incidental a fashion. There was nothing about this particular jurisdictional clause, in fact, to differentiate it from many others, and it was an almost elementary principle of procedural law that a distinction had to be made between, on the one hand, the right to activate a court and the right of a court to examine the merits of a claim, and, on the other, the plaintiff's legal right in respect of the subject-matter of its claim, which it would have to establish to the satisfaction of the court. Jurisdictional clauses were adjectival, not substantive, in their nature and effect: they did not determine whether parties had substantive rights, but only whether, if they had them, they could vindicate them by resources to a tribunal.

The Court then considered the rights of members of the League Council under the jurisdictional clauses of the minorities treaties signed after the First World War, and distinguished these clauses from the jurisdictional clauses of the instruments of mandate. In the case of the mandates, the jurisdictional clause was intended to give the individual Members of the League the means of protecting their "special interests" relative to the mandated territories; in the case of the minorities treaties, the right of action of the members of the Council under the jurisdictional clause was only intended for the protection of minority

populations. Furthermore, any "difference of opinion" was characterized in advance in the minorities treaties as being justiciable, because it was to be "held to be a dispute of an international character". Hence no question of any lack of legal right or interest could arise. The jurisdictional clause of the mandates, on the other hand, had none of the special characteristics or effects of those of the minorities treaties.

The Court next dealt with what had been called the broad and unambiguous language of the jurisdictional clause—the literal meaning of its reference to "any dispute whatever", coupled with the words "between the Mandatory and another Member of the League of Nations" and the phrase "relating . . . to the provisions of the Mandate", which, it was said, permitted a reference to the Court of a dispute about any provision of the Mandate. The Court was not of the opinion that the word "whatever" in Article 7, paragraph 2, of the Mandate did anything more than lend emphasis to a phrase that would have meant exactly the same without it. The phrase "any dispute" (whatever) did not mean anything intrinsically different from "a dispute"; nor did the reference to "the provisions" of the Mandate, in the plural, have any different effect from what would have resulted from saying "a provision". A considerable proportion of the acceptances of the Court's compulsory jurisdiction under paragraph 2 of Article 36 of its Statute were couched in language similarly broad and unambiguous and even wider. It could never be supposed that on the basis of this wide language the accepting State was absolved from establishing a legal right or interest in the subject-matter of its claim. The Court could not entertain the proposition that a jurisdictional clause by conferring competence on the Court thereby and of itself conferred a substantive right.

The Court next adverted to the question of admissibility. It observed that the 1962 Judgement had simply found that it had "jurisdiction to adjudicate upon the merits" and that if any question of admissibility were involved it would fall to be decided now, as had occurred in the merits phase of the *Nottebohm* case; if this were so the Court would determine the question in exactly the same way. In other words, looking at the matter from the point of view of the capacity of the Applicants to advance their present claim, the Court would hold that they had not got such capacity, and hence that the claim was inadmissible.

Finally, the Court dealt with what had been called the argument of "necessity". The gist of this was that since the Council of the League had no means of imposing its views on the Mandatory, and since no advisory opinion it might obtain from the Court would be binding on the latter, the Mandate could have been flouted at will. Hence, it was contended, it was essential, as an ultimate safeguard or security for the sacred trust, that each Member of the League should be deemed to have a legal right or interest in that matter and be able to take direct action relative to it. But in the functioning of the Mandates System in practice, much trouble had been taken to arrive, by argument, discussion, negotiation and co-operative effort, at generally acceptable conclusions and to avoid situations in which the mandatory would be forced to acquiesce in the views of the rest of the Council short of casting an adverse vote. In this context, the existence of substantive rights for individual Members of the League in the conduct of the mandates exercisable independently of the Council would have been out of place. Furthermore, leaving aside the improbability that, had the framers of the Mandates System intended that it should be possible to impose a given policy on a mandatory, they would have left this to the haphazard and uncertain action of individual Members of the League, it was scarcely likely that a system which deliberately made it possible for mandatories to block Council decisions by using their veto (though, so far as the Court was aware, this had never been done) should simultaneously invest individual Members of the League with a legal right of complaint if the mandatory made use of this veto. In the international field, the existence of obligations that could not be enforced by any legal process had always been the rule rather than the exception—and this had been even more the case in 1920 than today.

Moreover, the argument of "necessity" amounted to a plea that the Court should allow the equivalent of an *actio popularis*, or right resident in any member of a community to take legal action in vindication of a public interest. But such a right was not known to international law as it stood at present: and the Court was unable to regard it as imported by "the general principles of law" referred to in Article 38, paragraph 1 C, of its Statute.

In the final analysis, the whole "necessity" argument appeared to be based on considerations of an extra-legal character, the product of a process of after-knowledge. It was events subsequent to the period of the League, not anything inherent in the Mandates System as it had been originally conceived, that gave rise to the alleged "necessity", which, if it existed, lay in the political field and did not constitute necessity in the eyes of the law. The Court was not a legislative body. Parties to a dispute could always ask the Court to give a decision *ex aequo et bono*, in terms of paragraph 2 of Article 38. Failing that, the duty of the Court was plain; its duty was to apply the law as it found it, not to make it.

It might be urged that the Court was entitled to "fill in the gaps", in the application of a teleological principle of interpretation, according to which instruments must be given their maximum effect in order to ensure the achievement of their underlying purposes. This principle was a highly controversial one and it could, in any event, have no application to circumstances in which the Court would have to go beyond what could reasonably be regarded as being a process of interpretation and would have to engage in a process of rectification or revision. Rights could not be presumed to exist merely because it might seem desirable that they should. The Court could not remedy a deficiency if, in order to do so, it had to exceed the bounds of normal judicial action.

It might also be urged that the Court would be entitled to make good an omission resulting from the failure of those concerned to foresee what might happen and to have regard to what it might be presumed the framers of the Mandate would have wished, or would even have made express provision for, had they had advance knowledge of what was to occur. The Court could not however presume what the wishes and intentions of those concerned would have been in anticipation of events that had been neither foreseen nor foreseeable; and even if it could, it would certainly not be possible to make the assumption contended for by the Applicants as to what those intentions were.

In the light of these various considerations, the Court found that the Applicants could not be considered to have established any legal right or interest appertaining to them in the subject-matter of their claims. Accordingly, by the President's casting vote—the votes being equally divided (seven to seven)—the Court decided to reject the claims.

The Judgement was delivered by the Court composed as follows: President Sir Percy Spender; Vice-President Wellington Koo; Judges Winiarski, Spiropoulos, Sir Gerald Fitzmaurice, Koretsky, Tanaka, Jessup, Morelli, Padilla Nervo, Forster, Gros; Judges *ad hoc* Sir Louis Mbanefo, van Wyk.

Sir Percy Spender appended a declaration to the Judgement and Judges Morelli and van Wyk appended separate opinions. Judges Wellington Koo, Koretsky, Tanaka, Jessup, Padilla Nervo, Forster and Sir Louis Mbanefo appended dissenting opinions.

Chapter VIII

DECISIONS OF NATIONAL TRIBUNALS

Belgium

BRUSSELS COURT OF FIRST INSTANCE

MANDERLIER v. UNITED NATIONS AND BELGIAN STATE: JUDGEMENT OF 11 MAY 1966[1]

The United Nations enjoys immunity from every form of legal process under section 2 of the Convention on the Privileges and Immunities of the United Nations. This immunity is unconditional and is not limited either by section 29 of the Convention in question or by article 10 of the Universal Declaration of Human Rights.

The plaintiff had instituted proceedings with a view to obtaining compensation from the United Nations or the Belgian Government or from both jointly, for damage he claimed to have suffered "as the result of abuses committed by the United Nations troops in the Congo". The Court dismissed the proceedings in so far as they pertained to the United Nations on the ground that the Organization enjoyed immunity from every form of legal process under section 2 of the Convention of 13 February 1946 on the Privileges and Immunities of the United Nations.

The Court pointed out that that Convention, having been approved in Belgium by the Act of 28 August and ratified on 25 September 1948, had the force of law in Belgium. The plaintiff cited section 29 of the Convention, which states that "The United Nations shall make provisions for appropriate modes of settlement of: (*a*) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party; ...", and contended that that section qualified the immunity from legal process afforded by section 2 of the Convention. In that connexion, the Court stated that, even though no legal instance had been established pursuant to section 29, section 2 was applicable and retained its validity and that the immunity of the United Nations was absolute.

The plaintiff also cited article 10 of the Universal Declaration of Human Rights, which states that everyone is entitled to a hearing by a tribunal; he argued that, in the absence of an international tribunal competent to adjudicate his case, he should be able to sue the United Nations in a domestic court. On that point the Court recalled that the Universal Declaration was not legally binding and could not have abrogated, either conditionally or absolutely, the immunity proclaimed in section 2 of the Convention on the Privileges and Immunities of the United Nations.

Lastly, the plaintiff argued that Article 105 of the United Nations Charter only conferred on the United Nations such privileges and immunities as were necessary for the fulfilment of its purposes. In this connexion, the Court emphasized that section 2 of the Convention of 13 February 1946 conferred on the United Nations a general immunity from legal process, which was not limited to the minimum strictly necessary for the fulfilment of the purposes stated in the Charter and that, since the Convention and the Charter had equal status, the former, which was dated 26 February 1945, could not limit the scope of the latter, which dated from 13 February 1946.

[1] Published in the *Journal des Tribunaux*, Brussels, No. 4553, 10 December 1966.

Part Four

LEGAL DOCUMENTS INDEX AND BIBLIOGRAPHY OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

Chapter IX

LEGAL DOCUMENTS INDEX OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

A. Legal Documents Index of the United Nations[1, 2]

MAIN HEADINGS

I. General Assembly and Subsidiary Organs
   1. Plenary General Assembly and Main Committees
   2. Executive Committee of the Programme of the United Nations High Commissioner for Refugees
   3. Committee on the Peaceful Uses of Outer Space
   4. Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa
   5. 1966 Special Committee on Principles of International Law Concerning Friendly Relations and Co-operation among States
   6. International Law Commission
   7. United Nations Congress on the Prevention of Crime and the Treatment of Offenders
   8. International Conference on Human Rights

II. Disarmament Commission

III. Economic and Social Council and Subsidiary Organs
   1. Economic and Social Council and sessional Committees
   2. Committee for Industrial Development
   3. Commission on Human Rights
   4. Commission on the Status of Women
   5. Commission on Narcotic Drugs
   6. Economic Commission for Europe
   7. Economic Commission for Asia and the Far East
   8. Economic Commission for Africa

IV. United Nations Conference on Trade and Development

V. Secretariat
   1. Bureau of Technical Assistance Operations
   2. Economic Commission for Europe

VI. International Court of Justice

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[1] The documentary material relating to each United Nations organ is divided, where appropriate, into two sections: "[(A)] Documents relating to agenda items of legal interest", and "[(B) Other] documents of legal interest". Section (A) contains references to the summary and verbatim records of the meetings where the item was discussed as well as to all the documents related to the agenda item. Section (B) lists the remaining documents of legal interest. A document relating to a given United Nations organ is not listed in the section (B) relating to that organ if it already appears in the section (A) of any other organ.

[2] The following abbreviations have been used in the document references: a.i. = agenda item; E.S.C. = Economic and Social Council; G.A. = General Assembly; mtg. = meeting; Plen. = Plenary meeting.

I. GENERAL ASSEMBLY AND SUBSIDIARY ORGANS

1. Plenary General Assembly and Main Committees

(A) *Documents relating to agenda items of legal interest* (twenty-first session)

(1) *Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples: report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* (agenda item 23)

(*a*) Basic document: Report of the Special Committee (A/6300/Rev.1): see G.A. (XXI), Annexes, addendum to agenda item 23.

(*b*) Consideration by the Fourth Committee of the chapters of the report relating to specific territories:

(*i*) *draft resolutions* (A/C.4/L.835, L.836 and Add. 1-3, L.837 [on Southern Rhodesia], L.840, L.841 and Add. 1 and 2, L.843 [on Aden], L.847 and Rev.1 and Corr.1 [on French Somaliland], L.857 and Add.1 [on Ifni and Spanish Sahara], L.859 [on Equatorial Guinea], L.863 and Add.1, L.866 [on territories not considered separately]) and *reports* of the Fourth Committee (A/6448 [on Basutoland, Bechuanaland and Swaziland], A/6482 and Add.1 [on Southern Rhodesia], A/6557 [on Aden], A/6583 [on French Somaliland], A/6623 [on Ifni, Spanish Sahara and Equatorial Guinea], A/6628 [on territories not considered separately]).

(*ii*) *debates:* G.A. (XXI), 4th Committee, 1597th to 1600th, 1601st, 1606th to 1640th, 1648th to 1654th, 1657th to 1661st, 1663rd to 1669th, 1671st to 1675th and 1677th to 1679th mtgs.

(*c*) Consideration in plenary:

(*i*) *draft resolutions* (A/L.506 and Add.1 and 2, L.507): see G.A. (XXI), Annexes, a.i. 23.

(*ii*) *debates:* G.A. (XXI), Plen., 1442nd, 1450th, 1468th, 1485th, 1487th to 1492nd and 1500th mtgs.

