



UNITED NATIONS
JURIDICAL YEARBOOK

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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 eighth of the series—contain legislative texts and treaty provisions relating to the legal status of the United Nations and related intergovernmental organizations. With a few exceptions, the legislative texts and treaty provisions which are included in these two chapters entered into force in 1970. Decisions given by international and national tribunals relating to the legal status of the various organizations are 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 intergovernmental 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 1970 regardless of the period to which they refer. Some works and articles which were not included in the bibliographies of the *Juridical Yearbook* for previous years 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

BIRPI	United International Bureaux for the Protection of Intellectual Property
CCIR	International Radio Consultative Committee
ECAFE	Economic Commission for Asia and the Far East
ECE	Economic Commission for Europe
ECLA	Economic Commission for Latin America
EEC	European Economic Community
FAO	Food and Agriculture Organization of the United Nations
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
ILO	International Labour Organisation
IMCO	Inter governmental Maritime Consultative Organization
IMF	International Monetary Fund
IOC	Intergovernmental Oceanographic Commission
ITU	International Telecommunication Union
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
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
UPU	Universal Postal Union
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization

Part One

**LEGAL STATUS OF THE UNITED NATIONS
AND RELATED INTERGOVERNMENTAL ORGANIZATIONS**

Chapter I

LEGISLATIVE TEXTS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

1. Canada

PRIVILEGES AND IMMUNITIES (INTERNATIONAL ORGANIZATIONS) ACT

(a) CARIBBEAN DEVELOPMENT BANK PRIVILEGES AND IMMUNITIES ORDER

P.C. 1970-881
19 May, 1970

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs and the Minister of Finance, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act,¹ is pleased hereby to make the annexed Order Respecting the Privileges and Immunities of the Caribbean Development Bank in Canada.

ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES OF THE CARIBBEAN DEVELOPMENT BANK IN CANADA

1. This Order may be cited as the *Caribbean Development Bank Privileges and Immunities Order*.

2. In this Order,

(a) "Convention" means the Convention on the Privileges and Immunities of the United Nations;² and

(b) "Organization" means the Caribbean Development Bank.

3. (1) The Organization shall have in Canada the legal capacities of a body corporate and shall, to such extent as it may require, have the privileges and immunities set forth in Articles II and III of the Convention.

(2) Representatives of states and governments that are members of the Organization shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article IV of the Convention for representatives of members.

¹ See United Nations Legislative Series, *Legislative texts and treaty provisions concerning the legal status, privileges and immunities of international organizations* (ST/LEG/SER.B/10), p. 10 and *Juridical Yearbook*, 1965, p. 3.

² United Nations, *Treaty Series*, vol. 1, p. 15.

(3) All officials of the Organization in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations.

(4) All experts performing missions for the Organization in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article VI of the Convention for experts on missions for the United Nations.

4. Nothing in this Order exempts a person who is a Canadian citizen or a permanent resident of Canada from liability for any taxes or duties imposed by any law in Canada.

(b) **FAO WORLD CONSULTATION ON THE USE OF WOOD IN HOUSING (WITH EMPHASIS ON THE NEEDS OF DEVELOPING COUNTRIES) PRIVILEGES AND IMMUNITIES ORDER, 1971**

P.C. 1970-99
21 January, 1970

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs with the concurrence of the Minister of Fisheries and Forestry, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order respecting Privileges and Immunities in Canada for the World Consultation on the Use of Wood in Housing (with Emphasis on the Needs of Developing Countries) of the Food and Agriculture Organization of the United Nations.

ORDER RESPECTING PRIVILEGES AND IMMUNITIES IN CANADA FOR THE WORLD CONSULTATION ON THE USE OF WOOD IN HOUSING (WITH EMPHASIS ON THE NEEDS OF DEVELOPING COUNTRIES) OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

1. This Order may be cited as the *FAO World Consultation on the Use of Wood in Housing (with Emphasis on the Needs of Developing Countries) Privileges and Immunities Order, 1971*.

2. In this Order, "Consultation" means the World Consultation on the Use of Wood in Housing (with Emphasis on the Needs of Developing Countries) of the Food and Agriculture Organization of the United Nations.

3. During the period commencing June 20, 1971, and terminating July 31, 1971,

(a) the Consultation shall have in Canada the legal capacities of a body corporate and shall, to such extent as it may require for the performance of its functions, have the privileges and immunities set forth in Articles II and III of the Convention;

(b) representatives of states and governments that are members of the Consultation in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article IV of the Convention for representatives of Members;

(c) all officials of the Consultation in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations; and

(d) all experts performing missions for the Consultation in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and

immunities set forth in Article VI of the Convention for experts on missions for the United Nations.

4. Nothing in this Order exempts a Canadian citizen residing or ordinarily resident in Canada from liability for any taxes or duties imposed by any law in Canada.

(c) ITU PRIVILEGES AND IMMUNITIES ORDER, 1970

P.C. 1970-1108
23 June, 1970

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, concurred in by the Minister of Communications, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order Respecting Privileges and Immunities in Canada for the International Telegraph and Telephone Consultative Committee of the International Telecommunication Union.

ORDER RESPECTING PRIVILEGES AND IMMUNITIES IN CANADA FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE OF THE INTERNATIONAL TELECOMMUNICATION UNION

1. This Order may be cited as the *ITU Privileges and Immunities Order, 1970*.

2. In this Order,

“Convention” means the Convention on the Privileges and Immunities of the United Nations; and

“Committee” means the International Telegraph and Telephone Consultative Committee of the International Telecommunication Union.

3. During the period commencing June 22, 1970, and terminating July 14, 1970,

(a) the Committee shall have in Canada the legal capacities of a body corporate and shall, to such extent as it may require for the performance of its functions have the privileges and immunities set forth in Articles II and III of the Convention;

(b) representatives in Canada of states and governments that are members of the Committee shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article IV of the Convention;

(c) all officials of the Committee in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article V of the Convention; and

(d) all experts performing missions for the Committee in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article VI of the Convention.

Nothing in this Order exempts a Canadian citizen residing or ordinarily resident in Canada from liability of any taxes or duties imposed by any law in Canada.

(d) TSUNAMI WARNING SYSTEM PRIVILEGES AND IMMUNITIES ORDER, 1970

P.C. 1970-838
12 May, 1970

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order respecting the Privileges and Immunities of the UNESCO-IOC International Co-ordination Group on the Tsunami Warning System in the Pacific.

ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE UNESCO-IOC INTERNATIONAL CO-ORDINATION GROUP ON THE TSUNAMI WARNING SYSTEM IN THE PACIFIC

1. This Order may be cited as the *Tsunami Warning System Privileges and Immunities Order, 1970*.

2. In this Order,

“Convention” means the Convention on the Privileges and Immunities of the United Nations; and

“Group” means the United Nations Educational, Scientific and Cultural Organization-Intergovernmental Oceanographic Commission International Coordination Group on the Tsunami Warning System in the Pacific.

3. During the period commencing May 12, 1970 and terminating May 15, 1970,

(a) the Group shall have in Canada the legal capacities of a body corporate and shall, to such extent as it may require for the performance of its functions, have the privileges and immunities set forth in Articles II and III of the Convention;

(b) representatives in Canada of states and governments that are members of the Group shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article IV of the Convention for representatives of members;

(c) all officials of the Group in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations; and

(d) all experts performing missions for the Group in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article VI of the Convention for experts on missions for the United Nations

4. Nothing in this Order exempts a Canadian citizen residing or ordinarily resident in Canada from liability for any taxes or duties imposed by any law in Canada.

(e) UNESCO PRIVILEGES AND IMMUNITIES ORDER, 1970

P.C. 1970-1161
30 June, 1970

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order respecting Privileges and Immunities in Canada for UNESCO.

ORDER RESPECTING PRIVILEGES AND IMMUNITIES IN CANADA FOI. UNESCO

1. This Order may be cited as the *UNESCO Privileges and Immunities Order, 1970*.
2. In this Order,
"Convention" means the Convention on the Privileges and Immunities of the United Nations; and
"Organization" means the United Nations Educational, Scientific and Cultural Organization.
3. During the period commencing September 28, 1970 and terminating October 2, 1970,
 - (a) the Organization shall have in Canada the legal capacities of a body corporate and shall, to such extent as may be required for the performance of its functions, have the privileges and immunities set forth in Articles II and III of the Convention;
 - (b) representatives in Canada of states and governments that are members of the Organization shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article IV of the Convention for representatives of members;
 - (c) all officials of the Organization in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations; and
 - (d) all experts performing missions for the Organization in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article VI of the Convention for experts on missions for the United Nations.
4. Nothing in this Order exempts a Canadian citizen residing or ordinarily resident in Canada from liability for any taxes or duties imposed by any law in Canada.

2. Federal Republic of Germany

ORDINANCE OF 16 JUNE 1970 CONCERNING THE GRANTING OF PRIVILEGES AND IMMUNITIES TO THE UNITED NATIONS³

Pursuant to article 3 of the Act of 22 June 1954 concerning the accession of the Federal Republic of Germany to the Convention on the privileges and immunities of the specialized agencies of the United Nations⁴ of 21 November 1947 and the granting of privileges and immunities to other international organizations⁵ (*Bundesgesetzblatt* 1954 II, p. 639), as most recently amended by Act of 28 February 1964⁶ (*Bundesgesetzblatt* II, p. 187), the Federal Government, with the assent of the *Bundesrat*, orders as follows:

³ Translation by the Secretariat of the United Nations.

⁴ United Nations, *Treaty Series*, vol. 33, p. 261.

⁵ United Nations Legislative Series, *Legislative texts and treaty provisions concerning the legal status, privileges and immunities of international organizations*, vol. II (ST/LEG/SER.B/11), p. 25.

⁶ See *Juridical Yearbook*, 1964, p. 4.

Article 1

The United Nations shall possess juridical personality. It shall have the capacity:

- (a) To contract;
- (b) To acquire and dispose of immovable and movable property;
- (c) To sue and be sued.

Article 2

The United Nations, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. However, no waiver of immunity shall extend to any measure of execution.

Article 3

The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive or judicial action.

Article 4

The archives of the United Nations, and all documents belonging to it or held by it, shall be inviolable wherever located.

Article 5

Without being restricted by financial controls, regulations or moratoria of any kind, the United Nations may:

- (a) Hold funds, gold or currency of any kind and operate accounts in any currency;
- (b) Freely transfer its funds, gold or currency to, from or within the Federal Republic of Germany and convert any currency held by it into any other currency.

Article 6

The United Nations, its assets, income and other property shall be:

- (a) Exempt from all direct taxes, with the exception of taxes which are, in fact, no more than charges for public utility services;
- (b) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. However, articles imported under such exemption may not be sold except under conditions agreed with the competent German authorities;
- (c) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

Article 7

When the United Nations is making important purchases for official use and excise duties or sales taxes form part of the price to be paid, the competent German authorities shall, whenever possible in any particular case, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 8

The United Nations shall enjoy for its official communications treatment not less favourable than that accorded to any other Government including its diplomatic mission

in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

Article 9

The United Nations shall have the right to use codes and to dispatch and receive its correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Article 10

Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations shall, while exercising their functions and during the journey to and from the place of meeting, enjoy all the privileges, immunities and facilities to which diplomatic agents are entitled under the terms of the Vienna Convention on Diplomatic Relations of 18 April 1961⁷ (*Bundesgesetzblatt* 1964 II, p. 957), with the exception of the exemptions specified in article 36, paragraph 1 (b). The same shall apply to their spouses.

Article 11

In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

Article 12

Where the incidence of any form of taxation depends upon residence in the Federal Republic of Germany, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in the Federal Republic of Germany for the discharge of their duties shall not be considered as periods of residence.

Article 13

Privileges and immunities are accorded to the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the United Nations. Consequently, the Government of the Federal Republic of Germany shall have the right to revoke the immunity of any representative in any case where the immunity would impede the course of justice, and where it can be revoked without prejudice to the purpose for which the immunity is accorded. However, the Government of the Federal Republic of Germany shall not revoke the immunity unless it has first sought the views of the Member and the latter agrees to the revocation. The Federal Minister for Foreign Affairs shall publish the decisions of the Federal Government in the *Bundesanzeiger*.