(*iii*) *resolutions adopted:* General Assembly resolutions 2134 (XXI) of 29 September 1966 (on Basutoland, Bechuanaland and Swaziland), 2138 (XXI) of 22 October 1966 and 2151 (XXI) of 17 November 1966 (on Southern Rhodesia), 2183 (XXI) of 12 December 1966 (on Aden), 2228 (XXI) of 20 December 1966 (on French Somaliland), 2229 (XXI) of 20 December 1966 (on Ifni and Spanish Sahara), 2230 (XXI) of 20 December 1966 (on Equatorial Guinea), 2231 (XXI) of 20 December 1966 (on Gibraltar), 2232 (XXI) of 20 December 1966 (on American Samoa, Antigua, Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Cocos [Keeling] Islands, Dominica, Gilbert and Ellice Islands, Grenada, Guam, Mauritius, Montserrat, New Hebrides, Niue, Pitcairn, St. Helena, St. Kitts-Nevis-Anguilla, St. Lucia, St. Vincent, Seychelles, Solomon Islands, Tokelau Islands, Turks and Caicos Islands and the United States Virgin Islands). See also the decision taken by the General Assembly at its 1500th plenary meeting, on 20 December 1966.

(2) *Non-proliferation of nuclear weapons: report of the Conference of the Eighteen-Nation Committee on Disarmament* (agenda item 26)

(*a*) Basic document: Report of the Conference of the Eighteen-Nation Committee on Disarmament (A/6390-DC/228).

(*b*) Consideration by the First Committee:

(*i*) *draft resolutions* (A/C.1/L.371 and Corr.1 and Add.1-6, L.371/Rev.1, L.372 and Add.1-3, L.373, L.375, L.376) and *report* of the First Committee (A/6509): see G.A. (XXI), Annexes, a.i. 26.

(*ii*) *debates:* G.A. (XXI), 1st Committee, 1441st to 1450th mtgs.

(*c*) Consideration in plenary:

(*i*) *debates:* G.A. (XXI), Plen., 1469th and 1499th mtgs.

(*ii*) *resolution adopted:* General Assembly resolution 2153 (XXI)[3] of 17 November 1966.

(3) *Question of general and complete disarmament: report of the Conference of the Eighteen-Nation Committee on Disarmament* (agenda item 27)

(*a*) Basic document: Report of the Conference of the Eighteen-Nation Committee on Disarmament (A/6390-DC/228).

(*b*) Consideration by the First Committee:

(*i*) *draft resolutions* (A/C.1/L.370, L.370/Rev.1 and Rev.1/Add.1/Corr.1 and Rev.1/Add.2-8, L.374, L.374/Rev.1 and Rev.1/Add.1, L.377, L.378 and Add.1 and 2, L.379, L.379/Rev.1, L.381, L.382, L.382/Rev.1 and 2) and *report* of the First Committee (A/6529 and Add.1): see G.A. (XXI), Annexes, a.i. 27.

(*ii*) *debates:* G.A. (XXI), 1st Committee, 1450th to 1458th, 1460th to 1462nd and 1493rd mtgs.

(*c*) Consideration in plenary:

(*i*) *debates:* G.A. (XXI), Plen., 1484th and 1498th mtgs.

(*ii*) *resolution adopted:* General Assembly resolution 2162 (XXI)[4] of 5 December 1966.

(4) *Urgent need for suspension of nuclear and thermonuclear tests: report of the Conference of the Eighteen-Nation Committee on Disarmament* (agenda item 28)

(*a*) Basic document: Report of the Conference of the Eighteen-Nation Committee on Disarmament (A/6390-DC/228).

(*b*) Consideration by the First Committee:

(*i*) *draft resolution* (A/C.1/L.380 and Add.1 and 2) and *report* of the First Committee (A/6530): see G.A. (XXI), Annexes, a.i. 28.

(*ii*) *debates:* G.A. (XXI), 1st Committee, 1457th to 1460th, 1462nd and 1463rd mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1484th mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2163 (XXI)[5] of 5 December 1966.

(5) *Question of convening a conference for the purpose of signing a convention on the prohibition of the use of nuclear and thermonuclear weapons: report of the Conference of the Eighteen-Nation Committee on Disarmament* (agenda item 29)

(*a*) Basic document: Report of the Conference of the Eighteen-Nation Committee on Disarmament (A/6390—DC/228).

(*b*) Consideration by the First Committee:

(*i*) *draft resolution* (A/C.1/L.384 and Rev.1) and *report* of the First Committee (A/6532): see G.A. (XXI), Annexes, a.i. 29.

(*ii*) *debates:* G.A. (XXI), 1st Committee, 1463rd to 1465th mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1484th mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2164 (XXI) of 5 December 1966.

(6) *International co-operation in the peaceful uses of outer space: report of the Committee on the Peaceful Uses of Outer Space* (agenda item 30)[6]

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[3] Text reproduced in this *Yearbook*, p. 63.
[4] *Ibid.*, p. 65.
[5] *Ibid.*, p. 65.
[6] See also section 3 below.

Conclusion of an international treaty on principles governing the activities of States in the exploration and use of outer space, the Moon and other celestial bodies (agenda item 89)

Treaty governing the exploration and use of outer space including the Moon and other celestial bodies (agenda item 91)

(*a*) Basic documents: Letter from the Permanent Representative of the USSR to the United Nations addressed to the Secretary-General (A/6341) (requests the inclusion of an additional item in the agenda of the 21st session of the General Assembly and submits explanatory memorandum)—Letter from the Permanent Representative of the USSR to the United Nations addressed to the Secretary-General (A/6352 and Rev.1) (contains text of a draft Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, the Moon and other Celestial Bodies)—Letter from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General (A/6392) (requests the inclusion of an additional item in the agenda of the 21st session of the General Assembly and contains text of a proposed Treaty Governing the Exploration and Use of Outer Space including the Moon and other Celestial Bodies)—Report of the Committee on the Peaceful Uses of Outer Space (A/6431): see G.A. (XXI), Annexes, a.i. 30, 89 and 91.

(*b*) Consideration by the First Committee:

(*i*) *draft resolutions* (A/C.1/L.393 and Add.1, L.394 and Add.1, L.395, L.396 and Add.1 and 2, L.397 and Add.1, L.398) and *report* of the First Committee (A/6621): see G.A. (XXI), Annexes, a.i. 30, 89 and 91.

(*ii*) *debates:* G.A. (XXI), 1st Committee, 1491st to 1493rd mtgs.

(*c*) Consideration in plenary:

(*i*) *debates:* G.A. (XXI), Plen., 1498th and 1499th mtgs.

(*ii*) *resolutions adopted:* General Assembly resolutions 2221 (XXI), 2222 (XXI)[7] and 2223 (XXI), of 19 December 1966.

(7) *Comprehensive review of the whole question of peace-keeping operations in all their aspects: report of the Special Committee on Peace-Keeping Operations* (agenda item 33)

(*a*) Basic document: Third report of the Special Committee on Peace-Keeping Operations (A/6614): see G.A. (XXI), Annexes, a.i. 33.

(*b*) Consideration by the Special Political Committee:

(*i*) *draft resolutions* (A/SPC/L.129 and Add.1 and 2, L.129/Rev.1, L.130, L.130/Rev.2, 3 and 4, L.131 and Rev.1, L.132, L.133 and Rev.1, L.134, L.137, L.138, L.139, L.140, L.141) and *report* of the Special Political Committee (A/6603): see G.A. (XXI), Annexes, a.i. 33.

(*ii*) *debates:* G.A. (XXI), Special Political Committee, 516th to 527th, 529th and 543rd to 545th mtgs.

(*c*) Consideration in plenary:

(*i*) *draft resolutions:* A/L.512 and Rev.1, L.515.

(*ii*) *debates:* G.A. (XXI), Plen., 1497th to 1499th mtgs.

(*iii*) *resolution adopted:* General Assembly resolution 2220 (XXI) of 19 December 1966.

(8) *The policies of apartheid of the Government of the Republic of South Africa: report of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa* (agenda item 34)[8]

(*a*) Basic documents: reports of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa (A/6356 and A/6486): see G.A. (XXI), Annexes, a.i. 34.

[7] Text reproduced in this *Yearbook*, p. 66.

[8] See also section 4 below.

(*b*) Consideration by the Special Political Committee:

(*i*) *draft resolutions* (A/SPC/L.135 and Add.1 and 2, and L.136) and *report* of the Special Political Committee (A/6579): see G.A. (XXI), Annexes, a.i. 34.

(*ii*) *debates:* G.A. (XXI), Special Political Committee, 530th to 542nd mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1496th mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2202 (XXI) of 16 December 1966.

(9) *Permanent sovereignty over natural resources* (agenda item 45)

(*a*) Basic document: Note by the Secretary-General (A/6430): see G.A. (XXI), Annexes, a.i. 45.

(*b*) Consideration by the Second Committee:

(*i*) *draft resolutions* (A/C.2/L.870 and Corr.1 and Add.1 and 2, L.870/Rev.1 and Rev.2 and Corr. 1, L.871, L.873 and Rev.1, L.874 and Rev.1, L.875, L.876, L.880, L.881, L.884, L.885, L.886) and *report* of the Second Committee (A/6518): see G.A. (XXI), Annexes, a.i. 45.

(*ii*) *debates:* G.A. (XXI), 2nd Committee, 1050th to 1055th and 1057th to 1061st mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1478th mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2158 (XXI)[9] of 25 November 1966.

(10) *Elimination of all forms of racial discrimination (a) Measures to implement the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (b) Status of the International Convention on the Elimination of All Forms of Racial Discrimination: report of the Secretary-General* (agenda item 57)[10]

(*a*) Basic documents: Note of the Secretary-General on sub-item (*a*) (A/6403) drawing attention to his report to the Economic and Social Council (E/4174 and Add.1 and 2 and Add.2/Corr.1 and Add.3-9) and containing draft resolution submitted by the Economic and Social Council: see G.A. (XXI), Annexes, a.i. 57; report of the Secretary-General on sub-item (*b*) (A/6405 and Add.1 and 2).

(*b*) Consideration by the Third Committee:

(*i*) *amendments* to the draft resolution of the Council (A/C.3/L.1345, L.1346, L.1347, L.1348, L.1349) and *report* of the Third Committee (A/6484): see G.A. (XXI), Annexes, a.i. 57.

(*ii*) *debates:* G.A. (XXI), 3rd Committee, 1390th to 1395th mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1452nd mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2142 (XXI) of 26 October 1966.

(11) *Draft International Covenants on Human Rights* (agenda item 62)

(*a*) Basic document: Note by the Secretary-General (A/6342) (containing, in Annex I, the text of the articles of the draft International Covenants on Human Rights adopted by the Third Committee at the tenth to eighteenth sessions of the General Assembly and, in Annex II, the text of the articles still requiring consideration by the Assembly).

(*b*) Consideration by the Third Committee:

(*i*) *draft resolutions* (A/C.3/L.1334, L.1350, L.1352, L.1353 and Rev.1, 2 and 3, L.1354 and Corr.1, L.1355, L.1356 and Corr.1, L.1356/Rev.1 and Rev.1/Corr.1,

[9] Text reproduced in this *Yearbook*, p. 67.

[10] See also sections III 1 (A) (*i*) (2), (*ii*) (4) and 3 (A) (6) below.

L.1357 and Add.1, L.1358, L.1359, L.1360, L.1361, L.1367, L.1368 and Add.1, L.1370, L.1371, L.1372, L.1373 and Add.1 and Add.1/Corr.1, L.1374 and Rev.1, L.1375, L.1376, L.1377, L.1378, L.1379 and Rev.1 and Rev.1/Corr.1 and 2, L.1381 and Add.1 and 2, L.1388, L.1389, L.1390, L.1391, L.1393, L.1394, L.1395, L.1396, L.1397 and Corr.1, L.1399 and Rev.1, L.1402 and Rev.1 and Rev.1/Add.1, L.1402/Rev.2, L.1404, L.1405, L.1407, L.1408 and Rev.1 and 2, L.1409 and Add.1, L.1410, L.1411 and Rev.1 and 2, L.1417) and *report* of the Third Committee (A/6546): see G.A. (XXI), Annexes, a.i. 62.

(*ii*) *debates:* G.A. (XXI), 3rd Committee, 1395th to 1441st, 1446th, 1451st to 1453rd, 1455th and 1456th mtgs.

(*c*) Consideration in plenary:

(*i*) *debates:* G.A. (XII), Plen., 1495th and 1496th mtgs.

(*ii*) *resolution adopted:* General Assembly resolution 2200 (XXI)[11] of 16 December 1966 (contains text of International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights).[12]

(12) *International Year for Human Rights (a) Programme of measures and activities to be undertaken in connexion with the International Year for Human Rights (b) Report of the Preparatory Committee for the International Conference of Human Rights* (agenda item 63)[13]

(*a*) Basic documents: First progress report of the Preparatory Committee (A/6354) and Note by the Secretary-General (A/6422) (contains in annex draft resolution submitted by the Economic and Social Council): see G.A. (XXI), Annexes, a.i. 63.

(*b*) Consideration by the Third Committee:

(*i*) *draft resolutions* (A/C.3/L.1423 and Add.1 and 2, L.1425, L.1427, L.1431, L.1432, L.1433, L.1334 and Rev.1, L.1435) and *report* of the Third Committee (A/6619): see G.A. (XXI), Annexes, a.i. 63.

(*ii*) *debates:* G.A. (XXI), 3rd Committee, 1462nd to 1464th mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1498th mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2217 (XXI) of 19 December 1966.

(13) *Question of South West Africa: report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* (agenda item 65)

(*a*) Basic documents: Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples: chapter IV (A/6300/Rev.1): see G.A. (XXI), Annexes, addendum to a.i. 23—Report of the Secretary-General (A/6332 and Add.1).

(*b*) Hearing of petitioners by the Fourth Committee:

(*i*) *reports* of the Fourth Committee on the hearing of petitioners (A/6458 and Add.1): see G.A. (XXI), Annexes, a.i. 65.

(*ii*) *debates:* G.A. (XXI), 4th Committee, 1601st to 1605th and 1679th mtgs.

(*c*) Consideration in plenary:

(*i*) *draft resolutions* (A/L.483 and Add.1-3, L.486, L.487 and Rev.1, L.488, L.489, L.490, L.511 and Add.1 and 2 and L.511/Rev.1).

(*ii*) *debates:* G.A. (XXI), Plen., 1414th, 1417th, 1419th, 1425th, 1427th, 1429th, 1431st, 1433rd, 1439th, 1448th, 1449th, 1451st, 1453rd, 1454th, 1471st and 1550th mtgs.

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[11] Text reproduced in this *Yearbook*, p. 69.

[12] *Ibid.*, p. 170.

[13] See also section 8 and sections III 1 (A) (*ii*) (2) and (3), 3 (A) (3) and 4 (4) below.

(iii) *resolutions adopted:* General Assembly resolutions 2145 (XXI) (on the item as a whole)[14] and 2146 (XXI) (on petitions concerning South West Africa), of 27 October 1966.

(14) *Reports of the International Law Commission on the second part of its seventeenth session and on its eighteenth session* (agenda item 84)[15]

(a) Basic documents: Reports of the International Law Commission on the second part of its seventeenth session and on its eighteenth session: G.A. (XXI), Suppl. No. 9 (A/6309/Rev.1, Parts I and II); memorandum by the Secretary-General on the procedural and organizational problems involved in a possible diplomatic conference on the law of treaties (A/C.6/371):[16] see G.A. (XXI), Annexes, a.i. 84.

(b) Consideration by the Sixth Committee:

(i) *draft resolutions* (A/C.6/L.594 and Rev.1, L.595, L.596 and Corr.1 and Add.1, L.596/Rev.1 and 2, L.597 and Add.1, L.598, L.601, L.602, L.603) and *report* of the Sixth Committee (A/6516):[17] see G.A. (XXI), Annexes, a.i. 84.

(ii) *debates:* G.A. (XXI), 6th Committee, 902nd to 919th mtgs.

(c) Consideration in plenary:

(i) *draft resolution* (A/L.502 and Add.1 and 2): see G.A. (XXI), Annexes, a.i. 84.

(ii) *debate:* G.A. (XXI), Plen., 1484th mtg.

(iii) *resolutions adopted:* General Assembly resolutions 2166 (XXI)[18] (on the convening of an international conference of plenipotentiaries on the law of treaties) and 2167 (XXI)[19] (on the reports of the International Law Commission), of 5 December 1966.

(15) *Draft Declaration on the Right of Asylum* (agenda item 85)

(a) Basic documents: Notes by the Secretary-General (A/6367 and Add.1 and 2 [containing comments by Governments on the Draft Declaration] and A/C.6/L.599): see G.A. (XXI), Annexes, a.i. 85.

(b) Consideration by the Sixth Committee:

(i) *report* of the Working Group (A/C.6/L.614 and Corr.3), *proposals* (A/C.6/L.587, L.588 and Add.1, L.589, L.590, L.591, L.593 and Add.1-3, L.604, L.605, L.616) and *comments* on article 1 (A/C.6/L.606), and *report* of the Sixth Committee (A/6163): see G.A. (XXI), Annexes, a.i. 85.

(ii) *debates:* G.A. (XXI), 6th Committee, 919th to 923rd, 925th, 926th and 953rd mtgs.

(c) Consideration in plenary:

(i) *debate:* G.A. (XXI), Plen., 1496th mtg.

(ii) *resolution adopted:* General Assembly resolution 2203 (XXI) of 16 December 1966.

(16) *Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law: report of the Secretary-General* (agenda item 86)

(a) Basic document: Report of the Secretary-General on the implementation of resolution 2099 (XX) of the General Assembly (A/6492 and Add.1): see G.A. (XXI), Annexes, a.i. 86.

(b) Consideration by the Sixth Committee:

(i) *draft resolution* (A/C.6/L.611 and Add.1 and 2, A/C.6/L.611/Rev.1 and Add.1 and 2) and *report* of the Sixth Committee (A/6576): see G.A. (XXI), Annexes, a.i. 86.

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[14] Text reproduced in this *Yearbook*, p. 71.

[15] See also section 6 below.

[16] Text reproduced in this *Yearbook*, p. 248.

[17] *Ibid.*, p. 72.

[18] *Ibid.*, p. 104.

[19] *Ibid.*, p. 106.

(*ii*) *debates:* G.A. (XXI), 6th Committee, 943rd to 945th and 954th mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1496th mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2204 (XXI) of 16 December 1966.

(17) *Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: (a) Report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (b) Report of the Secretary-General on methods of fact-finding* (agenda item 87)[20]

(*a*) Basic documents: Report of the Secretary-General on methods of fact-finding (A/6228), Report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/6230) and Comments from Governments (A/6373 and Add.1): see G.A. (XXI), Annexes, a.i. 87.

(*b*) Consideration by the Sixth Committee:

(*i*) *draft resolutions* (A/C.6/L.607 and Add.1 and 2, L.607/Rev.1 and Add.1, L.607/Rev.2 and Rev.3 and Add.1, L.608 and Rev.1 and 2, L.610 and Add.1, L.612 and Add.1) and *report* of the Sixth Committee (A/6547):[21] see G.A. (XXI), Annexes, a.i. 87.

(*ii*) *debates:* G.A. (XXI), 6th Committee, 924th to 942nd mtgs.

(*c*) Consideration in plenary:

(*i*) *debates:* G.A. (XXI), Plen., 1484th and 1489th mtgs.

(*ii*) *resolutions adopted:* General Assembly resolutions 2181 (XXI) (on consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations)[22] and 2182 (XXI) (on the question of methods of fact-finding),[23] of 12 December 1966.

(18) *Progressive development of the law of international trade* (agenda item 88)

(*a*) Basic document: Report of the Secretary-General (A/6396 and Add.1 and 2): see G.A. (XXI), Annexes a.i. 88.

(*b*) Consideration by the Sixth Committee:

(*i*) *draft resolution* (A/C.6/L.613 and Add.1 and 2, L.613/Rev.1 and Add.1 and 2, L.613/Rev.2 and 3) and *report* of the Sixth Committee (A/6594):[24] see G.A. (XXI), Annexes, a.i. 88.

(*ii*) *debates:* G.A. (XXI), 6th Committee, 946th to 953rd and 955th mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1497th mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2205 (XXI)[25] of 17 December 1966.

(19) *Strict observance of the prohibition of the threat or use of force in international relations and of the right of peoples to self-determination* (agenda item 92)

(*a*) Basic document: Letter from the Permanent Representative of Czechoslovakia to the United Nations addressed to the Secretary-General (A/6393) (requests the

[20] See also section 5 below.

[21] Text reproduced in this *Yearbook*, p. 107.

[22] *Ibid.*, p. 128.

[23] *Ibid.*, p. 130.

[24] *Ibid.*, p. 131.

[25] *Ibid.*, p. 142.

inclusion of an additional item in the agenda of the 21st session of the General Assembly): see G.A. (XXI), Annexes, a.i. 92.

(*b*) Consideration in plenary:

(*i*) *draft resolutions* (A/L.493 and Add.1 and 2, L.495, L.497, L.498, L.501 and Corr.1): see G.A. (XXI), Annexes, a.i. 92.

(*ii*) *debates:* G.A. (XXI), Plen., 1459th, 1461st, 1463rd, 1465th to 1469th and 1482nd mtgs.

(*iii*) *resolution adopted:* General Assembly resolution 2160 (XXI)[26] of 30 November 1966.

(20) *Question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories* (agenda item 95)[27]

(*a*) Basic document: Note by the Secretary-General (A/6442) (contains in annex I draft resolution submitted by the Economic and Social Council).

(*b*) Consideration by the Third Committee:

(*i*) *draft resolutions* (A/C.3/L.1335, L.1336, L.1337, L.1338, L.1339, L.1339/Rev.1 and Rev.1/Add.1, L.1340, L.1342 and Rev.1) and *report* of the Third Committee (A/6483): see G.A. (XXI), Annexes, a.i. 95.

(*ii*) *debates:* G.A. (XXI), 3rd Committee, 1378th to 1389th mtgs.

(*c*) Consideration in plenary:

(*i*) *debate:* G.A. (XXI), Plen., 1452nd mtg.

(*ii*) *resolution adopted:* General Assembly resolution 2144 (XXI) of 26 October 1966.

(21) *Status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty* (agenda item 96)

(*a*) Basic document: Letter from the Minister for Foreign Affairs of the USSR to the President of the General Assembly (A/6397) (requests the inclusion of an additional item in the agenda of the 21st session of the General Assembly and submits a draft resolution): see G.A. (XXI), Annexes, a.i. 96.

(*b*) Consideration by the First Committee:

(*i*) *draft resolutions* (A/C.1/L.367, L.388, L.388/Rev.1 and Rev.1/ Corr.1, L.388/Rev.1/Add.1 and 2) and *report* of the First Committee (A/6598): see G.A. (XXI), Annexes, a.i. 96.

(*ii*) *debates:* G.A. (XXI), 1st Committee, 1473rd to 1483rd mtgs.

(*c*) Consideration in plenary:

(*i*) *debates:* G.A. (XXI), Plen., 1498th and 1499th mtgs.

(*ii*) *resolution adopted:* General Assembly resolution 2225 (XXI) of 19 December 1966.

(22) *Renunciation by States of actions hampering the conclusion of an agreement on the non-proliferation of nuclear weapons* (agenda item 97)

(*a*) Basic document: Letter from the Minister for Foreign Affairs of the USSR to the President of the General Assembly (A/6398) (requests the inclusion of the item in the agenda of the 21st session of the General Assembly and submits explanatory memorandum and draft resolution): see G.A. (XXI), Annexes, a.i. 97.

(*b*) Consideration by the First Committee:

(*i*) *draft resolution* (A/C.1/L.368, L.368/Rev.1 and Rev.1/Add.1 to 6) and *report* of the First Committee (A/6496): see G.A. (XXI), Annexes, a.i. 97.

(*ii*) *debates:* G.A. (XXI), 1st Committee, 1431st to 1440th mtgs.

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[26] *Ibid.*, p. 145.

[27] See also section III 1 (A) (*ii*) (2) and 3 (A) (7).

(*c*) Consideration in plenary:

(*i*) *draft resolution:* A/L.492.

(*ii*) *debate:* G.A. (XXI), Plen., 1458th mtg.

(*iii*) *resolution adopted:* General Assembly resolution 2149 (XXI) of 4 November 1966.

(B) *Other documents of legal interest*

(1) *Refugees*[28]

Report of the United Nations High Commissioner for Refugees: G.A. (XXI), Suppl. No. 11 (A/6311/Rev.1) (Chapter II: International protection) and 11 A (A/6311/ Add.1) (contains in Part I a draft Protocol relating to the status of refugees).

(2) *Manifestations of racial prejudice and national and religious intolerance*

Report of the Secretary-General (A/6347/Add.1-2).

(3) *Status of Women*[29]

Constitutions, electoral laws and other legal instruments relating to political rights of women. Report of the Secretary-General (A/6447).

(4) *International Court of Justice*[30]

Election of five members of the International Court of Justice. Memorandum by the Secretary-General (A/6366—S/7466)—List of candidates nominated by national groups. Note by the Secretary-General (A/6420/Rev.1—S/7490/Rev.1): see G.A. (XXI), Annexes, a.i. 17.

See also election held on 2 and 3 November 1966 by the General Assembly at its 1456th and 1457th plenary meetings and by the Security Council at its 1315th and 1316th meetings.

(5) *Administrative Tribunal*

Note by the Secretary-General (A/INF/116) (transmits annual note by the Administrative Tribunal to the President of the General Assembly as to the functioning of the Tribunal).

Appointments to fill vacancies in the membership of subsidiary bodies of the General Assembly. United Nations Administrative Tribunal. Note by the Secretary-General (A/6384): see G.A. (XXI), Annexes, a.i. 79.

Report of the Fifth Committee (A/6549): *ibid.*

See also General Assembly resolution 2168 (XXI) of 6 December 1966.

2. EXECUTIVE COMMITTEE OF THE PROGRAMME OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES[31]

Document of legal interest

Proposed measures to extend the personal scope of the Convention relating to the Status of Refugees of 28 July 1951 (A/AC.96/346 and Corr.1 [English only] and Corr.2 and Add.1-3)[32]

3. COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE[33]

Documents relating to an agenda item of legal interest (eighth session)

Report of the Committee to the General Assembly

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(*b*) *Report of the Legal Sub-Committee*

(*c*) *Report of the Working Group of the Whole* (agenda item 3)

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[28] See also section 2 below.

[29] See also section III 4 below.

[30] See also section VI below.

[31] See also section 1 (B) (1) above.

[32] See also Chapter VI, section 19 of this *Yearbook*, p. 248.

[33] See also section 1 (A) (6) above.

(*a*) Basic documents: Report of the Legal Sub-Committee on the work of its fifth session (A/AC.105/35), reports of the Working Group of the Whole (A/AC.105/30 and 34).