Article 14

In the foregoing articles the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

⁷ United Nations, *Treaty Series*, vol. 500, p. 95.

Article 15

The officials of the United Nations to whom this Ordinance shall apply shall be those persons who are included in the categories specified by the Secretary-General and submitted to the General Assembly and whose names are from time to time made known by the Secretary-General to the Government of the Federal Republic of Germany.

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;

(b) Be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(c) Be immune from national service obligations;

(d) Be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration. The foregoing shall be without prejudice to the general and special obligation to register under the registration laws of the *Länder*;

(e) Be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government concerned;

(f) Be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic agents;

(g) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the Federal Republic of Germany.

Article 16

In addition to the immunities and privileges specified in article 15, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges, immunities and facilities to which diplomatic agents are entitled under the terms of the Vienna Convention on Diplomatic Relations of 18 April 1961 (*Bundesgesetzblatt* 1964 II, p. 957).

Article 17

The additional privileges, immunities and facilities specified in article 16 shall also apply in respect of the representative of the United Nations High Commissioner for Refugees in Germany, his spouse and minor children.

Article 18

Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Government of the Federal Republic of Germany shall have the right to revoke the immunity of any official in any case where the immunity would impede the course of justice and can be revoked without prejudice to the interests of the United Nations. However, the Government of the Federal Republic of Germany shall not revoke the immunity unless it has first sought the views of the Secretary-General and he agrees to the revocation. The Federal Minister for Foreign Affairs shall publish the decisions of the Federal Government in the *Bundesanzeiger*.

Article 19

Experts (other than officials coming within the scope of articles 15-18) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions,

including the time spent on journeys in connexion with their missions. In particular they shall be accorded:

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

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

(c) Inviolability for all papers and documents;

(d) For the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

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

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

Article 20

Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Government of the Federal Republic of Germany shall have the right to revoke the immunity of any expert in any case where the immunity would impede the course of justice and can be revoked without prejudice to the interests of the United Nations. However, the Government of the Federal Republic of Germany shall not revoke the immunity unless it has first sought the views of the Secretary-General and he agrees to the revocation. The Federal Minister for Foreign Affairs shall publish the decisions of the Federal Government in the *Bundesanzeiger*.

Article 21

The United Nations may make provision 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;

(b) Disputes involving any official of the United Nations who by reason of his official position enjoys immunity from legal process, if immunity has not been revoked.

Article 22

The scope of application of this Ordinance shall, in accordance with article 14 of the Third Transitional Act of 4 January 1952 (*Bundesgesetzblatt* I, p. 1) read in conjunction with article 4 of the Act of 22 June 1954 concerning the accession of the Federal Republic of Germany to the Convention on the privileges and immunities of the specialized agencies of the United Nations of 21 November 1947 and the granting of privileges and immunities to other international organizations, as most recently amended by Act of 28 February 1964, extend to *Land* Berlin.

Article 23

This Ordinance shall enter into force, for the purposes of article 7, with retroactive effect as from 30 November 1968, and, for all other purposes, on the day following its promulgation.

Bonn, 16 June 1970

BRANDT
Federal Chancellor

SCHEEL
Federal Minister for Foreign Affairs

3. Guyana

PRIVILEGES AND IMMUNITIES (DIPLOMATIC, CONSULAR AND INTERNATIONAL ORGANIZATIONS) ACT, 1970

An Act⁸ to confer certain privileges and immunities on members of the Diplomatic Services, the Consular Services and on the United Nations and the Specialized Agencies by giving the force of law in Guyana to certain articles of the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies and for other purposes

[28th November, 1970]

Enacted by the Parliament of Guyana:—

PART I—PRELIMINARY

1. This Act may be cited as the Privileges and Immunities (Diplomatic, Consular, and International Organisations) Act, 1970.

2. In this Act—

“the Convention on the Privileges and Immunities of the Specialized Agencies” means the Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on the 21st November, 1947;

“the General Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on the 13th February, 1946;

...

PART IV—PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, AND OF JUDGES OF, AND SUITORS TO, THE INTERNATIONAL COURT OF JUSTICE

10. (1) The Articles set out in the third schedule (being Articles of the General Convention) shall have the force of law in Guyana and shall be construed in accordance with the following provisions of this section.

(2) In the Articles referred to in subsection (1)—

(a) the reference in Article 1 to the effect that the United Nations shall possess juridical personality shall be construed as meaning that the United Nations is a body corporate;

(b) the term “a national” in relation to Guyana shall be construed as meaning a citizen of Guyana.

11. The Minister may, by order, confer on the judges and registrars of the International Court of Justice established under the Charter of the United Nations and on suitors to that Court 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.

⁸ No. 26 of 1970. Assented to on 27 November 1970.

PART V—PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES

12. (1) The Articles set out in the fourth schedule (being Articles of the Convention on the Privileges and Immunities of the Specialized Agencies) shall have the force of law in Guyana and shall be construed in accordance with the following provisions of this section.

(2) In the Articles referred to in subsection (1)—

(a) the reference in section 3 of Article II to the effect that the Specialized Agencies shall possess juridical personality shall be construed as meaning that the Specialized Agencies are bodies corporate;

(b) the term “a national” in relation to Guyana shall be construed as meaning a citizen of Guyana.

PART VI—PRIVILEGES AND IMMUNITIES OF SPECIFIED ORGANISATIONS AND OF REPRESENTATIVES ATTENDING INTERNATIONAL CONFERENCES

13. (1) This section shall apply to any organisation declared by the Minister, by order, to be an organisation of which—

(a) Guyana, or the Government of Guyana, and

(b) one or more other sovereign Powers, or the Government or Governments of one or more such Powers, are members.

(2) Subject to subsection (7), the Minister may, by order, specify an organisation to which this section applies and may make any one or more of the following provisions in respect of the organisation so specified (hereinafter in this section referred to as “the organisation”), that is to say—

(a) confer on the organisation the legal capacities of a body corporate;

(b) provide that the organisation shall, to such extent as may be specified in the order, have the privileges and immunities set out in Part I of the fifth schedule;

(c) confer the privileges and immunities set out in Part II of the fifth schedule to such extent as may be specified in the order, on persons of any such class as is mentioned in subsection (3);

(d) confer the privileges and immunities set out in Part III of the fifth schedule, to such extent as may be specified in the order, on such classes of officers and servants of the organisation (not being classes mentioned in subsection (3)) as may be so specified.

(3) The classes of persons referred to in subsection 2 (c) are—

(a) persons who (whether they represent Governments or not) are representatives to the organisation or representatives on, or members of, any organ or committee of the organisation;

(b) such number of officers of the organisation as may be specified in the order, being the holders (whether permanent or otherwise) of such high offices in the organisation as may be so specified; and

(c) persons employed by or serving under the organisation as experts or as persons engaged on missions for the organisation.

(4) Where an order is made under subsection (2), the provisions of Part IV of the fifth schedule shall have effect for the purpose of extending to the staffs of representatives mentioned in subsection (3) (a) and to the families of officers of the organisation any

immunities and privileges conferred on the representatives or officers mentioned in subsection (3), except in so far as the operation of the provisions of the said Part IV is excluded by the order conferring the immunities and privileges.

(5) Where an order is made under subsection (2), then for the purpose of giving effect to any agreement made in that behalf between Guyana or the Government of Guyana and the organisation the Minister may by the same or any subsequent order confer the exemptions set out in subsection (6) in respect of—

- (i) members of the staff of the organisation recognised by the Government of Guyana as holding a rank equivalent to that of a diplomatic agent, and
- (ii) members of the family of any such member of the staff of the organisation who form part of his household.

(6) In the event of the death of the person in respect of whom the exemptions under subsection (5) are conferred, exemptions from—

(a) estate duty leviable on his death under any law for the time being in force in Guyana in respect of movable property which is in Guyana immediately before his death and the presence of which in Guyana at that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred;

(b) capital gains tax on net chargeable gains in relation to any such movable property accruing to that person in the year of assessment in which he died.

(7) Any order made under subsection (2) or (5) shall be so framed as to secure—

(a) that the privileges and immunities conferred by the order are not greater in extent than those which, at the time when the order takes effect, are required to be conferred in accordance with any agreement to which Guyana or the Government is then a party (whether made with one or more other sovereign Powers or Governments or made with one or more organisations such as are mentioned in subsection (1)), and

(b) that no privilege or immunity is conferred on any person as the representative of Guyana or of the Government of Guyana, or as a member of the staff of such a representative.

14. (1) Where a conference is held in Guyana and is attended by representatives of the governments of one or more sovereign Powers, and it appears to the Minister that doubts may arise as to the extent to which the representatives of those governments (other than the Government of Guyana) and members of their official staffs are entitled to immunities and privileges, the Minister may, by notice in the *Gazette*, direct that every representative of any such government (other than the Government of Guyana) shall for the purpose of any enactment or custom relating to diplomatic immunities and privileges, be treated as if he were a head of mission, and that such of the members of his official staff as the Minister may, from time to time, direct shall be treated for the purpose aforesaid as if they were members of the official staff of a head of mission.

(2) For the purposes of subsection (1), the Minister may compile a list of the representatives of the governments aforesaid (other than the Government of Guyana) and members of their official staffs as he thinks proper, and shall cause such list and any amendment of that list to be published in the *Gazette* and such publication shall include a statement of the date from which the list or amendment, as the case may be, takes or took effect.

(3) In subsection (1)—

“head of mission” means an Ambassador, High Commissioner or other person, by whatever title called, accredited by a sovereign Power and recognised as a head of mission in Guyana by the Government of Guyana.

PART VII—GENERAL

15. Any order made under any of the provisions of this Act shall be subject to negative resolution of the National Assembly.

16. If in any proceedings any question arises whether or not any person is entitled to any privilege or immunity under this Act a certificate issued by or under the authority of the Minister stating any fact relating to that question shall be conclusive evidence of that fact.

17. (1) Except with the consent in writing of the Minister, no person shall assume or use in connection with any trade, business, calling or profession the name, flag, official seal or emblem of the United Nations or any of the Specialized Agencies, or any flag, seal or emblem so nearly resembling any such flag, official seal or emblem as to be likely to deceive.

(2) A facsimile of every such flag, official seal or emblem shall be published in the *Gazette*.

(3) Any person who contravenes the provisions of subsection (1) shall be liable on summary conviction to a fine of five hundred dollars or to imprisonment for one year or to both such fine and imprisonment.

18. The Minister may, from time to time, make regulations for carrying into effect the purposes of this Act.

19. (1) The Diplomatic Privileges (Extension) Ordinance is hereby repealed.

(2) Section 4 of the Consular Conventions Ordinance is hereby repealed, and the number "4" shall be deleted from section 8 (1) thereof.

Third Schedule

(Section 10)

Articles of the Convention on the Privileges and Immunities of the United Nations having the force of law in Guyana

[Article I, section 1; article II, sections 2 to 8; article III, sections 9 and 10; article IV, sections 11 to 16; article V, sections 18 to 21; article VI, sections 22 and 23 and article VII, sections 24 to 27]

Fourth Schedule

(Section 12)

Articles of the Convention on the Privileges and Immunities of the Specialized Agencies having the force of law in Guyana

[Article I, section 1; article II, section 3; article III, sections 4 to 7, 9 and 10; article IV, sections 11 and 12; article V, sections 13 to 17; article VI, sections 18 to 23; article VII, section 25 and article VIII, sections 26 to 30]

Fifth Schedule

(Section 13)

Part I

PRIVILEGES AND IMMUNITIES OF THE ORGANISATION

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 an envoy of a foreign sovereign Power.
3. The like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.

4. Exemption from taxes on the importation of goods directly imported by the organisation for its official use in Guyana or for exportation, or on the importation of any publications of the organisation directly imported by it, such exemption to be subject to compliance with such conditions as the Controller of Customs and Excise 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 organisation for its official use and in the case of any publications of the organisation 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 Guyana), of any reduced rates applicable for the corresponding service in the case of press telegrams.

Part II

PRIVILEGES AND IMMUNITIES OF REPRESENTATIVES, MEMBERS OF COMMITTEES, HIGH OFFICERS AND PERSONS ON MISSIONS

1. The like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign Power.

2. The like inviolability of residence as is accorded to such an envoy.

3. The like exemption of relief from taxes as is accorded to such an envoy.

Part III

PRIVILEGES AND IMMUNITIES 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 organisation.

Part IV

PRIVILEGES AND IMMUNITIES OF OFFICIAL STAFFS AND OF HIGH OFFICERS FAMILIES

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

2. Where any person is entitled to any such privileges and immunities as are mentioned in Part II of this Schedule as an officer of the organisation, the members of that person's family forming part of his household shall also be entitled to those privileges and immunities to the same extent as the wife or husband or children of an envoy of a foreign sovereign Power accredited to Guyana are entitled to the privileges and immunities accorded to the envoy.

4. India

NOTIFICATION DATED 9 DECEMBER 1970 CONCERNING THE SECOND SESSION OF THE CONSULTATIVE COMMITTEE ON TEA OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

In exercise of the powers conferred by section 3 of the United Nations (Privileges and Immunities) Act, 1947 (No. 46 of 1947), the Central Government hereby declares that the

provisions of Article IV and Article V of the Schedule to the said Act⁹ shall apply *mutatis mutandis* to delegates including observers, if any, and to the staff of the Food and Agriculture Organization of the United Nations participating in the Second Session of the Consultative Committee on Tea to be held in New Delhi during November-December, 1970.

5. Japan

(a) NOTICE NO. 742 OF THE MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY¹⁰

This is to give notice that, in pursuance of article 4-2¹¹ of the Unfair Competition Prevention Law (Law No. 14 of 1934) and article 4, paragraph 1 (3) of the Trademark Law (Law No. 127 of 1959), the names, abbreviations and emblems of . . . the International Labour Organisation, the International Monetary Fund . . . the Universal Postal Union . . . have been designated as given hereunder.

...

International Labour Organisation

International Labour Organisation [and its equivalent in Japanese French, German, Italian, Russian and Spanish]

International Labour Office [and its equivalent in French, German, Italian, Russian and Spanish]

ILO [and its equivalent in French, German, Italian, Russian and Spanish]

International Monetary Fund

International Monetary Fund [and its equivalent in Japanese]

INTERFUND

IMF

Emblem [not reproduced]

...

Universal Postal Union

Union postale universelle [and its equivalent in Japanese]

UPU

Emblem [not reproduced]

...

November 30, 1970

Kiichi MIYAZAWA

Minister of International Trade and Industry

⁹ The schedule reproduces articles I to VIII of the Convention on the Privileges and Immunities of the United Nations.

¹⁰ English text kindly provided by the Government of Japan.

¹¹ Article 4-2 of the Unfair Competition Prevention Law reads as follows:

“The armorial bearings, flags and other emblems, abbreviations or names of the inter-governmental international organizations of which the parties to the Union Convention are members, which are identical with or similar to those as designated by the competent Minister, shall not be used as trade marks in a way liable to cause misapprehension to have any connection with the international organizations, nor shall merchandise on which they are used as trade-marks be sold or distributed, without permission of the international organizations.”

(b) NOTICE NO. 226 OF THE MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY¹²

This is to give notice that, in pursuance of article 4-2¹³ of the Unfair Competition Prevention Law (Law No. 14 of 1934) and article 4, paragraph 1 (3) of the Trademark Law (Law No. 127 of 1959), the emblem of the World Meteorological Organization has been designated as reproduced hereunder.

Emblem of the World Meteorological Organization.

[Not reproduced]

June 5, 1970

Kiichi MIYAZAWA
Minister of International Trade and Industry

6. Kenya

THE PRIVILEGES AND IMMUNITIES ACT, 1970

An Act of Parliament¹⁴ to amend and consolidate the law on diplomatic and consular relations by giving effect to certain international conventions and otherwise; to consolidate the law relating to the immunities, privileges and capacities of international organizations of which Kenya is a member and of certain other bodies; and for matters incidental to and connected with the foregoing.

[Date of commencement: 6 April 1970]

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

1. This Act may be cited as the Privileges and Immunities Act, 1970.

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

...

“the Minister” means the Minister for the time being responsible for foreign affairs.

...

PART IV—INTERNATIONAL ORGANIZATIONS, ETC.

9. (1) This section shall apply to any organization which the Minister may, by order, declare to be an organization of which Kenya, or the Government, and one or more foreign sovereign powers, or the government or governments thereof, are members.

(2) The Minister may, 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 Fourth Schedule to this Act, and shall also have the legal capacities of a body corporate;

¹² English text kindly provided by the Government of Japan.

¹³ See footnote 11 above.

¹⁴ No. 3 of 1970. Assented to on 3 April 1970.

(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 an organ thereof;
- (ii) such number 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 so specified.

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

(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 said Fourth Schedule.

and Part IV of the said Fourth Schedule shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in subparagraph (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 under subsection (2) of this section shall be so framed as to secure that there are not conferred upon any person any immunities or privileges greater in extent than those which, at the time of the making of the order, are required to be conferred on that person in order to give effect to any international agreement in that behalf and that no immunity or privilege is conferred upon any person as the representative of the Government of Kenya or as a member of the staff of such representative.

(4) Where immunities and privileges are conferred upon any persons by an order under subsection (2) of this section, the Minister, by notice in the Gazette—

(a) shall specify the persons entitled to immunities and privileges conferred under paragraph (b) of that subsection; and

(b) may specify the persons entitled to immunities and privileges conferred under paragraph (c) of that subsection.

10. Where a conference is held in Kenya and is attended by the representatives of the Government of Kenya and of the government or governments of one or more other States, and it appears to the Minister that doubts may arise as to the extent to which the representatives of such other States and members of their official staffs are entitled to diplomatic immunities and privileges, he may, by notice in the Gazette, specify the persons aforesaid and the Articles set out in the First Schedule to this Act which shall apply to them, and, for the purposes of those Articles, every representative of a State who is for the time being specified in such a notice shall be deemed to be a head of the mission and such of his official staff as are for the time being included in the notice shall be deemed to be members of the diplomatic staff.

11. (1) Where the Government of Kenya has, whether before or after the commencement of this Act, entered into any agreement with an external agency under which, in return for assistance or co-operation in works executed in, or services rendered to, Kenya by such agency, the Government has agreed that such agency or persons in its service should enjoy any immunities or privileges, the Minister may, by order—

(a) declare that such agency is one to which this section applies

(b) provide that, to such extent as may be specified in the order, such agency shall have the immunities and privileges set out in Part I of the Fourth Schedule to this Act;

(c) confer upon such classes of officers and servants of such agency 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 said Fourth Schedule,

and for the purposes of any such order references in the said Fourth Schedule to the organization shall be construed as references to the external agency named in the order.

(2) An order under subsection (1) of this section shall be so framed as to secure that there are not conferred on any person any immunities or privileges greater in extent than those which are required to be conferred on that person by the agreement concerned and that no immunity or privilege is conferred on any person who is a citizen of, or permanently resident in, Kenya.

(3) Where immunities and privileges are conferred upon any person by an order under subsection (1) of this section, the Minister shall, by notice in the Gazette, specify the persons who are for the time being entitled to such immunities and privileges.

(4) For the purposes of this section, "external agency" means—

(a) the government of a foreign State;

(b) any recognized agency of such a government;

(c) any internationally recognized foundation or other body.

12. In its application to the United Nations Organization, established by Charter at San Francisco on 25th June 1945, this Part shall have effect subject to the following modifications—

(a) any reference to the governing body or any committee of the organization shall be construed as referring to the General Assembly or any council or other organ of the United Nations Organization; and

(b) the powers conferred upon the Minister by subsection (2) of section 9 of this Act shall include power to confer on the judges and registrars of the International Court set up under the said Charter, and on suitors to that court 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 said General Assembly.

13. Notwithstanding the foregoing provisions of this Part, the Minister may decline to accord immunities and privileges to, or may withdraw immunities and privileges from, nationals or representatives of any State on the ground that such State is failing to accord corresponding immunities and privileges to citizens or representatives of Kenya.

PART V—GENERAL

...

16. If in any proceedings any question arises whether or not any person is entitled to the benefit of any immunity or privilege, or to exercise any power, under this Act, a certificate given by the Minister stating any fact relating to that question shall be conclusive evidence of that fact, and any such certificate purporting to be signed by the Minister shall be presumed to have been signed by him until the contrary is proved.

17. Any order made under this Act shall, unless a draft thereof has been laid before Parliament and approved by resolution before the making thereof, be laid before Parliament without unreasonable delay, and, if a resolution is passed by Parliament within twenty days on which Parliament next sits after such order is laid before it that the order be annulled,

it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new order.

18. (1) The Diplomatic Privileges Act 1708, of the United Kingdom is hereby repealed in its application to Kenya.

(2) The following Acts are hereby repealed—

(a) the Administration of Estates by Consular Officers Act;

(b) the Diplomatic Privileges Extension Act;

(c) the Immunities and Privileges (Commonwealth Countries and Republic of Ireland) Act;

(d) the Consular Conventions Act.

(3) Nothing in this Act shall affect any order made, or list or notice published, under any law repealed by this Act, but any such order, list or notice shall, if in force at the commencement of this Act, continue in force and, so far as it could have been made or published under this Act, have effect as if so made or published.

SCHEDULES

First Schedule

ARTICLES OF VIENNA CONVENTION ON DIPLOMATIC RELATIONS HAVING THE FORCE OF LAW IN KENYA
(Sections 4 and 10)

[Text of articles 1, 22 to 24 and 27 to 40 of the Convention]

...

Fourth Schedule

(ss. 9 and 11)

IMMUNITIES AND PRIVILEGES OF AN ORGANIZATION AND OFFICERS THEREOF

PART I

Immunities and Privileges of the Organization

1. Immunity from suit and legal process.
2. The like inviolability of premises occupied as offices and of official archives as is accorded by Articles 22 and 24 of the First Schedule to this Act.
3. The like exemption from rates and taxes, other than taxes on the importation of goods, as is accorded to a mission by the said First Schedule.
4. Exemption from taxes on the importation of goods directly imported by the organization for its official use in Kenya 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 any written law relating to customs and excise may prescribe.
5. Exemptions 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 wireless broadcasting (including communications addressed to, or despatched from, places outside Kenya), of any reduced rates applicable for the corresponding service in the case of Press telegrams.

PART II

Immunities and Privileges of Representatives, Members of Committees, High Officers and Persons on Missions

1. The like immunity from suit and legal process as is accorded to a diplomatic agent under the First Schedule to this Act.

2. The like inviolability of residence as is so accorded to such agent.
3. The like exemption or relief from taxes as is so accorded to such agent.

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 direct taxes upon the emoluments received as an officer or servant of the organization.
3. Immunity from national service obligations.
4. Immunity from immigration restrictions and alien registration in respect of the officers and servants and their spouses and dependent relatives.
5. The like privileges in respect of exchange control facilities as are accorded to officials of equivalent status forming part of a diplomatic mission.
6. The like facilities, for the officers and servants and their spouses and dependent relatives, for repatriation in times of international crises as are afforded to diplomatic missions.
7. Exemption from tax or duty on the importation of furniture, personal property and household effects of an officer or servant first arriving to take up his post in Kenya.

PART IV

Immunities and Privileges of Official Staffs and of the Families of High Officers

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 as a member of any committee of the organization or of any 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 are accorded to the members of the diplomatic staff of a mission by or under the First Schedule to this Act.
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 spouse and children under the age of twenty-one shall be entitled to the immunities and privileges accorded to the family of a diplomatic agent by or under the First Schedule to this Act.

7. Malta

**NOTE DATED 16 MARCH 1971 FROM THE CHARGÉ D'AFFAIRES A.I.
OF MALTA TO THE UNITED NATIONS**

...

Part III of the Immigration Act, 1970, which came into force on the 21st September, 1970, has laid down certain restrictions on the entry of foreigners into Malta and on their engaging in gainful activities while they are in Malta. The United Nations Organization, the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, which are all organizations enjoying immunities and privileges under the Diplomatic Immunities and Privileges Act, 1966,¹⁵ have been exempted from the said restrictions by virtue of section 4 (a) of the said Act enacted in 1970 which provides as follows:—

¹⁵ *Juridical Yearbook*, 1966, p. 6.