(*b*) Consideration by the Legal Sub-Committee of the Draft Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, the Moon and other Celestial Bodies (proposed by the Soviet Union) and of the Draft Treaty Governing the Exploration of the Moon and other Celestial Bodies (proposed by the United States of America): see Annex I of Sub-Committee's report (A/AC.105/35):

(*i*) *proposals* (Working Papers Nos. 3, 4, 6/Rev.1, 7 and Corr.1 [English, French and Russian only], 8, 9 and Corr.1 [English only], 17, 19, 21, 22, 23 and Corr.1 [English only], 25, 26, 27, and 28): see Annex III of Sub-Committee's report (A/AC.105/35), *articles* accepted by the Working Group (W.G. L.1 and Corr.1 [English only], L.2, L.3, L.4, L.5 and Corr.1 [English only], L.6, L.7, L.8 and L.9): see Annex II of Sub-Committee's report (A/AC.105/35), and *report* of the Sub-Committee (A/AC.105/35).

(*ii*) *debates:* A/AC.105/C.2/SR.57 to 73.

(*c*) Consideration by the Committee of the Legal Sub-Committee's report and of the Working Group's reports:

(*i*) *report* of the Committee (A/6631): see G.A. (XXI), Annexes, a.i. 30.

(*ii*) *debate:* A/AC.105/PV.45.

4. Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa [34]

Documents of legal interest

Notes on developments in the Republic of South Africa since the Special Committee's report of 10 August 1965: measures of racial discrimination and separation (A/AC.115/L.183).

Notes on developments in the Republic of South Africa since the Special Committee's report of 10 August 1965: repressive measures against opponents of *apartheid* (A/AC.115/L.184).

Notes on developments in the Republic of South Africa since the Special Committee's report of 10 August 1965: the build-up of military and police forces (A/AC.115/L.185).

5. 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States [35]

Documents relating to an agenda item of legal interest

(a) *The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;*

(b) *The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;*

(c) *The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;*

(d) *The principle of sovereign equality of States;*

(e) *The duty of States to co-operate with one another in accordance with the Charter;*

(f) *The principle of equal rights and self-determination of peoples;*

(g) *The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter*

(*a*) Basic documents: General Assembly resolution 2103 (XX), Report of the 1964 Special Committee (A/5746).

(*b*) Consideration by the Special Committee:

(*i*) *proposals* and *amendments* (A/AC.125/L.16, Part I, L.21 and Add.1, L.22, L.23, L.24 [on principle (*a*)], L.16, Part II, L.25 and Add.1, L.27 [on principle

[34] See also section 1 (A) (8) above.

[35] See also section 1 (A) (17) above.

(*b*)], L.12 and Rev.1 and Corr.1, L.13, L.16 and Rev.1, Part III, L.18, L.36 [on principle (*c*)], L.5, L.6, L.7, L.8, L.9, L.10, L.11, L.16, Part IV [on principle (*d*)], L.16, Part V, L.28, L.29, L.30 [on principle (*e*)], L.16, Part VI, L.31 and Add. 1-3, L.32, L.34 [on principle (*f*)], L.16, Part VII, L.35, L.37 [on principle (*g*)], *draft resolutions* (A/AC.125/L.14, L.15, L.17, L.19, L.20 [on principle (*c*)], L.26 [on principle (*b*)]), *Drafting Committee's recommendations* on principles (*d*) (A/AC.125/4) and (*b*) (A/AC.125/6), *Drafting Committee's report* on principle (*c*) (A/AC./125/5) and *Drafting Committee's final report* (A/AC.125/8): see *report* of the 1966 Special Committee (A/6230).

(*ii*) *debates:* A/AC.125/SR.1-52.

6. INTERNATIONAL LAW COMMISSION[36]

(A) (*i*) *Documents relating to an agenda item of legal interest* (seventeenth session, second part)

Law of treaties (agenda item 2)

(*a*) Basic document: Fifth report on the law of treaties by Sir Humphrey Waldock, Special Rapporteur (A/CN.4/183 and Add.1-4).

(*b*) Consideration by the Commission:

(*i*) *comments* by Governments on parts I and II of the draft articles on the law of treaties drawn up by the Commission at its fourteenth and fifteenth sessions (A/CN.4/175/Add.5) and *report* of the Commission: G.A. (XXI), Suppl. No. 9 (A/6309/Rev.1).

(*ii*) *debates:* International Law Commission, 823rd to 826th and 829th to 843rd mtgs.

(*ii*) *Documents relating to agenda items of legal interest* (eighteenth session)

(1) *Law of treaties* (agenda item 1)

(*a*) Basic document: Sixth report on the law of treaties by Sir Humphrey Waldock, Special Rapporteur (A/CN.4/186 and Add.1-7).

(*b*) Consideration by the Commission:

(*i*) *memorandum* by the Secretariat on the preparation of multilingual treaties (A/CN.4/187), *comments* by Governments on part III of the draft articles on the law of treaties drawn up by the Commission at its sixteenth session (A/CN.4/182 and Corr.1 [English only] and Corr.2 [English and Spanish only], and Add.1, Add.2, Add.2/Rev.1 [English only] and Add.3) and *report* of the Commission: G.A. (XXI), Suppl. No. 9 (A/6309/Rev.1) (contains the draft articles on the law of treaties, also reproduced in document A/6348 and Corr.1).

(*ii*) *debates:* International Law Commission, 845th to 876th, 879th, 880th and 883rd to 894th mtgs.

(2) *Special missions* (agenda item 2)

(*a*) Basic document: Third report on special missions by Mr. M. Bartoš, Special Rapporteur (A/CN.4/189 and Add.1 and 2).

(*b*) Consideration by the Commission:

(*i*) *comments* by Governments on the draft articles on special missions (A/CN.4/188 and Add.1-4).

(*ii*) *debates:* International Law Commission, 877th, 878th and 881st to 883rd mtgs.

(B) *Other document of legal interest*

General

Yearbook of the International Law Commission, 1965, vol. I: Summary records of the first part of the seventeenth session (A/CN.4/SER.A/1965—Sales No.1 66.V.1) and vol. II:

[36] See also section 1 (A) (14) above. For detailed information, see *Yearbook of the International Law Commission, 1966* (United Nations publication, Sales Nos: 67. V. 1, 67. V. 5 and 67. V. 2).

Documents of the first part of the seventeenth session, including report of the Commission to the General Assembly (A/CN.4/SER.A/1965/Add.1—Sales No.: 66.V.2).

7. UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS (STOCKHOLM, 1965)

Document of legal interest

Report of the Congress prepared by the Secretariat (A/CONF.26/7—Sales No.: 67.IV.1).

8. INTERNATIONAL CONFERENCE ON HUMAN RIGHTS [37]

Preparatory Committee for the International Conference on Human Rights
Documents relating to an agenda item of legal interest (first session)

Preparations for the International Conference on Human Rights

(*a*) *Agenda of the Conference*

. . .

(*e*) *Organization of the preparation of the necessary evaluation studies and other documentation*

(*f*) *Preparation of the draft rules of procedure of the Conference*

. . . (agenda item 4)

(*a*) Basic documents: Preparation for the International Conference on Human Rights—Note by the Secretary-General (A/CONF.32/PC/3); Summary of the actions taken by United Nations organs with regard to the holding of an international Conference on Human Rights in 1968—Note by the Secretary-General (A/CONF.32/PC/L.1); Relevant extracts from the provisional records of the twentieth session of the General Assembly—Note by the Secretary-General (A/CONF.32/PC/L.2); Selected General Assembly and Economic and Social Council resolutions relating to the question of convening international conferences (A/CONF.32/PC/L.5).

(*b*) Consideration by the Preparatory Committee:

(*i*) *proposals* (A/CONF.32/PC/L.4, L.11, L.13, L.16), *draft resolution* (A/CONF. 32/PC/L.8 and Rev.1) and *report* of the Committee (A/6354): see G.A. (XXI), Annexes, a.i. 63.

(*ii*) *debates:* A/CONF.32/PC/SR.1 to 20.

II. DISARMAMENT COMMISSION

Documents of legal interest

Soviet draft of Treaty on general and complete disarmament under strict international control (DC/213/Add.1)—Memorandum by the Soviet Government on measures for further reduction of international tension and limitation of the arms race (DC/213/Add.2)—Memorandum of the United States on measures to stop the spread of nuclear weapons, halt and turn down the arms race and reduce international tension (DC/214/Add.1): see Disarmament Commission Supplement for January to December 1965.

III. ECONOMIC AND SOCIAL COUNCIL AND SUBSIDIARY ORGANS

1. ECONOMIC AND SOCIAL COUNCIL AND SESSIONAL COMMITTEES

(A) (*i*) *Documents relating to agenda items of legal interest* (fortieth session)

(1) *Organizational and procedural arrangements for the implementation of conventions and recommendations in the field of human rights* (agenda item 9)

(*a*) Basic documents: Report of UNESCO (E/4133)—Report of the Secretary-General (E/4143)—Report of ILO (E/4144): see E.S.C. (XL), Annexes, a.i. 9.

(*b*) Consideration by the Council:

(*i*) *draft resolution* (E/L.1108 and Rev.1): see E.S.C. (XL), Annexes, a.i. 9.

[37] See also section 1 (A) (12) above.

(*ii*) *debates:* E.S.C. (XL), 1410th to 1412th mtgs.

(*iii*) *resolution adopted:* Economic and Social Council resolution 1101 (XL) of 2 March 1966.

(2) *Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination* (agenda item 10)[38]

(*a*) Basic document: Note by the Secretary-General (E/4146 and Rev.1 and Corr.1).

(*b*) Consideration by the Council:

(*i*) *draft resolutions* (E/L.1111, L.1112 and Add.1, L.1114): see E.S.C. (XL), Annexes, a.i. 10.

(*ii*) *debates:* E.S.C. (XL), 1411th to 1415th mtgs.

(*iii*) *resolutions adopted:* Economic and Social Council resolutions 1102 (XL) of 4 March 1966 and 1103 (XL) of 3 March 1966.

(3) *Non-governmental organizations* (agenda item 13)

(*a*) Basic document: Report of the *ad hoc* Committee of the Whole on the proposed amendment of rule 82 of the rules of procedure of the Council (concerning the enlargement of the Committee on Non-Governmental Organizations) (E/4166): see E.S.C. (XL), Annexes, a.i. 13.

(*b*) Consideration by the Council:

(*i*) *debate:* E.S.C. (XL), 1415th mtg.

(*ii*) *resolution adopted:* Economic and Social Council resolution 1099 (XL) of 4 March 1966 (containing amended text of rule 82).

(A) (*ii*) *Documents relating to agenda items of legal interest* (forty-first session)

(1) *Travel, transport and communications*

(*a*) *Arrangements for the convening of an international Conference to replace the Convention on Road Traffic and the Protocol on Road Signs and Signals, done at Geneva, 19 September 1949*

. . . (agenda item 20)

(*a*) Basic document: Report of the Secretary-General (E/4194): see E.S.C. (XLI), Annexes, a.i. 20.

(*b*) Consideration by the Economic Committee:

(*i*) *draft resolution* (E/AC.6/L.337 and Rev.1) and *report* of the Economic Committee (E/4247): see E.S.C. (XLI), Annexes, a.i. 20.

(*ii*) *debates:* E/AC.6/SR.384 and 386.

(*c*) Consideration by the Council:

(*i*) *debate:* E.S.C. (XLI), 1439th mtg.

(*ii*) *resolution adopted:* Economic and Social Council resolution 1129 (XLI) of 26 July 1966.

(2) *Report of the Commission on Human Rights* (agenda item 21)[39]

(*a*) Basic document: Report of the Commission on Human Rights (twenty-second session): E.S.C. (XLI), Suppl. No. 8 (E/4184).

(*b*) Consideration by the Social Committee:

(*i*) *draft resolutions* (E/AC.7/L.504, L.505, L.507, L.508) and *report* of the Social Committee (E/4261): see E.S.C. (XLI), Annexes, a.i. 21.

(*ii*) *debates:* E/AC.7/SR.550 to 554.

(*c*) Consideration by the Council:

(*i*) *debate:* E.S.C. (XLI), 1445th mtg.

[38] See also sections I 1 (A) (10) above, and III 1 (A) (*ii*) (4) and 3 (A) (6) below.

[39] See also sections I 1 (A) (12) and (20) above and 3 below.

(*ii*) *resolutions adopted:* Economic and Social Council resolutions 1158 (XLI) (on the question of punishment of war criminals), 1160 (XLI) (on the International Year for Human Rights), 1162 (XLI) (on the item as a whole), 1163 (XLI) (on the question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery) and 1164 (XLI) (on the question of the violation of human rights and fundamental freedoms), of 5 August 1966.

(3) *Report of the Commission on the Status of Women* (agenda item 22) [40]

(*a*) Basic document: Report of the Commission on the Status of Women (nineteenth session): E.S.C. (XLI), Suppl. No. 7 (E/4175).

(*b*) Consideration by the Social Committee:

(*i*) *draft resolution* (E/AC.7/L.493) and *report* of the Social Committee (E/4248): see E.S.C. (XLI), Annexes, a.i. 22.

(*ii*) *debates:* E/AC.7/SR.539, 540 and 542.

(*c*) Consideration by the Council:

(*i*) *debate:* E.S.C. (XLI), 1439th mtg.

(*ii*) *resolutions adopted:* Economic and Social Council resolutions 1131 (XLI) (on the draft declaration on the elimination of discrimination against women), 1135 (XLI) (on the International Year for Human Rights) and 1137 (XLI) (on the item as a whole), of 26 July 1966.