“The provisions of Part III of this Act shall not apply to any person who is entitled to immunities and privileges by virtue of or under any provision of the Diplomatic Immunities and Privileges Act, 1966.”

The same exemption is granted by section 4 (b) to the dependants of any such person.

8. Norway

ACT OF 19 JUNE 1947¹⁶ RELATING TO THE IMMUNITIES AND PRIVILEGES OF INTERNATIONAL ORGANIZATIONS, AS AMENDED BY ACT NO. 2 OF 27 FEBRUARY 1970¹⁷

1. By international agreement, adhered to by Norway, an international organization or institution, its employees and other persons acting on behalf of the organization or institution, as well as representatives and envoys of member States and persons taking part in judicial proceedings before international organs, can without hindrance from Norwegian law be granted immunities and privileges.

The King may lay down more detailed regulations for the implementation of provisions contained in such agreements relating to privileges and immunities.

2. This Act shall apply also to Spitzbergen, Jan Mayen, the Bouvet Island, Peter I's Island and Queen Maud Land.

9. Swaziland

THE DIPLOMATIC PRIVILEGES ACT, 1963

An Act¹⁸ to confer Diplomatic Privileges and Immunities on Representatives of Foreign States in accordance with the Articles of the Vienna Convention, 1961, and on Representatives of public International Organizations of which Swaziland is a Member
[Date of commencement 23rd August 1968]

ENACTED by the Parliament of Swaziland—

Short title and commencement

1. This Act may be cited as the Diplomatic Privileges Act, 1963, and shall come into force on the 6th day of September, 1968.

Interpretation (Schedule)

2. In this Act, unless inconsistent with the context—

“local authority” means board or authority constituted under any law and vested with the powers of levying rates and taxes and administering the municipal affairs or local government of the area within its jurisdiction;

“the Minister” means the Prime Minister;

¹⁶ See United Nations Legislative Series, *Legislative texts and treaty provisions concerning the legal status, privileges and immunities of international organizations* (ST/LEG/SER.B/10), p. 72.

¹⁷ English text kindly provided by the Norwegian Government.

¹⁸ No. 18 of 1968. Assented to on 20 August 1968.

“the Vienna Convention” means the Vienna Convention on Diplomatic Relations signed on the 18th April, 1961 by the United Kingdom, a copy of which is set out in the Schedule to this Act.

Application of Vienna Convention

3. Subject to the provisions of this Act, Articles 1, 22, 23, 24, and 27 to 40 of the Vienna Convention shall have the force of law in Swaziland and references therein to the receiving State shall be construed as references to the Government of Swaziland.

Withdrawal of privileges and immunities

4. His Majesty the King may withdraw any of the privileges or immunities accorded to a mission of any State or to any person connected with that mission if it appears to His Majesty that such State fails to accord corresponding immunities and privileges to representatives of Swaziland.

Keeping of registers and lists

5. (1) The Minister shall cause a register to be kept in which there shall be entered the names of all persons and missions entitled to the immunities and privileges conferred under this Act and every registration shall be cancelled upon the person ceasing to be so entitled.

(2) The Minister shall cause every registration or cancellation under subsection (1) to be published in the *Gazette*.

(3) At least once in each calendar year, the Minister shall cause to be published in the *Gazette* a complete list of all persons in the register.

(4) A copy of the list shall be lodged with the Registrar of the High Court and shall be available for inspection by the public free of charge during office hours.

(5) The Registrar shall amend the list from time to time in accordance with any notice published under subsection (2).

Evidence

6. A certificate under the hand of the Secretary to the Cabinet, stating that a mission or person mentioned in the certificate is entitled to any privilege or immunity under this Act or stating that any of the privileges or immunities attaching to any such mission or person no longer subsist or have been cancelled or have been withdrawn from any particular date, shall be accepted in any court as conclusive proof of the facts or conclusions therein stated.

Adjustment of loss of revenue

7. The loss of revenue caused to any local authority or statutory public utility corporation by reason of the exemption of any person from any taxes, duties, fees, rates or other charges other than for goods or services directly supplied or levied by such authority or corporation shall be made good to them out of moneys provided by Parliament for that purpose.

Offences and penalties

8. (1) A person who, whether as party or as attorney or as the officer concerned in issuing or executing such process, wilfully or without the exercise of reasonable care sues out, obtains or executes any legal process against a person entitled to the privileges and immunities accorded under this Act is guilty of an offence.

(2) A person who contravenes subsection (1), or a person who, wilfully or without the exercise of reasonable care, commits any other offence which has the effect of infringing

the inviolability of any person or the premises of any mission entitled to the immunities and privileges accorded under this Act, is liable, on conviction, to a fine not exceeding one thousand rands or imprisonment for a period not exceeding three years, or both.

Special envoys, international organizations, etc.

9. The provisions of this Act (including the Schedule) apply, *mutatis mutandis*, to—

(a) a special envoy from another State, subject to the terms and agreement governing the mission of the envoy;

(b) a public international organization or public international institution of which Swaziland is a member, the members, agents or officers of, and the delegates to, such organizations and institutions, and the permanent representatives of other States to such organizations or institutions, together with their families to the extent prescribed in any agreement or convention to which Swaziland is a party;

(c) representatives of a State attending any international conference, to the extent prescribed in any agreement or convention to which Swaziland is a party; and

(d) any other person who is recognized by the Minister as being entitled to diplomatic immunities and privileges in accordance with the recognized principles of international law and practice, including in particular persons falling under the category of diplomatic agents who are the representatives of a Sovereign or State with whom or which Swaziland is at peace and who are accredited to another State, and persons falling under paragraphs (b) and (c), while the diplomatic agents or persons are travelling to or from any country where their official duties are to be carried out or have been carried out.

Repeals

10. The Diplomatic Immunities and Privileges Proclamation (Cap. 16) and the International Organizations (Immunities and Privileges of Certain Officers) Law, 1966, (No. 4 of 1966), are repealed.

SCHEDULE

VIENNA CONVENTION ON DIPLOMATIC RELATIONS [Not reproduced]¹⁹

10. Zambia

THE INVESTMENT DISPUTES CONVENTION ACT, 1970

An Act²⁰ to give effect to the Convention on the Settlement of Investment Disputes between States and Nationals of other States

[17th April, 1970]

ENACTED by the Parliament of Zambia.

1. This Act may be cited as the Investment Disputes Convention Act, 1970.

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

...

¹⁹ See United Nations, *Treaty Series*, vol. 500, p. 95.

²⁰ No. 18 of 1970. Assented to on 9 April 1970.

“Convention” means the Convention on the Settlement of Investment Disputes between States and Nationals of other States the text of which is set out in the Schedule;

...

7. (1) Subject to subsection (2), Articles 18 to 24 (both inclusive) of the Convention (which govern the status, immunities and privileges of the International Centre for Settlement of Investment Disputes, of members of its Council and Secretariat and of persons concerned with conciliation or arbitration under the Convention) shall have the force of law so far as they affect Zambia.

(2) Nothing in Article 24 (1) of the Convention shall be construed as—

(a) entitling the said Centre to import goods free of customs duty without any restriction on their subsequent sale in Zambia; or

(b) conferring on the said Centre any exemption from duties or taxes which form part of the price of the goods sold.

(3) For the purposes of Articles 20 and 21 of the Convention, a statement to the effect that the said Centre has waived an immunity in the circumstances specified in the statement, being a statement certified by the Secretary-General of the said Centre (or by the person acting as Secretary-General), shall be conclusive evidence.

...

SCHEDULE

CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND NATIONALS OF OTHER STATES

[Not reproduced]²¹

²¹ See United Nations, *Treaty Series*, vol. 575, p. 159.

Chapter II

TREATY PROVISIONS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL 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 State acceded to the Convention on the Privileges and Immunities of the United Nations in 1970:²

<i>State</i>	<i>Date of receipt of instrument of accession</i>
United States of America ³	29 April 1970

This brought up to 102 the number of States parties to the Convention.

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 With the following reservations:

“(1) Paragraph (b) of section 18 regarding immunity from taxation and paragraph (c) of section 18 regarding immunity from national service obligations shall not apply with respect to United States nationals and aliens admitted for permanent residence

“(2) Nothing in article IV, regarding the privileges and immunities of representatives of Members, in article V, regarding the privileges and immunities of United Nations officials, or in article VI, regarding the privileges and immunities of experts on missions for the United Nations, shall be construed to grant any person who has abused his privileges of residence by activities in the United States outside his official capacity exemption from the laws and regulations of the United States regarding the continued residence of aliens, provided that: (a) No proceedings shall be instituted under such laws or regulations to require any such person to leave the United States except with the prior approval of the Secretary of State of the United States. Such approval shall be given only after consultation with the appropriate Member in the case of a representative of a Member (or a member of his family) or with the Secretary-General in the case of any person referred to in articles V and VI; (b) A representative of the Member concerned or the Secretary-General, as the case may be, shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted; (c) Persons who are entitled to diplomatic privileges and immunities under the Convention shall not be required to leave the United States otherwise than in accordance with the customary procedure applicable to members of diplomatic missions accredited or notified to the United States.”

2. AGREEMENTS RELATING TO MEETINGS AND INSTALLATIONS

- (a) Agreement between the United Nations and Yugoslavia relating to the seminar on the role of youth in the promotion and protection of human rights to take place at Belgrade from 2 to 12 June 1970. ⁴ Signed at New York on 16 March 1970

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 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 (e) of article II 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 persons enumerated in article II of this Agreement and all persons performing functions in connexion with the seminar who are not nationals of Yugoslavia shall have the right of entry into and exit from Yugoslavia. They shall be granted facilities for speedy travel. Visas and entry permits, where required, shall be granted free of charge, as speedily as possible and, when applications are made at least two and a half weeks before the opening of the seminar, not later than two weeks before the date of the opening of the seminar. If the application for the visa is not made at least two and a half weeks before the opening of the seminar, the visa shall be granted not later than three days from the receipt of the application. Exit permits, where required, shall be granted free of charge and as speedily as possible, in any case not later than three days before the closing of the seminar.

Article VI

Liability

The Government shall be responsible for dealing with any actions, claims or other demands arising out of (a) injury or damage to person or property in the premises referred to in article IV. 3 (a) and (b) above; (b) injury or damage to person or property caused or incurred in using transportation referred to in article IV. 3 (i) and (j); (c) the employment for the conference of the personnel referred to in article IV. 2 and 3 (d), (e), (j) and (g), and 4, and the Government shall hold the United Nations and its personnel harmless in respect of any such actions, claims or other demands.

⁴ Came into force on the date of signature.

- (b) Agreement between the United Nations and Zambia for a seminar on the realization of economic and social rights, with a particular reference to developing countries. ⁵ Signed at New York on 19 and 30 March 1970

This agreement contains articles similar to articles V and VI above.

- (c) Agreement between the United Nations and the Union of Soviet Socialist Republics relating to the seminar on the participation of women in the economic life of their countries which will take place in Moscow, Union of Soviet Socialist Republics, from 8 to 21 September 1970. ⁶ Signed at New York on 23 April and 4 May 1970

This agreement contains articles similar to articles V and VI above.

- (d) Agreement between the United Nations and Colombia relating to arrangements for the seminar on improvement of slums and uncontrolled settlements to be held in Medellín from 15 February to 1 March 1970

This agreement contains articles similar to articles V and VI above except that the last part of article V, paragraph 4, from the words "as speedily as possible" have been omitted.

- (e) Exchange of letters constituting an agreement between the United Nations and Romania on the establishment of a United Nations Information Center in Bucharest ⁷

I

Letter from the Permanent Representative of Romania to the United Nations

...

The United Nations Information Center in Bucharest enjoys the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946. The Director of the Center is granted the same facilities which are accorded to foreign diplomats in Romania.

...

II

Letter from the Assistant Secretary-General, Office of Public Information

This is . . . to confirm your understanding that . . . the agreement to establish a United Nations Information Center has been concluded.

...

⁵ Came into force on the date of signature.

⁶ Came into force on the date of signature.

⁷ Entered into force provisionally on 30 April 1970, subject to approval by the Government of Romania. The agreement was approved by the Council of Ministers of the Socialist Republic of Romania by Decision No. 736 dated 8 June 1970.

(f) Agreement between the United Nations and the Government of Japan concerning the arrangement for the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

This agreement contains provisions similar to articles VII, VIII and IX of the agreement between the United Nations and the Government of Sweden concerning the arrangements for the Third United Nations Congress on the Prevention of Crime and the Treatment of Offenders (See *Juridical Yearbook*, 1965, pp. 29 and 30) except that

- (i) the second sentence of article VIII, paragraph 2 has been omitted;
- (ii) the words "Representatives of Governments" at the beginning of article VIII, paragraph 3, have been replaced by "Representatives of Governments of States Members of the Organization";
- (iii) the words "upon presentation of the registration slip with the United Nations Secretariat" have been inserted after "any visa required for such persons" in article VIII, paragraph 4;
- (iv) article IX reads as follows:

"Article IX

"Import Duties and Tax

"The Government, pursuant to paragraph 7 (b), (c) of Article II of the Convention on the Privileges and Immunities of the United Nations, shall exempt import duties and taxes with respect to all supplies needed by the United Nations for the Congress (including the official requirements and entertainment schedule related to the Congress), and shall issue without delay necessary import and export permits."

(g) Agreement between the United Nations and Austria regarding the arrangements for the Conference of Plenipotentiaries for the adoption of the Protocol on psychotropic substances.⁸ Signed at Vienna on 22 September 1970

VII. Privileges and Immunities

1. The provisions relating to privileges and immunities in the Agreement between the United Nations and the Republic of Austria regarding the Headquarters of the United Nations Industrial Development Organization shall be applicable with regard to the Conference. The Convention on the Privileges and Immunities of the United Nations is hereby not affected.

2. Representatives of Member States attending the Conference and officials of the United Nations concerned with the Conference shall enjoy the same privileges and immunities as are accorded to representatives to meetings of the UNIDO and to officials of the UNIDO under the Agreement outlined in paragraph 1.

3. Representatives of States not members of the United Nations attending the Conference shall enjoy the same privileges and immunities as provided for in paragraph 2 above for representatives of Member States.

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

⁸ Came into force on the date of signature.

5. Any visa required for such persons shall be granted promptly. It shall be granted without charge by an Austrian diplomatic or consular representative.

6. The area designated under section I shall be deemed to constitute United Nations premises, and access to these premises shall be under the control and authority of the United Nations.

This agreement is accompanied by the following letter:

Permanent Mission of Austria
to the Office of the United Nations
and the Specialized Agencies in Geneva
Geneva, 2 October 1970

Sir,

With reference to the Agreement between the United Nations and the Federal Government of Austria regarding the Arrangements for the Conference of Plenipotentiaries for the Adoption of the Protocol on psychotropic substances, which was signed by you and the Austrian Federal Minister for Foreign Affairs on 22 September 1970 in Vienna, I have the honour to inform you that the Austrian interpretation of article VII, para. 5, of the above-mentioned agreement is as follows:

“... all persons referred to in this article and all persons performing functions in connection with the conference who are not nationals of Austria shall have the right of entry into and exit from Austria. Visas and entry permits, where required, shall be granted free of charge, as speedily as possible and, when applications are made at least two and one half weeks before the opening of the conference, not later than two weeks before the date of the opening of the conference. If the application for the visa is not made at least two and one half weeks before the opening of the conference, the visa shall be granted not later than three days from the receipt of the application.”

From the Austrian point of view, the addition of the sentence “Exit permits where required, shall be granted free of charge and as speedily as possible, in any case not later than three days before the closing of the conference,” does not seem to be necessary, because according to Austrian law, exit permits are not required.

Accept, Sir, the assurances of my highest consideration.

Eugen F. BURESCH
Ambassador

H.E. M. Vittorio WINSPEARE GUICCIARDI
Under Secretary-General
Director-General of the United Nations Office
at Geneva

3. AGREEMENTS RELATING TO THE UNITED NATIONS CHILDREN'S FUND: REVISED MODEL AGREEMENT CONCERNING THE ACTIV- ITIES OF UNICEF⁹

Article VI

Claims against UNICEF

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

⁹ Revised January 1968.

Article VII
Privileges and immunities
[See *Juridical Yearbook*, 1965, p. 32]

Agreements between UNICEF and the Governments of the Maldives, Kenya and Afghanistan concerning the activities of UNICEF.¹⁰ Signed, respectively, at Malé on 24 March 1970 and at New Delhi on 6 April 1970, at Nairobi on 24 June 1970 and at Kabul on 22 October 1970

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

4. AGREEMENTS RELATING TO THE TECHNICAL ASSISTANCE SECTOR OF THE UNITED NATIONS DEVELOPMENT PROGRAMME: REVISED STANDARD AGREEMENT CONCERNING TECHNICAL ASSISTANCE¹¹

Article I
Furnishing of technical assistance

...
6. [See *Juridical Yearbook*, 1967, p. 73]

Article V
Facilities, privileges and immunities
[See *Juridical Yearbook*, 1963, pp. 27 and 28]

(a) Agreement on technical assistance between the United Nations (including UNIDO and UNCTAD), ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and Zambia.¹² Signed at Lusaka on 29 May 1970

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

(b) Revised standard agreement on technical assistance (with exchange of letters) between the United Nations (including UNIDO and UNCTAD), ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and New Zealand.¹³ Signed at New York on 17 July 1970

This agreement contains articles similar to articles I, paragraph 6, and V of the revised standard agreement except that in paragraph 1, subparagraph (a) of the provision correspond-

¹⁰ Came into force respectively on 6 April 1970, 24 June 1970 and 22 October 1970.

¹¹ United Nations Development Programme, *Field Manual*, Edition II (document DP/4), Section IX C (July 1969).

¹² Came into force on the date of signature.

¹³ Came into force on the date of signature.

ing to article V the words "(including the United Nations Industrial Development Organization, the United Nations Conference on Trade and Development and the United Nations Development Programme)" have been inserted after the words "in respect of the United Nations". It is accompanied by the following exchange of letters:

I

New Zealand Mission
to the United Nations
New York

17 July 1970

Sir,

I have the honour to refer to the Agreement signed today between the Government of New Zealand and Organizations participating in the technical assistance sector of the United Nations Development Programme for the provision of technical assistance to the territories for whose international relations New Zealand is responsible. In this connection, I should like to convey to you the following observations of the Government of New Zealand concerning this Agreement:

- (a) In connection with article VI, paragraph 1 (b) of the Agreement, which requires the Government to apply to each specialized agency participating in the Agreement the Convention on the Privileges and Immunities of the Specialized Agencies, I should like to draw your attention to the declaration concerning article IV, section 11, of the Convention made by the Government of New Zealand in acceding thereto. In applying the afore-mentioned Convention with respect to assistance rendered pursuant to the present Agreement, the Government would propose to act with reference to that declaration.

...

If the foregoing observations are acceptable, I have the honour to suggest that the present letter, together with your reply in that sense, shall be regarded as placing on record the positions on this matter of the Government of New Zealand and of the above-mentioned Organizations.

Accept, Sir, the assurance of my highest consideration.

J. V. SCOTT
Permanent Representative

Mr. Paul G. HOFFMAN
Administrator
United Nations Development Programme
New York

II

United Nations Development Programme

17 July 1970

Sir,

I have the honour to acknowledge receipt of your letter of today, which reads as follows:
[See letter I]

I take note of the observations made by your Government as set out in the letter quoted above and agree that your letter, together with this reply, shall be regarded as placing on record the positions of the Government of New Zealand and of the above-mentioned organizations on this matter.

Accept, Sir, the assurances of my highest consideration.

Paul G. HOFFMAN
Administrator

United Nations Development Programme

His Excellency Mr. John Vivian SCOTT
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of New Zealand
to the United Nations

-
- (c) Standard agreement on technical assistance between the United Nations (including UNIDO and UNCTAD), ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and Fiji.¹⁴ Signed at Suva on 13 October 1970

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

5. AGREEMENTS RELATING TO THE SPECIAL FUND SECTOR OF THE UNITED NATIONS DEVELOPMENT PROGRAMME: STANDARD AGREEMENT CONCERNING ASSISTANCE FROM THE UNITED NATIONS DEVELOPMENT PROGRAMME (SPECIAL FUND)¹⁵

Article VIII

Facilities, privileges and immunities
[See *Juridical Yearbook*, 1963, p. 31]

Article X

General provisions

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

Agreements concerning assistance from the Special Fund between the United Nations Development Programme (Special Fund) and the Governments of Gambia and Fiji.¹⁶ Signed, respectively, at Bathurst on 25 March 1970 and at Suva on 13 October 1970

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

¹⁴ Came into force on the date of signature.

¹⁵ United Nations Development Programme, *Field Manual*, Edition II, document DP/4, Section IX C (July 1969).

¹⁶ Came into force on the respective dates of signature.

6. AGREEMENTS RELATING TO OPERATIONAL ASSISTANCE: STANDARD AGREEMENT ON OPERATIONAL ASSISTANCE¹⁷

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*, 1968, pp. 46 and 47]

...

Standard agreements on operational assistance between the United Nations (including UNIDO and UNCTAD), ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO and the Governments of Mongolia, Dahomey, Zambia, New Zealand, Barbados, Fiji and El Salvador.¹⁸ Signed, respectively, at New York on 15 January 1970, at Cotonou on 14 March 1970, at Lusaka on 29 May 1970, at New York on 17 July 1970, at Barbados on 26 September 1970, at Suva on 13 October 1970 and at San Salvador on 22 October 1970

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

7. AGREEMENT BETWEEN THE UNITED NATIONS AND DAHOMEY FOR THE PROVISION OF OPERATIONAL AND EXECUTIVE PERSONNEL.¹⁹ SIGNED AT COTONOU ON 15 APRIL 1969

Article II

Functions of the Officers

...

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 to 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 article I, paragraph 1, 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.

¹⁷ United Nations Development Programme, *Field Manual*, Edition II, Document DP/4, Section IX C (July 1969).

¹⁸ Came into force on the respective dates of signature.

¹⁹ Came into force on the date of signature.

Article IV
Obligations of the Government

...

5. The Government recognizes that the officers shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent upon them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government;

(f) be given, together with their spouses and relatives dependent upon them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

6. The assistance rendered pursuant to the terms of this Agreement is in the exclusive interest and for the exclusive benefit of the people and Government of the Republic of Dahomey. In recognition thereof, the Government shall bear all risks and claims resulting from, occurring in the course of, or otherwise connected with, any operation covered by this Agreement. Without restricting the generality of the preceding sentence, the Government shall indemnify and hold harmless the United Nations and the officers against any and all liability suits, actions, demands, damages, costs or fees on account of death, injuries to person or property, or any other losses resulting from or connected with any act or omission performed in the course of operations covered by this Agreement.

...

8. AGREEMENT BETWEEN THE UNITED NATIONS, PERU AND SWEDEN FOR THE PROVISION OF THE TECHNICAL CADRE UNIT OF THE SWEDISH STAND-BY FORCE FOR UNITED NATIONS SERVICE TO ASSIST IN RECONSTRUCTION OF AREAS IN PERU DEVASTATED AS A RESULT OF EARTHQUAKE WHICH OCCURRED ON 31 MAY 1970.²⁰ SIGNED AT UNITED NATIONS HEADQUARTERS, NEW YORK, ON 29 JULY 1970

Article 3. Members of the Unit will be responsible for the performance of their functions solely to the Commander of the Unit who will submit reports on the operations of the Unit to the Secretary-General through his designated representative and as appropriate to the Government of Peru and the Government of Sweden.

Article 4. The Government of Peru will assure to the Unit, its Commander and its members the conditions necessary to facilitate the performance of the functions of the Unit. It is agreed that the Government of Peru will extend the provisions of articles I, II and III of the Convention on the Privileges and Immunities of the United Nations to

²⁰ Came into force on the date of signature.

which it acceded on 24 July 1963 to the Unit and will extend the provisions of article VI and section 26 of the same Convention to the Commander and the members of the Unit.