(4) *Measures taken in the implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination* (agenda item 24) [41]

(*a*) Basic documents: Report of the Secretary General on measures to implement the Declaration (A/5698 and Corr.1 [English only], Add.1 and Corr. 1 [French only], and Add.2-4)—Further report of the Secretary-General on action taken by Member States, the United Nations, the specialized agencies and inter-governmental regional organizations directed towards the implementation of the Declaration (E/4174 and Add.1, Add.2 and Corr.1, and Add.3-6)—Texts of (or extracts from) decisions taken by United Nations organs containing provisions relevant to the question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories (E/4226).

(*b*) Consideration by the Social Committee:

(*i*) *draft resolutions* (E/AC.7/L.500, L.501, L.502) and *report* of the Social Committee (E/4252): see E.S.C. (XLI), Annexes, a.i. 24.

(*ii*) *debates:* E/AC.7/SR.548 to 550.

(*c*) Consideration by the Council:

(*i*) *debate:* E.S.C. (XLI), 1441st mtg.

(*ii*) *resolution adopted:* Economic and Social Council resolution 1146 (XLI) of 2 August 1966.

(5) *Slavery* (agenda item 25)

(*a*) Basic document: Report of the Special Rapporteur on Slavery (E/4168 and Add.1-5 —Sales No.: 67.XIV.2).

(*b*) Consideration by the Social Committee:

(*i*) *draft resolutions* (E/L.1126, E/AC.7/L.486, L.487, L.488 and Rev.1, L.492) and *report* of the Social Committee (E/4244): see E.S.C. (XLI), Annexes, a.i. 25.

(*ii*) *debates:* E/AC.7/SR.534 to 536.

(*c*) Consideration by the Council:

(*i*) *debate:* E.S.C. (XLI), 1439th mtg.

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[40] See also sections I 1 (B) (2) above and 4 below.

[41] See also sections I 1 (A) (10) and III 1 (A) (*i*) (2) above and 3 (A) (6) below.

(*ii*) *resolution adopted:* Economic and Social Council resolution 1126 (XLI) of 26 July 1966.

(6) *Enlargement of subsidiary organs of the Council* (agenda item 33)

(*a*) Basic document: Draft resolution providing for the enlargement of the functional commissions and the Committee on Housing, Building and Planning (E/L.1113 and Rev.1).

(*b*) Consideration by the Council:

(*i*) *debate:* E.S.C. (XLI), 1442nd mtg.

(*ii*) *resolution adopted:* Economic and Social Council resolution 1147 (XLI) of 4 August 1966.

(B) *Other documents of legal interest*

(1) *International travel and tourism*

Report of the Secretary-General (E/4145): see E.S.C. (XL), Annexes, a.i. 8.

(2) *Procedure for the appointment of members of the International Narcotics Control Board under the Single Convention on Narcotic Drugs, 1961* [42]

Note by the Secretary-General (E/4158 and Rev.1).

2. COMMITTEE FOR INDUSTRIAL DEVELOPMENT

Document of legal interest

Institutions for industrial development. Industrial legislation: Note by the Secretariat (E/C.5/121).

3. COMMISSION ON HUMAN RIGHTS [43]

(A) *Documents relating to agenda items of legal interest* (twenty-second session)

(1) *Draft international convention on the elimination of all forms of religious intolerance* (agenda item 3)

(*a*) Basic document: Note of the Secretary-General (E/CN.4/900) (containing the preliminary draft convention prepared by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, a preliminary draft of proposed articles on additional measures of implementation transmitted by the Sub-Commission, and the text of the preamble and of the articles adopted by the Commission at its twenty-first session).

(*b*) Consideration by the Commission:

(*i*) *draft resolutions* (E/CN.4/L.778 and Rev.1, L.779, L.780, L.781, L.782 and Rev.1, L.783, L.784, L.785, L.786, L.787, L.788, L.790, L.791, L.792, L.793, L.794 and Rev.1, L.795, L.796, L.797 and Rev.1, L.798, L.799, L.801, L.803, L.804, L.805, L.806, L.807, L.808, L.809, L.810, L.812, L.813, L.814, L.815, L.816, L.817 and Rev.1) and *resolution adopted* (1 (XXI)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 8 (E/4184) (for the text of the provisions adopted by the Commission at its twenty-second, session, see paras. 64, 102, 132, 140 and 154).

(*ii*) *debates:* E/CN.4/SR.853 to 869.

(2) *Question of the punishment of war criminals and of persons who have committed crimes against humanity* (agenda item 4)

(*a*) Basic document: Study of the Secretary-General on the question of the non-applicability of periods of limitation to war crimes and crimes against humanity (E/CN.4/906).

(*b*) Consideration by the Commission:

[42] See also section 5 below.

[43] See also section 1 (A) (*ii*) (2) above.

(*i*) *draft resolutions* (E/CN.4/L.800, L.830 and Add.1, L.830/Rev.1, L.833, L.859) and *resolution adopted* (3 (XXII)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 8 (E/4184).

(*ii*) *debates:* E/CN.4/SR.873 to 876, 878, 879, 889 and 890.

(3) *International Year for Human Rights* (agenda item 5) [44]

(*a*) Basic documents: Note by the Secretary-General (E/CN.4/904) and report of the Working Party on the International Year for Human Rights (E/CN.4/905).

(*b*) Consideration by the Commission:

(*i*) *draft resolutions* (E/CN.4/L.834 and Add.1, L.841, L.842 and Add.1) and *resolution adopted* (6 (XXII)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 8 (E/4184).

(*ii*) *debates:* E/CN.4/SR.883, 886 and 887.

(4) *Question concerning the implementation of human rights through a United Nations High Commissioner for human rights or some other appropriate international machinery* (agenda item 6)

(*a*) Basic document: Note by the Secretary-General (E/CN.4/895).

(*b*) Consideration by the Commission:

(*i*) *draft resolutions* (E/CN.4/L.831, L.838 and Rev.1, L.840, L.843, L.844) and *resolution adopted* (4 (XXII)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 8 (E/4184).

(*ii*) *debates:* E/CN.4/SR.876 and 879 to 883.

(5) *Periodic reports on human rights* (agenda item 7)

(*a*) Basic documents: Report of the *ad hoc* Committee on Periodic Reports (E/CN.4/915) (para. 51 contains text of two draft resolutions), reports from States Members (E/CN.4/892 and Add.1-7, 9-15), report from ILO (E/CN.4/893) and memorandum by the Secretary-General on the status of multilateral conventions in the field of human rights (E/CN.4/907 and Corr.1 [English only]).

(*b*) Consideration by the Commission:

(*i*) *draft resolutions* (E/CN.4/L.857 and L.858) and *resolutions adopted* (11 (XXII) and 12 (XXII)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 8 (E/4184).

(*ii*) *debates:* E/CN.4/SR.887 to 889.

(6) *Measures for the speedy implementation of the United Nations Declaration on the elimination of all forms of racial discrimination* (agenda item 10) [45]

(*a*) Basic document: Draft resolution of the Ukrainian SSR (E/CN.4/L.847): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 8 (E/4184).

(*b*) Consideration by the Commission:

(*i*) *amendments* (E/CN.4/L.849, L.851, L.852) and *resolution adopted* (5 (XXII)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 8 (E/4184).

(*ii*) *debates:* E/CN.4/SR.883 to 887.

(7) *Question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories* (agenda item 20) [46]

(*a*) Basic documents: Note by the Secretary-General (E/CN.4/898) concerning the resolution adopted on 18 June 1965 by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and Note by the Secretary-General (E/CN.4/913)

[44] See also sections I 1(A) (12) and 8, and III 1 (A) (*ii*) (2) and (3) above, and section III 4 (4) below.

[45] See also sections I 1 (A) (10), III 1 (A) (*i*) (2) and (*ii*) (4) above.

[46] See also sections I 1 (A) (20) and III 1 (A) (*ii*) (2) above.

transmitting the text of a communication received from the Government of South Africa.

(*b*) Consideration by the Commission:

(*i*) *draft resolutions* (E/CN.4/L. 818,L.823, L.824, L.825, L.826, L.827, L.828, L.829, L.832) and *resolution adopted* (2 (XXII)): see *report* of the Commission: E.S.C. (XLI), Suppl. No.8 (E/4184).

(*ii*) *debates:* E/CN.4/SR.869 to 873.

(B) *Other documents of legal interest*

(1) *Genocide*

Note by the Secretary-General (E/CN.4/Sub.2/259 and Rev.1 and 2 [French only]).

(2) *Study of discrimination against persons born out of wedlock*

Report submitted by the Special Rapporteur, Mr. V.V. Saario (E/CN.4/Sub.2/265) (contains general principles on equality and non-discrimination in respect of persons born out of wedlock).

(3) *Study of equality in the administration of justice*

Progress report submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat (E/CN.4/Sub.2/266).

(4) *Special study of racial discrimination in the political, economic, social and cultural spheres*

Report submitted by the Special Rapporteur, Mr. Hernán Santa Cruz (E/CN.4/Sub.2/267).

(5) *Study of the right to be free from arbitrary arrest, detention and exile and draft principles on freedom from arbitrary arrest and detention*

Comments of Governments (E/CN.4/835/Add.11).

4. COMMISSION ON THE STATUS OF WOMEN [47]

Documents relating to agenda items of legal interest (nineteenth session)

(1) *Draft declaration on the elimination of discrimination against women* (agenda item 3)

(*a*) Basic documents: Text prepared by the Drafting Committee established at the eighteenth session: see *report* of the Commission: E.S.C. (XXXIX), Suppl. No. 7, para. 77—Memorandum by the Secretary-General (E/CN.6/447 and Add.1) (containing comments from members of the Commission, including a revised text of the draft declaration by Ghana).

(*b*) Consideration by the Commission:

(*i*) *draft resolutions* (E/CN.6/L.437, L.439, L.440, L.441, L.442, L.443, L.444, L.445, L.446, L.447, L.449 and Rev.1, L.450, L.451, L.453, L.454, L.455, L.456, L.457, L.458, L.459, L.460, L.461, L.473 and Corr.1 [French only], L.478) and *resolution adopted* (1 (XIX)) (containing text of the draft declaration adopted by the Commission): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 7 (E/4175).

(*ii*) *debates:* E/CN.6/SR.440 to 443, 445 to 449, 452, 454, 455, 460, 461 and 464.

(2) *Political rights of women*

(*a*) *Progress achieved in the field of political rights*

(*b*) *Status of women in Trust Territories* (agenda item 5)

(*a*) Basic document: Report by the Secretary-General on information concerning the status of women in Trust Territories (E/CN.6/446).

(*b*) Consideration by the Commission:

(*i*) *draft resolution* (E/CN.6/L.452) and *resolution adopted* (3 (XIX)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 7 (E/4175).

(*ii*) *debates:* E/CN.6/SR.446 and 448.

[47] See also section 1 (A) (*ii*) (3) above.

(3) *Economic rights and opportunities for women*

(*a*) *Activities of the ILO which have a bearing on the employment of women*

(*b*) *Findings and recommendations of the International Labour Conference relating to women workers in a changing world*

. . . (agenda item 10)

(*a*) Basic documents: Report of the International Labour Office (E/CN.6/444) and Note by the International Labour Office relating to the employment of women with family responsibilities (E/CN.6/445) (including the text of the Recommendation on that subject).

(*b*) Consideration by the Commission:

(*i*) *draft resolutions* (E/CN.6/L.469, L.479, L.480 and L.485) and *resolutions adopted* (11 (XIX), 12 (XIX), 13 (XIX) and 14 (XIX)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 7 (E/4175).

(*ii*) *debates:* E/CN.6/SR.461 and 462.

(4) *International Year for Human Rights* (agenda item 11) [48]

(*a*) Basic documents: Note by the Secretary-General (E/CN.6/456) and Report of the Working Party on the International Year for Human Rights to the Commission on Human Rights (E/CN.4/905).

(*b*) Consideration by the Commission:

(*i*) *draft resolution* (E/CN.6/L.470) and *resolution adopted* (16 (XIX)): see *report* of the Commission: E.S.C. (XLI), Suppl. No. 7 (E/4175).

(*ii*) *debates:* E/CN.6/SR.459 and 460.

5. COMMISSION ON NARCOTIC DRUGS [49]

Documents of legal interest

Report of the Division of Narcotic Drugs (E/CN.7/490 and Add.2 and Add.2/Rev.1).

Status of multilateral narcotics treaties (E/CN.7/491, Annex I).

Administrative arrangements for the working of the International Narcotics Control Board in pursuance of article 9 of the 1961 Convention. Note by the Secretary-General (E/CN.7/492).

6. ECONOMIC COMMISSION FOR EUROPE [50]

Documents of legal interest

Arbitration rules of the United Nations Economic Commission for Europe. Note by the Secretariat (E/ECE/625 and Corr.1—Sales No.: 66.II.E/Mim.4) (contains text of Rules and list of Chambers of Commerce which may be required to act as "Appointing Authority").

Convention on the measurement of inland navigation vessels, done at Geneva on 15 February 1966 (E/ECE/626).

7. ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST

Documents of legal interest

Committee on Trade

Report of the Conference on Commercial Arbitration (E/CN.11/TRADE/L.92).

8. ECONOMIC COMMISSION FOR AFRICA

Documents of legal interest

Sub-regional Meeting on Economic Co-operation in Central Africa

Protocol of the Agreement between the Maghrib countries and relations of the Maghrib economic institutions with the Economic Commission for Africa (E/CN.14/CA/ECOP/3).