Article 5. In recognition that it is acting on behalf of the United Nations, the Unit is authorized to fly the United Nations flag in accordance with the United Nations Flag Code and Regulations. The Unit may display the United Nations flag on its Headquarters in Peru and otherwise as may be agreed by the Secretary-General's designated representative. In addition to the United Nations flag, the Unit may also display the flags of Sweden and of Peru. The Commander and members of the Unit may wear their national uniform. Suitable United Nations identification for the Commander and members of the Unit may be authorized by the Secretary-General's designated representative. The Commander and members of the Unit will conduct themselves at all times in a manner consistent with the purposes and principles of the United Nations and with their status under this agreement.

B. Treaty provisions concerning the legal status of intergovernmental organizations related to the United Nations

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

In 1970, 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:²²

<i>State</i>		<i>Date of receipt of instrument of accession or notification</i>	<i>Specialized agencies</i>
Mongolia ²³	Accession	3 March 1970	WHO, ILO, UNESCO, UPU, ITU, WMO
Romania ²⁴	Accession	15 September 1970	WHO — third revised text of annex VII, ICAO, ILO, FAO — second revised text of annex II, ²⁵ UNESCO, UPU, ITU, WMO, IMCO — revised text of annex XII ²⁶

As of 31 December 1970, 73 States were parties to the Convention.

²¹ United Nations, *Treaty Series*, vol. 33, p. 261.

²² 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.

²³ With the following reservations:

"The Mongolian People's Republic does not consider itself bound by the provisions of sections 24 and 32 of the Convention, which provide for the compulsory jurisdiction of the International Court of Justice. As to the jurisdiction of the International Court of Justice in disputes arising out of the interpretation or application of the Convention the Mongolian People's Republic maintains that for the submission of a particular dispute to the International

(Continued on next page)

2. INTERNATIONAL LABOUR ORGANISATION

- (a) Agreement between the International Labour Organisation and Indonesia concerning the establishment of an office of the Organisation in Djakarta.²⁷ Signed in Djakarta on 21 May 1970

This agreement contains provisions similar to articles 2 and 3 of the Agreement between the International Labour Organisation and Trinidad and Tobago concerning the establishment of an office of the Organisation in Port of Spain, signed at Port of Spain on 14 March 1969: see *Juridical Yearbook*, 1969, p. 29.

- (b) Agreement between the International Labour Organisation and the Philippines concerning the establishment of an office of the Organisation in Manila.²⁸ Signed at Manila on 23 January 1970

This agreement contains provisions similar to articles 2 and 3 of the agreement referred to under (a) above except that paragraph 1 of article 2 reads as follows:

“1. As the Philippines is already a party to the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 as well as to the Annex of 10 July 1948 relating to the International Labour Organisation, the Office of the International Labour Organisation in Manila, its staff and any other person mentioned in the Convention or in the above mentioned Annex shall be granted the privileges and immunities therein provided for.”

- (c) Agreement between the International Labour Organisation and Argentina concerning the establishment of an office of the Organisation in Buenos Aires.²⁹ Signed at Buenos Aires on 6 April 1970

Court of Justice for settlement, the consent of all parties to the dispute must be obtained in each individual case. This reservation is equally applicable to the provision of section 32 whereby the advisory opinion of the International Court of Justice shall be accepted as decisive.”

The Government of the United Kingdom of Great Britain and Northern Ireland has notified the Secretary-General that it is unable to accept these reservations because in its view they are not of the kind which intending parties to the Convention have the right to make.

²⁴ With the following reservations:

“The Socialist Republic of Romania states that it does not consider itself bound by the provisions of sections 24 and 32, whereby the question whether an abuse of a privilege or immunity has occurred, and differences arising out of the interpretation or application of the Convention and disputes between specialized agencies and Member States, shall be referred to the International Court of Justice. The position of the Socialist Republic of Romania is that such questions, differences or disputes may be referred to the International Court of Justice only with the agreement of the parties in each individual case.”

The Government of the United Kingdom of Great Britain and Northern Ireland has notified the Secretary-General that it is unable to accept these reservations because in its view they are not of the kind which intending parties to the Convention have the right to make.

²⁵ See *Juridical Yearbook*, 1965, p. 43.

²⁶ See *Juridical Yearbook*, 1968, p. 66.

²⁷ Came into force on the date of signature.

²⁸ Came into force on the date of signature.

²⁹ Came into force on the date of signature.

Article 1

1. The Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947 and its Annex of 10 July 1948 relating to the International Labour Organisation, so far as the Argentine Republic accepted them on 10 October 1963, are applicable both to the Office of the ILO in Buenos Aires, its staff and all persons mentioned in these two instruments and to all activities carried out by the Organisation through the said Office.

2. Without prejudice to the provisions of the preceding paragraph of this article, the Government of the Argentine Republic shall grant to the ILO Office in Buenos Aires and to the persons to whom the preceding paragraph applies treatment not less favourable than that granted to any other specialized agency of the United Nations with offices in the Argentine Republic.

Article 2

The Government of the Argentine Republic shall grant to persons invited on official business to the Office of the ILO in Buenos Aires and not covered by the preceding article all the necessary facilities in respect of their entering, staying in and leaving the country.

3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Agreements relating to conferences, seminars and other meetings

- (i) Exchange of letters constituting an agreement between the French Government and UNESCO concerning the meeting of experts on problems of State formation and nation building (C  risy-la-Salle (Manche), 7-14 August 1970). Signed at Paris on 13 March 1970 and 25 May 1970

I

Letter from UNESCO

...

We should like to know whether the French Government has any objection to this meeting being held at C  risy-la-Salle. I should be much obliged if you would kindly inform me whether, with regard to the privileges and immunities of participants, the Government would be prepared to give assurances similar to those given in connexion with other UNESCO meetings held on French territory away from the Organization's headquarters. . . .

II

Letter from the French Government

...

In reply to the letter of 13 March concerning the meeting which the Director-General intends to hold at the cultural center of C  risy-la-Salle, I have the honour to inform you that the French authorities accept to grant persons participating in this meeting the benefit of the administrative provisions which would have been applied to them if the meeting had been held at the organization's headquarters in Paris. . . .

- (ii) Agreement between the Government of Mexico and the United Nations

Educational, Scientific and Cultural Organization concerning the regional seminar on statistics of culture and communication in Latin America (Guadalajara, 21 September-3 October 1970). Signed at Paris on 23 March 1970 and at Mexico City on 12 May 1970

III

Privileges and immunities

In all matters relating to the seminar, the Government of Mexico shall apply, in respect of the participants of the United Nations Educational, Scientific and Cultural Organization and of its personnel, the provisions of the Convention on the Privileges and Immunities of the United Nations, as approved by the Mexican Senate and in accordance with the Presidential Decree of 13 February 1962, it being understood that the clauses of the Convention on which reservations have been expressed shall not apply to the seminar. It is also understood that no restriction shall be imposed upon the rights of entry into, sojourn in and departure from the territory of any persons participating in the seminar, without distinction as to nationality.

- (iii) Agreement between the Swiss Government and UNESCO concerning the round table on the influence of mass media on artistic and literary expression (Locarno, September-October 1970). Signed at Paris on 17 April 1970 and at Berne on 30 April 1970

Accordingly, I should be obliged if you would kindly confirm that, on the occasion of this round table, the Swiss Government will apply the agreement concluded by an exchange of letters between Switzerland and UNESCO which entered into force on 1 January 1969 and which stipulates that, pending the conclusion of an agreement between the Federal Council and UNESCO, the agreement between the Federal Council and the World Health Organization concerning the legal status of that organization in Switzerland, and the arrangement for the execution of the agreement, concluded on 31 August and 21 September 1948, shall provisionally apply, *mutatis mutandis*, to UNESCO, to its various agencies, to the representatives of member States and to the experts and officials of the Organization.³⁰

- (iv) Agreements were also concluded between UNESCO and the Governments of Belgium, Brazil, Cameroon, Chile, the Democratic Republic of the Congo, Costa Rica, Czechoslovakia, Ethiopia, India, Iraq, Italy, Ivory Coast, Jamaica, Korea, Malaysia, Malta, Monaco, Morocco, Philippines, Senegal, Singapore, Sweden, Turkey, the Ukrainian SSR and Yugoslavia, concerning meetings on their territories; these agreements contain a provision similar to the following:

The Government will apply, in respect of this meeting, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and Annex IV thereto relating to UNESCO, to which it has been a party since ———, it being understood, in particular, that no restriction shall be placed upon the right of entry into, sojourn in and departure from the territory of ——— of any person entitled to attend the meeting, without distinction of nationality.

³⁰ In accordance with the terms of the letter from the Director-General of UNESCO, the Swiss Government signified its agreement to the proposal quoted above by signing the said letter and returning it to UNESCO.

4. WORLD HEALTH ORGANIZATION

(a) Headquarters agreement between France and the World Health Organization on the privileges and immunities of the International Agency for Research on Cancer.³¹ Signed at Paris on 14 March 1967³²

The World Health Organization (hereinafter called "the Organization") of the one part, and

The Government of the French Republic, of the other part,

Considering resolution WHA18.44 of the Eighteenth World Health Assembly, in which an International Agency for Research on Cancer (hereinafter called "the Agency") was established and its Statute approved,

Considering resolution GC/1/R4 of the Governing Council establishing the headquarters of the Agency at Lyons (France),

Desiring to define by the present agreement the privileges and immunities to be granted to the Agency on French territory,

Have agreed as follows:

Article I

The Agency shall enjoy juridical personality and, in particular, shall have the capacity:

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

Article II

The Agency shall enjoy on French territory the independence and freedom of action to which it is entitled as an international body.

Article III

The headquarters of the Agency shall comprise the premises which it occupies, or may occupy in the future, for the requirements of its work, to the exclusion of the premises used for housing its staff.

Article IV

1. The headquarters of the Agency shall be inviolable. Agents or officials of the French Republic shall not enter to discharge their official duties except with the consent or at the request of the Director of the Agency or his representative.

2. The Agency shall not permit its headquarters to become a refuge from justice for persons who are pursued for a crime in *flagrante delicto* or against whom a warrant of arrest, a penal judgement or deportation order has been issued by the competent French authorities.

Article V

1. The Agency shall enjoy immunity from every form of legal process except in so far as in any particular case the Governing Council of the Agency has waived immunity.

2. The movable and immovable property of the Agency constituting its headquarters, wheresoever located, shall be immune from any measure of execution except where the Director of the Agency has expressly waived immunity.

³¹ Came into force on 2 May 1970.

³² English translation by the secretariat of WHO of the original authentic French text.

3. The property referred to in paragraph 2 above shall also be immune from search, requisition, confiscation and sequestration, as well as from any other form of administrative or judicial constraint.

Article VI

The archives of the Agency, and, in general, all documents belonging to or held by it, shall be inviolable.

Article VII

1. Without being restricted by financial controls, regulations or moratoria of any kind the Agency may freely:

(a) receive and hold funds and currencies of all kinds and operate accounts in any currency;

(b) transfer its funds and currencies within French territory and from France to another country or *vice versa*.

2. In exercising its rights under this article, the Agency shall take account of all representations made to it by the Government of the French Republic in so far as it considers that these can be complied with without prejudice to its own interests.

Article VIII

The Agency, its assets, income or other property shall be exempt from all direct taxes. This exemption shall not, however, apply to taxes collected as a charge for services rendered.

Article IX

The furniture, supplies and equipment strictly necessary for the administrative and scientific functioning of the Agency, together with publications, cinematographic films or photographic documents pertaining to its functions, shall be exempt, on import or export, from payment of customs duties and tariffs and of turnover tax.

Articles within the categories of goods specified in the preceding paragraph shall also be exempt, on import or export, from all measures of prohibition or restriction.

Goods imported in virtue of these facilities may not be assigned or loaned on French territory except under conditions previously agreed to by the competent French authorities.

Article X

The Agency shall pay, under general laws and regulations, indirect taxes which form part of the cost of goods sold or services rendered.

Nevertheless, turnover taxes levied for the benefit of the State budget which relate to certain substantial acquisitions made by the Agency for its official requirements, as well as to the issue of publications pertaining to its functions, may be reimbursed under conditions to be mutually agreed upon between the Agency and the competent French authorities.

Article XI

To the fullest extent compatible with the provisions of the international conventions, regulations and arrangements to which the Government of the French Republic is party, the Agency shall enjoy, in respect of its official communications of every kind, terms at least as favourable as those accorded to diplomatic missions in France in the matter of priorities.

Article XII

1. The Government of the French Republic shall not in any way impede the movement across its frontiers to or from the Agency of any person having official duties there or invited by the Agency.

2. For this purpose the Government of the French Republic undertakes to authorize, without charge for visas and without delay, the entry into and sojourn in France, for the term of their duty or mission with the Agency, of the following persons, together with the dependent members of their families:

(a) members of the Governing Council and Scientific Council, their alternates and advisers;

(b) staff of the Agency;

(c) advisers and experts.

3. Without prejudice to any special immunities that they may enjoy, the persons mentioned in paragraph 2 may not, during the whole period in which they are performing their duties or missions, be compelled by the French authorities to leave French territory, save where they have abused the residence privileges accorded to them by carrying on activities unconnected with their duties or missions with the Agency.

4. The persons specified in this article are not exempt from the application of any quarantine or public health regulations in force.

Article XIII

1. The representatives of the States participating in the sessions of the Governing Council shall enjoy, during their stay in France, for the exercise of their functions with the Agency, and during their journey to and from the place of meeting, the privileges and immunities accorded to diplomatic agents.

2. The Director-General of the Organization shall enjoy, when sojourning in France for the purpose of exercising his responsibilities in respect of the functioning of the Agency, the privileges and immunities accorded to diplomatic agents.

Article XIV

The members of the Scientific Council, experts and advisers shall be accorded, during the exercise of their functions and when travelling to and from the Agency, the following privileges and immunities:

(a) immunity from personal arrest or detention and from seizure of personal baggage except if caught in the act of committing an offence. In such cases the competent French authorities shall immediately inform the Director-General of the Organization or his representative of the arrest or seizure;

(b) immunity from legal process, even after the completion of the mission, in respect of acts done, including words spoken and written, by them in the performance of their functions and within the limits of their responsibilities.

Article XV

The Director of the Agency shall be accorded during the period of his functions the privileges and immunities accorded to diplomatic agents.

Article XVI

Officials of the Agency, together with officials placed at its disposal by the Organization, shall enjoy:

(a) immunity from legal process, even after the cessation of their functions, in respect of all acts done by them in the exercise of their functions and within the limits of their responsibilities. This immunity shall not apply in the case of infringement of the regulations concerning motor vehicle traffic by officials of the Agency, or of damage caused by a motor vehicle belonging to or driven by them;

(b) exemption from all taxation on salaries and emoluments paid to them for their work with the Agency;

(c) provided they formerly resided abroad, the right to import free of duty their furniture and personal effects at the time of their first installation in France;

(d) a special residence document issued by the competent French authorities for themselves, their spouses and dependent children;

(e) arrangements for temporary importation, free of duty, of their motor vehicle;

(f) exemption from all national service obligations and from any other compulsory service in France.

Article XVII

The Government of the French Republic is not bound to accord to its own nationals, nor to permanent residents in France, the privileges and immunities referred to in Articles: XIII;

XIV, sub-paragraph (a);

XV;

XVI, sub-paragraphs (c), (d), (e) and (f).

Furthermore, the Government of the French Republic is not bound to accord to its own nationals, nor to permanent residents in France, the benefit of the provisions of Article XVI, sub-paragraph (b), unless Member States adopt a system whereby the salaries and emoluments are effectively taxed by the Organization itself.

In the exercise of their functions with the Agency, French nationals and permanent residents in France shall nonetheless be accorded, even after the cessation of their functions, immunity from legal process in respect of acts, including words spoken or written, done by them in the exercise of their functions and within the limits of their responsibilities.

Article XVIII

1. The privileges and immunities provided for in this agreement are not intended for the personal benefit of those concerned. They are designed solely to ensure in all circumstances the freedom of operation of the Agency and the complete independence of the persons to whom they are accorded.

2. The Director-General of the Organization, or in his absence the Director of the Agency or, in the case of members of the Governing Council or Scientific Council and of experts and advisers, the Government of the State concerned, shall have the right and the duty to waive this immunity when they consider that it would impede the normal course of justice and that it may be waived without prejudice to the interests of the Agency.

Article XIX

The provisions of this agreement shall in no way affect the right of the Government of the French Republic to adopt all measures it may consider appropriate in the interest of the security of France and the maintenance of public order.

Article XX

1. The Agency shall be required to include in all written contracts, other than those concluded in accordance with the Staff Regulations and to which it is a party, an arbitration clause providing that any dispute that arises with regard to the interpretation or execution of the contract may, at the request of one or the other party, be submitted to independent arbitration. This arbitration clause shall specify the law applicable and the State in which the arbitrators shall sit. The arbitration procedure shall be that of the said State.

2. The execution of the award made following such arbitration shall be governed by the rules in force in the State on whose territory it is to be executed.

Article XXI

Any dispute that may arise between the Government of the French Republic and the Organization concerning the interpretation or application of the present agreement or of any supplementary agreement, and which cannot be settled by negotiation, shall, unless the parties agree otherwise, be submitted, at the request of one or the other of them, to an arbitration tribunal composed of three members, one appointed by the Director-General of the Organization, another appointed by the French Government, and a third, who shall preside over the tribunal, chosen jointly by the other two. This last member may not be either a staff member or a former staff member of the Organization or the Agency, nor a French national.

The motion instituting proceedings shall indicate the name of the arbitrator appointed by the applicant party; the defendant party shall indicate to the other party the name of the arbitrator it has appointed, within two months of receipt of the application. Failing such notification by the defendant party within the above time limit, or should the two arbitrators fail to agree on the choice of a third arbitrator within two months of the last appointment of an arbitrator, the arbitrator or the third arbitrator, as the case may be, shall be appointed by the President of the International Court of Justice at the request of the first applicant.

The decisions of the tribunal shall be binding on the parties and shall not be subject to any appeal.

Article XXII

The present agreement shall be approved by the Government of the French Republic of the one part, and by the Agency and the Organization of the other part. Each of the parties shall notify to the other its approval of the agreement, which shall come into force thirty days after the date of the last notification.

Article XXIII

The present agreement may be revised at the request of either party. In this event, the two parties shall consult together concerning the modifications to be introduced into the provisions of the agreement; should these negotiations not lead to an agreement within one year, the present agreement may be denounced by either party at two years' notice.

In faith whereof the present agreement was done and signed at Paris on the fourteenth day of March 1967, in two copies in the French language.

For the World Health Organization:
(Signed) M. G. CANDAU

For the Government of the French Republic:
(Signed) Hervé ALPHAND

- (b) Basic agreement between the World Health Organization and Mauritius for the provision of technical advisory assistance.³³ Signed at Brazzaville on 7 April 1970 and at Port Louis on 12 October 1970

This agreement contains provisions similar to articles I, paragraph 6, and V of the Agreement between the World Health Organization and Guyana for the provision of technical advisory assistance, signed at Georgetown on 14 June and at Washington on 3 July 1968: see *Juridical Yearbook*, 1968, p. 56.

- (c) Exchange of letters between the World Health Organization and Lebanon relating to the arrangements made for the 1970 session of Sub-Committee A of the Regional Committee for Eastern Mediterranean. 23 February and 16 July 1970

I

Letter from the Director of the Regional Office for the Eastern Mediterranean

...

Privileges and immunities of the participants

According to the basic agreement signed by your Government on 14 October 1960, I think that all participants in the session, whether representatives of States Members or members of the secretariat of the World Health Organization, will be able to benefit from the privileges and immunities provided for therein.

...

II

Letter from the Minister for Public Health of Lebanon

...

(2) In accordance with the basic agreement signed on 14 October 1960, the participants, representatives of Member States and secretariat staff will enjoy all the rights, privileges and immunities conferred upon them by the laws and regulations of the Lebanese State and by those of the World Health Organization.

...

5. INTERNATIONAL TELECOMMUNICATION UNION

Agreement between the Government of India and the International Telecommunication Union regarding the organization of the XII Plenary Assembly of the CCIR in New Delhi, India, from 21 January 1970 to 11 February 1970

A. GENERAL PROVISIONS

...

4. *Privileges and Immunities*

- (a) The Convention on the Privileges and Immunities of the Specialized Agencies, to which India is a party, shall be applicable with respect to the Assembly. The Assembly premises shall be deemed to constitute premises of the ITU and the access thereto shall be subject to the authority of the ITU.

³³ Came into force on 12 October 1970.

- (b) Representatives of Member States and other bodies invited attending the Assembly and all officials of the ITU connected with the Assembly, shall be accorded privileges and immunities set forth in Articles V and VI of the Convention on the Privileges and Immunities of the Specialized Agencies.
- (c) The relevant articles of the Convention on the Privileges and Immunities of the Specialized Agencies, and of Decision No. 304 of the Administrative Council of the ITU shall be applicable to persons attending the Assembly on behalf of Members and Associate Members of the Union, and other bodies invited, to officials of the Union, as well as to members of their families accompanying them. The Government shall apply without reservation the provisions of the International Telecommunication Convention (Montreux, 1965) to such persons and shall permit them to enter India and sojourn there throughout the duration of their function or mission in connection with the Assembly.
- (d) Local personnel provided by the Government shall only enjoy immunity from legal process in respect of words spoken or written and any act performed by them *within* the Assembly premises in their official capacity in connection with the Assembly.

...

G. VARIOUS FACILITIES MADE AVAILABLE TO THE ASSEMBLY AND ITS PARTICIPANTS

...

3. *Visa and customs formalities*

The Government shall take the necessary steps, within the limits set by the law and customs regulations of the country and in accordance with the relevant provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, to facilitate as far as possible for participants in the Assembly (including the Secretariat) and for the members of their families accompanying them, delivery of visas and customs formalities in connection with their personal effects, on both entering and leaving India.

H. MISCELLANEOUS

1. *Taxation*

The salaries and allowances paid to persons directly recruited outside India by the ITU are not subject to income tax in India, in conformity with the terms of the Convention on the Privileges and Immunities of the Specialized Agencies.

...

6. INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement on the Privileges and Immunities of the International Atomic Energy Agency.³⁴ 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 International Atomic Energy Agency in 1970:³⁵

³⁴ United Nations, *Treaty Series*, vol. 374, p. 147.

³⁵ The Agreement comes into force as between the Agency and the accepting States on the date of deposit of instruments of acceptance.

<i>State</i>	<i>Date of deposit of instrument of acceptance</i>
Poland ³⁶	24 July 1970
Romania ³⁷	7 October 1970
Greece	2 November 1970

This brought up to 38 the number of States parties to the Agreement.

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

(i) Part V, section 25 of the Agreement between the International Atomic Energy Agency and the Governments of the Republic of Austria and the United States of America for the application of safeguards (INFCIRC/152); entered into force on 24 January 1970.

(ii) Article VII, section 13 of the Agreement between the International Atomic Energy Agency and the Governments of the Argentine Republic and the Federal Republic of Germany for the transfer of a training reactor and enriched uranium therefor (INFCIRC/143); entered into force on 13 March 1970.

(iii) Article X of the Master Agreement between the International Atomic Energy Agency and the Government of the Socialist Federal Republic of Yugoslavia for assistance by the Agency in furthering projects by the supply of materials (INFCIRC/151); entered into force on 29 May 1970.

(iv) Article X of the Master Agreement between the International Atomic Energy Agency and the Government of the Kingdom of Greece for assistance by the Agency in furthering projects by the supply of materials (INFCIRC/149); entered into force on 2 June 1970.

(v) Article X of the Master Agreement between the International Atomic Energy Agency and the Government of the People's Republic of Bulgaria for assistance by the Agency in furthering projects by the supply of materials (INFCIRC/148); entered into force on 15 July 1970.

(vi) Article X of the Master Agreement between the International Atomic Energy Agency and the Government of Brazil for assistance by the Agency in furthering projects by the supply of materials (INFCIRC/147); entered into force on 20 November 1970.

(vii) Part V, section 25 of the Agreement between the International Atomic Energy Agency, the Government of the Republic of Colombia and the Government of the United States of America for the application of safeguards (INFCIRC/144); entered into force on 9 December 1970.

³⁶ "... with the reservation in respect of sections 26 and 34 of the Agreement that disputes regarding the interpretation and application of the Agreement shall be referred to the International Court of Justice only with the consent of all parties involved in a given dispute. The Polish People's Republic also reserves the right not to accept as decisive the advisory opinion of the International Court of Justice; ..."