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[48] See also sections I 1 (A) (12) and 8 and sections III 1 (A) (*ii*) (2) and (3) and 3 (A) (3) above.

[49] See also section III 1 (B) above.

[50] See also section V 2 below.

Transport in Africa

Transit problems of African land-locked States (E/CN.14/TRANS/28).

Joint Meeting of ECA Working Party on Intra-African Trade and OAU Ad Hoc *Committee of Fourteen on Trade and Development*

Treaty establishing a Central African Economic and Customs Union (E/CN.14/WP.1/6).

Treaty establishing a Free Trade Area and instituting the Latin American Free Trade Association, Montevideo, 18 February 1960 (E/CN.14/WP.1/7).

General Treaty on Central American Economic Integration, Managua, 13 December 1960 (E/CN.14/WP.1/8).

Miscellaneous

Provisional recommendations for the introduction of a transit régime in West Africa based on a modified T.I.R. Convention (E/CN.14/374/Add.1).

IV. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Documents of legal interest

United Nations Sugar Conference (Geneva, 1965)

Note by the Secretariat concerning discussion of international measures and preparation of an agreement (TD/SUGAR.6/4) (transmits draft text of a new International Sugar Agreement).

Protocol for the further prolongation of the International Sugar Agreement of 1958 (TD/ SUGAR.6/7).

V. SECRETARIAT[51]

1. Bureau of Technical Assistance Operations

Human Rights Series

1965 Seminar on the participation of women in public life. Ulan Bator, Mongolia, 3-17 August 1965. Organized by the United Nations in co-operation with the Government of the Mongolian People's Republic (ST/TAO/HR/24).

Seminar on human rights in developing countries. Dakar, Senegal, 8-22 February 1966. Organized by the United Nations in co-operation with the Government of Senegal (ST/TAO/HR/25).

Seminar on Participation in local administration as a means of promoting human rights. Budapest, Hungary, 14-27 June 1966. Organized by the United Nations in co-operation with the Government of Hungary (ST/TAO/HR/26).

Seminar on apartheid. Brasilia, Brazil, 23 August—4 September 1966. Organized by the United Nations in co-operation with the Government of Brazil (ST/TAO/HR/27).

Seminar on measures required for the advancement of women with special reference to the establishment of a long-term programme. Manila, Philippines, 6-19 December 1966. Organized by the United Nations in co-operation with the Government of the Philippines (ST/TAO/HR/28).

Public Administration Series

Handbook of civil service laws and practices (ST/TAO/M/29—Sales No.: 66.II.H.2).

Conference and Seminar Series

Third United Nations Seminar for the Arab States on the prevention of crime and the treatment of offenders. Damascus, Syria, 26 September—5 October 1966 (ST/TAO/SER.C/81).

Report of the Interregional Meeting on research in criminology. Denmark, Norway, Sweden, 18 July—7 August 1965 (ST/TAO/SER.C/87).

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[51] The recurrent publications of the Office of Legal Affairs are not listed in this section; see the *United Nations Documents Index*, published by the Dag Hammarskjöld Library, United Nations.

2. ECONOMIC COMMISSION FOR EUROPE[52]

Principles for assessing compensation payable for the crossing of agricultural land by electric power transmission and supply line. Note by the Secretariat (ST/ECE/EP/38).

VI. INTERNATIONAL COURT OF JUSTICE[53]

1. GENERAL

Annuaire, 1965-1966. 1966. xii, 153 pp. Printed. Sales No. 300.

Yearbook, 1965-1966. 1966. xii, 153 pp. Printed. Sales No. 301.

Bibliography of the International Court of Justice. Prepared by the Library of the Court. No. 19, 1964-1965. 1966. 61, xx pp. Printed. Sales No. 303.

2. REPORTS OF JUDGEMENTS, ADVISORY OPINIONS AND ORDERS, 1966

—. Case concerning the Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium *v.* Spain). Order of 12 January 1966. [1966], [3-4], 2, 2 pp. Printed. Sales No. 298.

—. South West Africa Cases (Ethiopia *v.* South Africa; Liberia *v.* South Africa). Second phase, Judgement of 18 July 1966. [1966]. [6-505], 503, 503 pp. Printed. Sales No. 299.

—. Case concerning the Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium *v.* Spain). Order of 23 November 1966. [1966], [507-508], 2, 2 pp. Printed. Sales No. 304.

—. Index 1966. [1967], 23 pp. Printed. Sales No. 307.

—. Reports of Judgements, Advisory Opinions and Orders, 1966. [1967]. 508, 508 pp. +23 pp. Printed. Sales Nos. 298, 299, 304 and 307. Bound volume containing all decisions rendered in 1966, with index.

3. PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

Pleadings, Oral Arguments, Documents, [1960] 1966.

South West Africa Cases (Ethiopia *v.* South Africa; Liberia *v.* South Africa), Vol. I [1966]. xv, 489 pp. Printed. Sales No. 292.

South West Africa Cases (Ethiopia *v.* South Africa; Liberia *v.* South Africa), Vol. II [1966]. xvi, 527 pp. Map. Printed. Sales No. 302.

South West Africa Cases (Ethiopia *v.* South Africa; Liberia *v.* South Africa), Vol. III [1967]. xx, 540 pp. Printed. Sales No. 305.

B. Legal Documents Index of Inter-Governmental Organizations Related to the United Nations

I. INTERNATIONAL LABOUR ORGANISATION

(A) REPRESENTATIVE ORGANS

1. CONVENTIONS AND RECOMMENDATIONS ADOPTED IN 1966[54]

(*a*) *Convention concerning Fishermen's Certificates of Competency. Convention concerning accommodation on board fishing vessels. Recommendation concerning the Vocational Training of Fishermen*

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[52] See also section III 6 above.

[53] See also section I 1 (B) (4) above. For detailed information, see *Yearbook* of the International Court of Justice 1965-1966 and 1966-1967.

[54] For convenience of reference all the preparatory work of such instruments, which normally covers a period of two years, will be given in the year in which the instrument is adopted.

(*i*) Committee on Conditions of Work in the Fishing Industry. Proposals concerning the convening of the Committee on Conditions of Work in the Fishing Industry; composition, agenda. Minutes of the 151st session of the Governing Body, Geneva, March 1962, pp. 43, 85-89. English, French, Spanish.

(*ii*) Committee on Conditions of Work in the Fishing Industry, Geneva, December 1962. Reports I, II III, IV, Part I; IV, Part II (mimeographed). Accommodation on Board Fishing Vessels. Safety on Board Fishing Vessels. Accident Insurance and Employment Injury Benefits. Vocational Training and Certificates of Competency. International Labour Office, 72, 37, 65, 139 and 25 pages respectively. English, French, Spanish.

(*iii*) Committee on Conditions of Work in the Fishing Industry. Report to the Governing Body. Minutes of the 155th session of the Governing Body, Geneva, May-June 1963, pp. 13; 43-44. English, French, Spanish.

(*iv*) Agenda of the forty-ninth session (1965) of the International Labour Conference. Question of the Conditions of Work in the Fishing Industry. Minutes of the 157th session of the Governing Body, Geneva, November 1963, pp. 5-7; 8-10; 12-13; 56-58. English, French, Spanish.

(*v*) Proposals concerning the Convening of a Preparatory Technical Conference on Fishermen's Questions. Minutes of the 159th session of the Governing Body, Geneva, June-July 1964, pp. 42; 48-49; 131-137. English, French, Spanish.

(*vi*) Agenda of the fiftieth session (1966) of the International Labour Conference. Inclusion of questions concerning fishermen. Minutes of the 160th session of the Governing Body, Geneva, November 1964, pp. 4-5; 9-11; 12-13; 56. English, French, Spanish.

(*vii*) Preparatory Technical Conference on Fishermen's Questions, Geneva, October 1965, Reports I, II, and III (mimeographed). Accommodation on Board Fishing Vessels. Vocational Training of Fishermen. Fishermen's Certificates of Competency. International Labour Office, 122, 122 and 116 pages respectively. English, French, Spanish, German, Russian.

(*viii*) Agenda of the fiftieth session (1966) of the International Labour Conference and Record of the Preparatory Technical Conference on Fishermen's Questions. Minutes of the 163rd session of the Governing Body, Geneva, November 1965, pp. 20-21; 80. English, French, Spanish.

(*ix*) Questions concerning Fishermen: (*a*) Accommodation on Board Fishing Vessels; (*b*) Vocational Training of Fishermen; (*c*) Fishermen's Certificates of Competency. International Labour Conference, 50th session (1966), Report VI (1) and Report VI (2), 79 and 95 pages. English, French, Spanish, German, Russian.

(*x*) Questions concerning Fishermen: (*a*) Accommodation on Board Fishing Vessels; (*b*) Vocational Training of Fishermen; (*c*) Fishermen's Certificates of Competency. International Labour Conference, fiftieth session (1966), Record of Proceedings, pp. 382-388; 659-682; 768-813. English, French, Spanish.

(*xi*) Fishermen's Competency Certificates Convention. *Official Bulletin*, Vol. XLIX, No. 3, July 1966, Supplement I, pp. 1-7. English, French, Spanish.

(*xii*) Accommodation of Crews (Fishermen) Convention. *Official Bulletin*, Vol. XLIX, No. 3, July 1966, Supplement I, pp. 8-20. English, French, Spanish.

(*xiii*) Vocational Training (Fishermen) Recommendation. *Official Bulletin*, Vol. XLIX, No. 3, July 1966, Supplement I, pp. 21-28. English, French, Spanish.

(*b*) *Recommendation concerning the Role of Co-operatives in the Economic and Social Development of Developing Countries*

(*i*) Agenda of the forty-ninth session (1965) of the International Labour Conference. Proposals concerning the placing of the question of "The role of Co-operatives in the Economic and Social Development of Developing Countries" on the agenda of the 49th session (1965) of the International Labour Conference. Minutes of the 155th session of the Governing Body, Geneva, May-June 1963; pp. 11-12; 32; 35-37. English, French, Spanish.

(*ii*) Agenda of the forty-ninth session (1965) of the International Labour Conference. Placing of the question: "Role of Co-operatives in the Economic and Social Development of Developing Countries" on the agenda of the 49th session (1965) of the International Labour Conference. Minutes of the 157th session of the Governing Body, November 1963; pp. 4-7; 8-10; 13; 56; 57-58. English, French, Spanish.

(*iii*) The Role of Co-operatives in the Economic and Social Development of Developing Countries. International Labour Conference, forty-ninth session (1965), Report VII (1) and Report VII (2), 63 and 135 pages. English, French, Spanish, German, Russian.

(*iv*) The Role of Co-operatives in the Economic and Social Development of Developing Countries. International Labour Conference, forty-ninth session (1965), Record of Proceedings, pp. 399-404; 414-420; 483-486; 663-676. English, French, Spanish.

(*v*) Agenda of the fiftieth session (1966) of the International Labour Conference. Forty-ninth session of the International Labour Conference (1965), Record of Proceedings, pp. 420; 676; 707-708. English, French, Spanish.

(*vi*) The Role of Co-operatives in the Economic and Social Development of Developing Countries. International Labour Conference, fiftieth session (1966), Report IV (1) and Report IV (2), 40 and 55 pages. English, French, Spanish, German, Russian.

(*vii*) The Role of Co-operatives in the Economic and Social Development of Developing Countries. International Labour Conference, fiftieth session (1966), Record of Proceedings, pp. 388-394; 619-630; 761-762; 814-826. English, French, Spanish.

(*viii*) Co-operatives (developing countries) Recommendation. *Official Bulletin*, Vol. XLIX, No. 3, July 1966, Supplement I, pp. 29-37. English, French, Spanish.

2. QUESTIONS RELATING TO THE "RULES CONCERNING THE POWERS, FUNCTIONS AND PROCEDURE OF REGIONAL CONFERENCES"

Amendments to the "Rules concerning the Powers, Functions and Procedure of Regional Conferences", on the deposit of resolutions relating to matters not included in an item on the agenda of a regional conference, and on groups at Regional Conferences.

(1) Minutes of the 164th session of the Governing Body, Geneva, February-March 1966, document G.B.164/P.V.5, 164th session of the Governing Body, Geneva, February-March 1966. English, French, Spanish.

(2) International Labour Conference, fiftieth session (1966), Record of Proceedings, pp. 394-395; 619-630; 753-754. English, French, Spanish.

(3) Amendments to the "Rules concerning the Powers, Functions and Procedure of Regional Conferences", on the deposit of resolutions relating to matters not included in an item on the agenda of a regional conference, and on groups at Regional Conferences. *Official Bulletin*, Vol. XLIX, No. 3, July 1966, Supplement I, pp. 54-57. English, French, Spanish.

(B) QUASI-JUDICIAL BODIES AND COMMITTEES OF EXPERTS

1. REPORTS OF THE GOVERNING BODY COMMITTEE ON FREEDOM OF ASSOCIATION

(*a*) 85th Report, 11 November 1965; *Official Bulletin*, Vol. XLIX, No. 1, January 1966, Supplement, 104 pages. English, French, Spanish.

(*b*) 86th, 87th and 88th Reports, 11 November 1965, 21 February 1966, 21 February 1966; *Official Bulletin*, Vol. XLIX, No. 2, April 1966, Supplement, 82 pages. English, French, Spanish.

(*c*) Report of the Committee of Experts on the Application of Conventions and Recommendations. International Labour Conference, Fiftieth Session, Geneva, 1966, Report III (Part IV), 327 pages. English, French, Spanish, German, Russian.

2. REPORT OF THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS. INTERNATIONAL LABOUR CONFERENCE

Fiftieth session, 1966, Report III (Part IV), 350 pages, English, French, German, Russian, Spanish.

3. REPORT OF THE FACT-FINDING AND CONCILIATION COMMISSION ON FREEDOM OF ASSOCIATION CONCERNING THE TRADE UNION SITUATION IN GREECE

Official Bulletin, Vol. XLIX, No. 3, July 1966, Special Supplement, 87 pages. English, French, Spanish.

II. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(A) CONSTITUTIONAL QUESTIONS

Question	*Documents*
(1) Increase in the number of Council seats—Draft amendment of Article V of the Constitution	CL 47/20; CL 47/REP,[55] paragraphs 135 to 137
(2) Draft amendment of Rule XII-9(*a*) regarding election of Council Members—Report of the Committee on Constitutional and Legal Matters	CL 47/21; CL 47/REP., paragraphs 138 to 140
(3) Agreements with Host Governments regarding Regional and Sub-Regional Offices (Note by Government of Kenya)	CL 47/31; CL 47/REP., paragraphs 289 to 291

(B) BODIES ESTABLISHED UNDER ARTICLES V, VI AND XIV OF THE FAO CONSTITUTION

Body	*Documents*
(1) Review of Statutory Bodies	CL 47/6; CL 47/REP., paragraphs 172 to 199
(2) Joint FAO/WHO Food Standards Program—Amendments to the Statutes and Rules of Procedure of the Codex Alimentarius Commission	CL 47/25; CL 47/REP., paragraph 218, Report of the fourth session of the Codex Alimentarius Commission ALINORM 66/30, Parts VI and VII, Appendices I, II and V
(3) Establishment of Joint FAO/IMCO Committee on the Safety of Fishing Vessels	CL 47/28; CL 47/REP., paragraphs 205 to 208 and Resolution 3/47
(4) Indo-Pacific Fisheries Council (IPFC): Amendments of the Rules of Procedure and Terms of Reference of Technical Committees of the IPFC, as approved at its 12th session	COFI: C/1/67/INF 6 (*a*) (English and French only), submitted to the Committee on Fisheries, Sub-Committee on the Development of Co-operation with International Organizations concerned with Fisheries, first session, (Rome, 25-28 January 1967)
(5) Regional Fisheries Advisory Commission for the South-West Atlantic (CARPAS)—Revision of Statutes	COFI: C/1/67/4 submitted to the Committee on Fisheries Sub-Committee on the Development of Co-operation with International Organizations concerned with Fisheries, first session, (Rome, 25-28 January 1967)

[55] The symbol CL 47/REP. refers to the provisional Report of the forty-seventh session of the FAO Council, October 1966.

(C) SUBSTANTIVE LEGAL QUESTIONS

(1) Land Tenure and Land Reform

Subject matters	*Documents*
(*a*) Appraisal of physical resources in the planning of land settlement	RU: WLR/66/D, 4 p., 1966[56]
(*b*) The role of the World Food Programme in land reform	RU: WLR/66/K, 5 p., 1966
(*c*) Working Party reports, General Rapporteur's report and resolutions	RU: WLR/66/T, 38 p., 1966
(*d*) Legislation on land use planning in Europe	ECA/WPL/2/66 (2), 58 p., 1966[57] (English and French only)
(*e*) Legislation on land use planning in Europe: Ireland	ECA/WPL/2/66-Add.1, 3 p., 1966 (English and French only)
(*f*) D.B. Brossard and R.H. Gretton: Agricultural credit and co-operatives in land reform projects	RU: WLR/66/A, 13 p., 1966
g) J. Prats-Llauradó and G. Petrin: Forestry and agrarian reform	RA: WLR/66/B, 19 p., 1966
(*h*) D. Christodoulou: Basic agrarian structural issues in the adjustment of African customary tenures to the needs of agricultural development	RU: WLR/66/C, 32 p., 1966
(*i*) M. Riad El Ghonemy: Land reform and economic development in the Near East	RU: WLR/66/E, 19 p., 1966
(*j*) P. B. Diebold: Land reform planning as an integrated part of agricultural development planning	RU: WLR/66/F, 11 p., 1966
(*k*) O.A. Sabry: Small-holder tea production in Tanzania	RU: WLR/66/G, 11 p., 1966 (English only)
(*l*) F. M. Mifsud: Customary land law in Africa with reference to legislation aimed at adjusting customary tenures to the needs of development	RU: WLR/66/J, 72 p., May, 1966
(*m*) E. H. Jacoby: Evaluation of agrarian structures and agrarian reform programs	Agricultural Studies No. 69, 52 p., submitted to the World Land Reform Conference, 1966
(*n*) J. Poncet: Rapport au gouvernement de la Tunisie sur les problèmes de la réforme foncière	RU: TA/66/6, 48 p., et United Nations Development Programme—Rapport No. 2225 (French only)

(2) Food Standards

Subject matters	*Documents*
(*a*) Definition of terms used in the General Principles of the Codex Alimentarius Commission	ALINORM 66/30,[58] Part VIII, paragraph 18, Appendix VI
(*b*) Acceptance of Codex standards	ALINORM 66/30, Part VIII, paragraph 19

[56] The documents listed below, with the symbol RU: WLR have been prepared in connection with the World Land Reform Conference held in Rome from 20 June to 2 July 1966.

[57] The documents listed with the symbol ECA/WPL have been prepared for the Working Party on Land Use of the European Commission on Agriculture, second session, London, 3-6 May 1966.

[58] The symbol ALINORM 66/30 refers to the Report of the fourth session of the Codex Alimentarius Commission, November 1966.

Subject matters	*Documents*
(*c*) General principles of food legislation	SP 10/30-GPFL, 39 p., July 1966; ALINORM 66/30, Part VIII, paragraph 20
(*d*) Procedure for the elaboration of standards	ALINORM 66/30, Part IX, paragraph 21, Appendix IX

(3) Natural Resources

Subject matters	*Documents*
(*a*) Legislative and administrative provisions in European countries to ensure proper distribution of water resources	ECA/W/66/2 (10) (English and French only) submitted to the Working Party on Water Resources and Irrigation of the European Commission on Agriculture, second session (Floriana, Malta, 26 May-1 June 1966)
(*b*) Water pollution problems in the pulp and paper industry of Canada	FO: PAP/66/14, (English only) submitted to the FAO Advisory Committee on Pulp and Paper (Rome, October 1966)
(*c*) B. R. Malakoff: Water pollution control: National legislation and policy.	A comparative study (Preliminary version) 64 p., 1966 (English only)
(*d*) Draft African Convention for the Conservation and Management of Wildlife	FO: AFC/WL-67/4, (English and French only) submitted to the African Forestry Commission —Ad Hoc Working Party on Wildlife Management, second session (Fort-Lamy, 6-11 February 1967)

(4) Fisheries

Subject matters	*Documents*
(*a*) J. E. Carroz: Establishment, structure, functions and activities of International Fisheries Bodies—III. Regional Fisheries Advisory Commission for the South-West Atlantic (CARPAS)	FAO Fisheries Technical Paper No. 60, FRm/T/60, 29 p., (English only)
(*b*) J. E. Carroz: Establecimiento, estructura, funciones y actividades de los Organismos Internacionales Pesqueros—II. Comisión Interamericana del Atún Tropical (CIAT)	FAO Fisheries Technical Paper No. 58, FRs/T/58 (Es), 23 p. (Spanish only—the English edition appeared in 1965)
(*c*) International Fishery Bodies	FAO Fisheries Technical Paper No. 64, FI/T64, 41 p.
(*d*) Emergent fishery problems of an international character	COFI/66/8, submitted to the Committee on Fisheries, first session, (Rome, 13-18 June 1966)
(*e*) Draft International Convention on Co-operation in Fisheries	COFI/66/9, submitted to the Committee on Fisheries, first session, (Rome; 13-18 June 1966); cf. also Report of first session—CL 47/5 —paragraph 35

(5) Trade and Commodities

(*a*) Movement of animal semen in international trade (Provisional draft)	Animal Health Branch Monograph No. 8, 147 p., 1966 (English only)
(*b*) Major issues in international commodity trade	LARC/66/7 (English and Spanish only), submitted to the Ninth FAO Regional Conferenec for Latin America (Punta del Este, Uruguay, 5-16 December 1966)

(*c*) Major issues in international commodity trade	NERC/67/5 (English and French only), submitted to the Eighth FAO Regional Conference for the Near East (Khartoum, Sudan, 24 January—2 February 1967)

(D) PERIODICALS

(*a*) Quarterly "Food and Agricultural Legislation"—Printed—4 issues 1966

(*b*) Monthly Legislative Report—Multilithed—January-December 1966 (English; Titles in French and Spanish)

(*c*) Current Food Additives Legislation Bulletin—Multilithed—10 issues 1966

III. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(A) CONSTITUTIONAL AND PROCEDURAL QUESTIONS

(1) *Ad Hoc* Committee on the Methods of Work of the Organization, Second Report. *Document 72 EX/10*, 14 March 1966, 27 p., English, French, Russian, Spanish.

(2) Second report of the *Ad Hoc* Committee on the Methods of Work of the Organization. *72 EX/Decision 6.1*, May 1966, English, French, Russian, Spanish.

(3) Functions and responsibilities of the organs of UNESCO. Report by the Executive Board. *Document 14C/35*, 31 August 1966, 10 p., English, French, Russian, Spanish.

(4) Further study of functions and responsibilities of the organs of UNESCO and in particular of the methods of work of the General Conference. *14C/Resolution 15.1*, 24 November 1966, English, French, Russian, Spanish.

(5) Executive Board. *Ad Hoc* Committee on the Methods of Work of the Organization. Order of voting on the various proposals concerning the fixing of the provisional budget ceiling. *Document 72 EX/Ad Hoc/5*, 19 January 1966, 2 p., English, French, Russian, Spanish.

(6) Executive Board. *Ad Hoc* Committee on the Methods of Work of the Organization. Proposals concerning the draft programme and not involving new activities or increased expenditure. *Document 72 EX/Ad Hoc/6*, 24 January 1966, 4 p., English, French, Russian, Spanish.

(7) Draft amendments to Rule 10A(2) of the Rules of Procedure of the General Conference (working documents) and Article 3.6 of the Financial Regulations (Budget). *Document 14C/38*, 29 August 1966, 4 p., English, French, Russian, Spanish. *(See also item (E) (12)).*

(8) Amendment to Rule 10A of the Rules of Procedure (working documents). *14C/Resolution 21.1*, 25 November 1966, English, French, Russian, Spanish.

(9) Draft amendment to Rule 47.1 of the Rules of Procedure of the General Conference (number of vice-chairmen of the Programme Commission). *Document 14C/36*, 24 June 1966, 2 p., English, French, Russian, Spanish.

(10) Legal Committee, First Report (amendment to Rule 47 of the Rules of Procedure of the General Conference (increase in the number of vice-chairmen of the Programme Commission). *Document 14C/76*, 26 October 1966, 1 p., English, French, Russian, Spanish.

(11) Amendment to Rule 47 of the Rules of Procedure (number of vice-chairmen of the Programme Commission). *14C/Resolution 21.2*, 26 October 1966, English, French, Russian, Spanish.

(12) Draft amendment to Rule 78 of the Rules of Procedure of the General Conference (amendments to the draft programme). *Document 14C/37*, 24 June 1966 and Corr., 28 October 1966, 5 p., English, French, Russian, Spanish.

(13) Legal Committee, Second Report (draft amendments to Rule 78 of the Rules of Procedure of the General Conference: amendments to the draft programme). *Document 14C/78*, 31 October 1966, 2 p., English, French, Russian, Spanish.

(14) Amendments to Rule 78 of the Rules of Procedure (draft resolutions and amendments, amendments to the draft programme and proposals concerning the budget ceiling). *14C/Resolution 21.3*, 31 October 1966, English, French, Russian, Spanish.

(15) Use of Arabic as a working language. *14C/Resolution 17*, 29 November 1966, English, French, Russian, Spanish.

(16) Amendments to the Rules of Procedure of the Executive Board (consultations regarding appointments to the Secretariat). *72EX/Decision 9.2*, May 1966, English, French, Russian, Spanish.

(17) Amendments to the Financial Regulations: Article 3.6 (budget). *14C/Resolution 22*, 25 November 1966, English, French, Russian, Spanish.

(18) General classification of the various categories of meetings convened by UNESCO: Draft Regulations. *Document 14C/39*, 10 October 1966, 20 p., English, French, Russian, Spanish.

(19) Legal Committee, Fourth Report (General classification of the various categories of meetings convened by UNESCO: Draft regulations). *Document 14C/85*, 23 November 1966, 23 p., English, French, Russian, Spanish.

(20) Legal Committee, Seventh Report (General classification of the various categories of meetings convened by UNESCO). *Document 14C/91*, 25 November 1966, 1 p., English, French, Russian, Spanish.

(21) Regulations for the General Classification of the Various Categories of Meetings convened by UNESCO. *14C/Resolution 23*, 25 November 1966, English, French, Russian, Spanish.

(22) Conditions for convening, organizing and conducting inter-governmental conferences and meetings (Category II). *Document 14C/64*, 31 August 1966 and Corr., 3 November 1966, 3 p., English, French, Russian, Spanish.

(23) Conditions for the convening, organizing and conducting of inter-governmental meetings and conferences. *14C/Resolution 16*, 29 November 1966, English, French, Russian, Spanish.

(24) Draft amendment to Article II.5 of the Directives concerning UNESCO's relations with international non-governmental organizations. *Document 14C/33*, 29 August 1966, 2 p., English, French, Russian, Spanish.

(25) Amendment to Article II.5 of the Directives concerning UNESCO's relations with international non-governmental organizations (procedure for inclusion in Category A). *14C/Resolution 18*, 28 November 1966, English, French, Russian, Spanish.

(B) MEMBER STATES AND ASSOCIATE MEMBERS

(1) Application of the Agreement between the Government of the French Republic and the United Nations Educational, Scientific and Cultural Organization regarding the Headquarters of UNESCO and the privileges and immunities of the Organization on French territory (2 July 1954). *Document 72 EX/11*,[59] 13 April 1966 and *Add.*,[60] 20 April 1966, 8 p., English, French, Russian, Spanish.

(2) Application of the Agreement between the Government of the French Republic and the United Nations Educational, Scientific and Cultural Organization regarding the Headquarters of UNESCO and the privileges and immunities of the Organization on French territory. *72EX/Decision 9.1*,[61] May 1966, English, French, Russian, Spanish.

(3) Communication from the Portuguese Government to the Director-General dated 30 June 1965. *Document 14C/34*, 22 July 1966, 36 p., English, French, Russian, Spanish.

(4) Legal Committee, Sixth Report (Communication from the Portuguese Government to the Director-General dated 30 June 1965). *Document 14C/90*,[62] 25 November 1966, 15 p., English, French, Russian, Spanish.

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[59] Partially reproduced in this *Yearbook*, p. 146.

[60] Reproduced in this *Yearbook*, p. 149.

[61] *Ibid.*, p. 150.

[62] *Ibid.*, p. 153.

(5) Communication from the Portuguese Government to the Director-General dated 30 June 1965 (14C/34). *14C/Resolution 20*,[63] 28 November 1966, English, French, Russian, Spanish.

(6) Credentials of the Delegation of China. *14C/Resolution 0.1*, 26 October 1966, English, French, Russian, Spanish.

(7) Right to vote of the Dominican Republic and of Paraguay. *14C/Resolution 0.21*, 25 October 1966, English, French, Russian, Spanish.

(8) Application for admission to Associate membership: Bahrain. *Document 14C/73*, 21 October 1966, 2 p., English, French, Russian, Spanish.

(9) Admission of an Associate Member: Bahrain. *14C/Resolution 0.5*, 26 October 1966, English, French, Russian, Spanish.

(C) AGREEMENTS WITH OTHER ORGANIZATIONS

(1) Co-operation with the Inter-American Development Bank (draft agreement between UNESCO and IDB). *Document 74EX/6*, 18 November 1966, 6 p., English, French, Russian, Spanish.

(2) Co-operation with the Inter-American Development Bank (approval of an agreement between UNESCO and the Bank), *74EX/Decision 5.1*, October-November 1966, English, French, Russian, Spanish.

(D) CONVENTIONS, RECOMMENDATIONS AND DECLARATIONS

(*i*) Convention and Recommendation against Discrimination in Education

(1) Special Committee of the Executive Board to examine the periodic reports of Member States on the implementation of the Convention and Recommendation against Discrimination in Education. Report of the Special Committee. *Document 73EX/27* and *Corr.*, 9 September 1966, 4 p., English, French, Russian, Spanish.

(2) Executive Board's comments on the report of the Special Committee on the Implementation of the Convention and Recommendation against Discrimination in Education. *73EX/Decision 4.2*, September 1966, English, French, Russian, Spanish.

(3) Comments of the Executive Board on the Report of the Special Committee on the Implementation of the Convention and Recommendation against Discrimination in Education. *74EX/Decision 3.1*, October-November 1966, English, French, Russian, Spanish.

(4) First Periodic Reports of Member States on the implementation of the Convention and Recommendation against Discrimination in Education. *Document 14C/29 and Corr.*, 1 August 1966, 118 p., *14C/29 Add. II*, 1 September 1966, 47 p., *14C/29 Add. III*, 26 October 1966, 32 p., *14C/Add. V*, 12 November 1966, 6 p., *14C/Add. VI*, 12 November 1966, 10 p., English, French, Russian, Spanish.

(5) Reports of Member States on the implementation of the Convention and Recommendation against Discrimination in Education : Report of the Special Committee. *Document 14C/29 Add.*, 19 October 1966, and *Corr.*, 23 November 1966, 67 p., English, French, Russian, Spanish.

(6) Comments of the Executive Board on the Report of the Special Committee on the Implementation of the Convention and Recommendation against Discrimination in Education. *Document 14C/29 Add. IV*, 10 November 1966, 2 p., English, French, Russian, Spanish.

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[63] *Ibid.*, p. 163.

(9) Periodic Reports by Member States on the implementation of the Convention and Recommendation against Discrimination in Education. *14C/Resolutions 39.1* and *39.2*, 23 November 1966, English, French, Russian, Spanish.

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(11) Special Inter-Governmental Conference on the Status of Teachers. Draft Recommendation concerning the Status of Teachers, *Document UNESCO/CST/4*, 12 April 1966, 19 p., English, French, Russian, Spanish.

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(21) Executive Board. Special Committee on Declaration of Principles of International Cultural Co-operation. Observations and proposed amendments of members of the Committee. *Documents 72EX/Com. Decl./ 3, 4, 5, 6 and 7*, English, French, Russian, Spanish.

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[64] Reproduced in this *Yearbook*, p. 150.

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(*iv*) RECOMMENDATIONS ADOPTED BY THE GENERAL CONFERENCE AT ITS THIRTEENTH SESSION

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(30) Draft General Report on the Initial Special Reports by Member States on action taken by them upon the Recommendations adopted by the General Conference at its thirteenth session. *Document 14C/27 Add. 2*, 9 November 1966, 4 p., English, French, Russian, Spanish.

(31) Initial Special Reports by Member States on action taken by them on the Recommendations adopted by the General Conference at its thirteenth session. *14C/Resolution 38*, 23 November 1966, English, French, Russian, Spanish.

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(4) Amendment to the Statutes of the International Consultative Liaison Committee for Literacy. *74EX/Decision 3.2*, October-November 1966, English, French, Russian, Spanish.

(5) Statutes of the International Advisory Committee on Documentation. *Document 75EX/3*, 26 November 1966, 4 p., English, French, Russian, Spanish.

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(8) International Institute for Educational Planning; Revision of Statutes. Note from the Chairman of the Governing Board of the Institute. *Document 14C/82*, 7 November 1966, 3 p., English, French, Russian, Spanish.

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(7) Invitations to the European Regional Conference on Problems of Higher Education. *Document 75EX/9*, 1 December 1966, 5 p., English, French, Russian, Spanish.

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(G) HUMAN RIGHTS

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(2) Inter-American Meeting of Copyright Experts (Rio de Janeiro, 4-9 July 1966), Final Report. *Document UNESCO/LA/1*, 30 September 1966, 15 p., English, French, Spanish.

(I) OTHERS

(1) Amendment to the Statutes of the Appeals Board. *Document 72EX/20*, 31 March 1966, 5 p., English, French, Russian, Spanish.

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(3) "Teaching of International Law", *73EX/Decision 5.4*, September 1966, English, French, Russian, Spanish.

IV. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(1) Request for an interpretation of the second sentence of Article 7 of the Convention on International Civil Aviation

[In June, the Representative of Sweden invited the Council to express an opinion on the interpretation of the second sentence of Article 7 of the Convention on International Civil Aviation (Cabotage) and to endorse his Government's interpretation that a contracting State might legitimately grant

cabotage privileges to another contracting State, provided that the applicable air transport agreement or operating permit did not stipulate that the privileges were granted on an exclusive basis. In December, the Council decided to defer further consideration of the Swedish request until its next session.]

Doc. 8610-C/966—Action of the Council, Fifty-eighth session, Montreal, 26 April-29 June 1966, English, French, Spanish, pp. 20-21.

Doc. 8665-C/970—Action of the Council, Fifty-ninth session, Montreal, 19 September-16 December 1966, English, French, Spanish, pp. 29-30.

(2) PROCEDURE FOR THE APPOINTMENT OF THE SECRETARY-GENERAL

[During the last quarter of 1966, the Council, pursuant to Articles 54(*h*) and 58 of the Convention on International Civil Aviation, decided on a procedure for the appointment of the Secretary-General.]

Doc. 8665-C/970—Action of the Council, Fifty-ninth session, Montreal, 19 September-16 December 1966, English, French, Spanish, pp. 2-4.

(3) LIMITS OF LIABILITY UNDER THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR, SIGNED AT WARSAW ON 12 OCTOBER 1929, AND THE PROTOCOL TO AMEND THE WARSAW CONVENTION, SIGNED AT THE HAGUE ON 28 SEPTEMBER 1955

[The Special ICAO Meeting to consider the Warsaw/Hague limits took place in Montreal between 1 and 15 February 1966.]

Doc. 8584-LC/154-1—Volume I, Minutes—Special ICAO Meeting on limits for passengers under the Warsaw Convention and The Hague Protocol, Montreal, 1-15 February 1966. English, French, Spanish (xxix+162 p.).

Doc. 8584-LC/154-2—Volume II, Documents—Special ICAO Meeting on limits for passengers under the Warsaw Convention and The Hague Protocol, Montreal, 1-15 February 1966. English, French, Spanish (245 p.).

(4) PROPOSED REVISION OF THE CONVENTION ON DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE (ROME, 7 OCTOBER 1952)

[The Subcommittee on the Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface held its second session in March-April 1966. The general opinion of the Subcommittee was that there should be no amendment other than an increase in the amounts of the limits and, perhaps, one or two other amendments, such as allowing compensation for damage caused by sonic booms, unless an inquiry of States would indicate that a majority of States would favour other amendments and the willingness to ratify the Convention so amended.]

LC/SC/Rev. Rome No. 31, 4/4/66, English, French, Spanish—Subcommittee on the Rome Convention (1966)—Report (15 p.).

(5) PRIVILEGES, IMMUNITIES AND FACILITIES—AGREEMENT WITH THE GOVERNMENT OF SENEGAL ON FACILITIES, IMMUNITIES AND PRIVILEGES

[The Agreement with the Government of Senegal on facilities, immunities and privileges for the ICAO African Regional Office at Dakar remained unratified during the year. Discussions in regard to a matter related to this Agreement took place in the Council in June.]

Doc. 8609-C/965—Action of the Council, Fifty-seventh session, Montreal, 25 January-4 April 1966, English, French, Spanish, p. 16.

Doc. 8610-C/966—Action of the Council, Fifty-eighth session, Montreal, 26 April-29 June 1966, English, French, Spanish, p. 20.

(6) ANNEXES TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, PROCEDURES FOR AIR NAVIGATION SERVICES (PANS), REGIONAL SUPPLEMENTARY PROCEDURES (SUPPS)

See "ICAO Technical Publications Current Editions as of 1 November 1966", ICAO Bulletin, Vol. XXII, No. 1, 1967, pp. 13-18.

V. INTERNATIONAL ATOMIC ENERGY AGENCY

(1) *Statute and membership of the Agency*

(*a*) Action taken by States in connection with the Statute (INFCIRC/42/Rev.2):

Instruments of Acceptance of the Amendment to the Statute, as approved by the Fifth General Conference of the International Atomic Energy Agency on 4 October 1961, were deposited with the Department of State, Washington, by the Government of Luxembourg on 1 June 1966 and by the Government of Mexico on 17 August 1966.

(*b*) Applications for Membership

Uganda	GC(X)/327, GC(X)/RES/200
Singapore	GC(X)/339, GC(X)/RES/201
Sierra Leone	GC(X)/345, GC(X)/RES/202

(2) *Agreements*

(*a*) Contract for the Lease of Natural Uranium and for the Transfer of Plutonium for a Sub-Critical Facility in Mexico (INFCIRC/82,I); entered into force on 20 June 1966.

(*b*) Agreement between the International Atomic Energy Agency and the Government of the United Kingdom of Great Britain and Northern Ireland Supplementary to the Agreement between the International Atomic Energy Agency and the Government of the United Kingdom of Great Britain and Northern Ireland for the Application of Safeguards with Regard to the Bradwell Nuclear Power Station (INFCIRC/86,II); entered into force on 1 September 1966.

(*c*) Contract for the Transfer of Enriched Uranium for a Research Reactor in the Philippines (INFCIRC/88,I); entered into force on 28 September 1966.

See also the agreements listed under (i) to (xiii), p. 58 of this *Yearbook*.

(3) *Other documents*

(*a*) The Agency's Safety Standards (Standards for radioluminous time-pieces)—GOV/1150.

(*b*) The Agency's Regulations for the Safe Transport of Radioactive Materials (Advisory Material on Packaging of Large Radioactive Sources)—GOV/INF/156.

(*c*) The Draft Agreements on Emergency Assistance in the Event of Nuclear Radiation Accidents (annexed to document GOV/1144).

Chapter X

LEGAL BIBLIOGRAPHY OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

MAIN HEADINGS

A. INTERNATIONAL ORGANIZATIONS IN GENERAL
   1. General
   2. Particular questions

B. UNITED NATIONS
   1. General
   2. Particular organs
   3. Particular questions or activities

C. INTER-GOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS
   1. General
   2. Particular organizations

A. INTERNATIONAL ORGANIZATIONS IN GENERAL

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[The concept and classification of international organizations]

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