³⁷ With the following reservation:

"The Council of State declares, in accordance with section 38, second paragraph, of the Agreement, that the Socialist Republic of Romania does not consider itself bound by the provisions of section 34 and by the provisions of section 26 to the extent that the latter refer to section 34. The position of the Socialist Republic of Romania is that differences arising from the interpretation or application of the Agreement may be referred to the International Court of Justice only with the consent, in each individual case, of all parties involved in a dispute."

Part Two

**LEGAL ACTIVITIES OF THE UNITED NATIONS
AND RELATED INTERGOVERNMENTAL ORGANIZATIONS**

Chapter III

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

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

United Nations General Assembly—twenty-fifth session

1. CELEBRATION OF THE TWENTY-FIFTH ANNIVERSARY OF THE UNITED NATIONS (AGENDA ITEM 21)

Resolution [2627 (XXV)] adopted by the General Assembly

2627 (XXV). Declaration on the Occasion of the Twenty-fifth Anniversary of the United Nations

The General Assembly

Adopts the following Declaration:

DECLARATION ON THE OCCASION OF THE TWENTY-FIFTH ANNIVERSARY OF THE UNITED NATIONS

We, the representatives of the States Members of the United Nations, assembled at United Nations Headquarters on 24 October 1970 on the occasion of the twenty-fifth anniversary of the coming into force of the Charter of the United Nations, now solemnly declare that:

1. In furtherance of the anniversary objectives of peace, justice and progress, we reaffirm our dedication to the Charter of the United Nations and our will to carry out the obligations contained in the Charter.

2. The United Nations, despite its limitations, has, in its role as a centre for harmonizing the actions of nations in attaining the purposes mentioned in Article 1 of the Charter, made an important contribution to the maintenance of international peace and security, to developing friendly relations based on respect for the principle of equal rights and self-determination of peoples and to achieving international co-operation in economic, social, cultural and humanitarian fields. We reaffirm our deep conviction that the United Nations can provide a most effective means to strengthen the freedom and independence of nations.

3. In pursuance of the purposes of the Charter, we reaffirm our determination to respect the principles of international law concerning friendly relations and co-operation among States. We will exert our utmost efforts to develop such relations among all States, irrespective of their political, economic and social systems, on the basis of strict observance of the principles of the Charter, and in particular the principle of sovereign equality of States, 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, the principle that they shall settle their international disputes by peaceful means, the duty not to intervene in matters within the domestic jurisdiction of any State, the duty of States to co-operate with one another in accordance with the Charter, and the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter. The progressive development and codification of international law, in which important progress was made during the first twenty-five years of the United Nations, should be advanced in order to promote the rule of law among nations. In this connexion we particularly welcome the adoption today of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.¹

4. Despite the achievements of the United Nations, a grave situation of insecurity still confronts the Organization and armed conflicts occur in various parts of the world, while at the same time the arms race and arms expenditure continue and a large part of humanity is suffering from economic under-development. We reaffirm our determination to take concrete steps to fulfil the central task of the United Nations—the preservation of international peace and security—since the solution to many other crucial problems, notably those of disarmament and economic development, is inseparably linked thereto, and to reach agreement on more effective procedures for carrying out United Nations peace-keeping consistent with the Charter. We invite all Member States to resort more often to the peaceful settlement of international disputes and conflicts by the means provided for in the Charter, notably through negotiation, inquiry, mediation, conciliation, arbitration and judicial settlement, making use as appropriate of the relevant organs of the United Nations, as well as through resort to regional agencies or arrangements or other peaceful means of their own choice.

5. On the threshold of the Disarmament Decade, we welcome the important international agreements which have already been achieved in the limitation of armaments, especially nuclear arms. Conscious of the long and difficult search for ways to halt and reverse the arms race and of the grave threat to international peace posed by the continuing development of sophisticated weapons, we look forward to the early conclusion of further agreements of this kind and to moving forward from arms limitation to a reduction of armaments and to disarmament everywhere, particularly in the nuclear field, with the participation of all nuclear Powers. We call upon all Governments to renew their determination to make concrete progress towards the elimination of the arms race and the achievement of the final goal—general and complete disarmament under effective international control.

6. We acclaim the role of the United Nations in the past twenty-five years in the process of the liberation of peoples of colonial, Trust and other Non-Self-Governing Territories. As a result of this welcome development, the number of sovereign States in the Organization has been greatly increased and colonial empires have virtually disappeared. Despite these achievements, many Territories and peoples continue to be denied their right to self-determination and independence, particularly in Namibia, Southern Rhodesia, Angola, Mozambique and Guinea (Bissau), in deliberate and deplorable defiance of the United Nations and world opinion by certain recalcitrant States and by the illegal régime of Southern Rhodesia. We reaffirm the inalienable right of all colonial peoples to self-determination, freedom and independence and condemn all actions which deprive any people of these rights. In recognizing the legitimacy of the struggle of colonial peoples for their freedom by all appropriate means at their disposal, we call upon all Governments

¹ Resolution 2625 (XXV), reproduced in this *Yearbook*, p. 104.

to comply in this respect with the provisions of the Charter, taking into account the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the United Nations in 1960. We re-emphasize that these countries and peoples are entitled, in their just struggle, to seek and to receive all necessary moral and material help in accordance with the purposes and principles of the Charter.

7. We strongly condemn the evil policy of *apartheid*, which is a crime against the conscience and dignity of mankind and, like nazism, is contrary to the principles of the Charter. We reaffirm our determination to spare no effort, including support to those who struggle against it, in accordance with the letter and spirit of the Charter, to secure the elimination of *apartheid* in South Africa. We also condemn all forms of oppression and tyranny wherever they occur and racism and the practice of racial discrimination in all its manifestations.

8. The United Nations has endeavoured in its first twenty-five years to further the Charter objectives of promoting respect for, and observance of, human rights and fundamental freedoms for all. The international conventions and declarations concluded under its auspices give expression to the moral conscience of mankind and represent humanitarian standards for all members of the international community. The Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Prevention and Punishment of the Crime of Genocide constitute a landmark in international co-operation and in the recognition and protection of the rights of every individual without any distinction. Although some progress has been achieved, serious violations of human rights are still being committed against individuals and groups in several regions of the world. We pledge ourselves to a continued and determined struggle against all violations of the rights and fundamental freedom of human beings, by eliminating the basic causes of such violations, by promoting universal respect for the dignity of all people without regard to race, colour, sex, language or religion, and in particular through greater use of the facilities provided by the United Nations in accordance with the Charter.

9. During the past twenty-five years, efforts have been made, by adopting specific measures and by fashioning and employing new institutions, to give concrete substance to the fundamental objectives enshrined in the Charter, to create conditions of stability and well-being and to ensure a minimum standard of living consistent with human dignity. We are convinced that such economic and social development is essential to peace, international security and justice. The nations of the world have, therefore, resolved to seek a better and more effective system of international co-operation whereby the prevailing disparities may be banished and prosperity secured for all. International efforts for economic and technical co-operation must be on a scale commensurate with that of the problem itself. In this context, the activities of the United Nations system designed to secure the economic and social progress of all countries, in particular the developing countries, which have grown significantly in the past twenty-five years, should be further strengthened and increased. Partial, sporadic and half-hearted measures will not suffice. On the occasion of this anniversary, we have proclaimed the 1970s to be the Second United Nations Development Decade, which coincides with and is linked to the Disarmament Decade, and have adopted the International Development Strategy for the Second United Nations Development Decade.² We urge all Governments to give their full support to its most complete and effective implementation in order to realize the fundamental objectives of the Charter.

² Resolution 2626 (XXV).

10. The new frontiers of science and technology demand greater international co-operation. We reaffirm our intention to make full use, *inter alia*, through the United Nations, of the unprecedented opportunities created by advances in science and technology for the benefit of peoples everywhere in such fields as outer space, the peaceful uses of the sea-bed beyond national jurisdiction and the improvement of the quality of the environment, so that the developed and developing countries can share equitably scientific and technical advances, thus contributing to the acceleration of economic development throughout the world.

11. The great increase in the membership of the Organization since 1945 testifies to its vitality; however, universality in terms of membership in the Organization has not yet been achieved. We express the hope that in the near future all other peace-loving States which accept and, in the judgement of the Organization, are able and willing to carry out the obligations of the Charter will become Members. It is furthermore desirable to find ways and means to strengthen the Organization's effectiveness in dealing with the growing volume and complexity of its work in all areas of its activities, and notably those relating to the strengthening of international peace and security, including a more rational division and co-ordination of work among the various agencies and organizations of the United Nations system.

12. Mankind is confronted today by a critical and urgent choice: either increased peaceful co-operation and progress or disunity and conflict, even annihilation. We, the representatives of the States Members of the United Nations, solemnly observing the twenty-fifth anniversary of the United Nations, reaffirm our determination to do our utmost to ensure a lasting peace on earth and to observe the purposes and principles embodied in the Charter, and express full confidence that the actions of the United Nations will be conducive to the advancement of mankind along the road to peace, justice and progress.

*1833rd plenary meeting,
24 October 1970.*

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2. (a) QUESTION OF THE RESERVATION EXCLUSIVELY FOR PEACEFUL PURPOSES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION, AND THE USE OF THEIR RESOURCES IN THE INTERESTS OF MANKIND: REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION
- (b) MARINE POLLUTION AND OTHER HAZARDOUS AND HARMFUL EFFECTS WHICH MIGHT ARISE FROM THE EXPLORATION AND EXPLOITATION OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, BEYOND THE LIMITS OF NATIONAL JURISDICTION: REPORT OF THE SECRETARY-GENERAL
- (c) VIEWS OF MEMBER STATES ON THE DESIRABILITY OF CONVENING AT AN EARLY DATE A CONFERENCE ON THE LAW OF THE SEA: REPORT OF THE SECRETARY-GENERAL

(d) QUESTION OF THE BREADTH OF THE TERRITORIAL SEA AND RELATED MATTERS

(AGENDA ITEM 25)

Resolution [2749 (XXV)] adopted by the General Assembly

2749 (XXV). Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction

The General Assembly,

Recalling its resolutions 2340 (XXII) of 18 December 1967, 2467 (XXIII) of 21 December 1968 and 2574 (XXIV) of 15 December 1969, concerning the area to which the title of the item refers.

Affirming that there is an area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, the precise limits of which are yet to be determined,

Recognizing that the existing legal régime of the high seas does not provide substantive rules for regulating the exploration of the aforesaid area and the exploitation of its resources,

Convinced that the area shall be reserved exclusively for peaceful purposes and that the exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole,

Believing it essential that an international régime applying to the area and its resources and including appropriate international machinery should be established as soon as possible,

Bearing in mind that the development and use of the area and its resources shall be undertaken in such a manner as to foster the healthy development of the world economy and balanced growth of international trade, and to minimize any adverse economic effects caused by the fluctuation of prices of raw materials resulting from such activities,

Solemnly declares that:

1. The sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind.

2. The area shall not be subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.

3. No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international régime to be established and the principles of this Declaration.

4. All activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international régime to be established.

5. The area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination, in accordance with the international régime to be established.

6. States shall act in the area in accordance with the applicable principles and rules of international law, including the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among

States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970,³ in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding.

7. The exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal, and taking into particular consideration the interests and needs of the developing countries.

8. The area shall be reserved exclusively for peaceful purposes, without prejudice to any measures which have been or may be agreed upon in the context of international negotiations undertaken in the field of disarmament and which may be applicable to a broader area. One or more international agreements shall be concluded as soon as possible in order to implement effectively this principle and to constitute a step towards the exclusion of the sea-bed, the ocean floor and the subsoil thereof from the arms race.

9. On the basis of the principles of this Declaration, an international régime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character, generally agreed upon. The régime shall, *inter alia*, provide for the orderly and safe development and rational management of the area and its resources and for expanding opportunities in the use thereof, and ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal.

10. States shall promote international co-operation in scientific research exclusively for peaceful purposes:

(a) By participation in international programmes and by encouraging co-operation in scientific research by personnel of different countries;

(b) Through effective publication of research programmes and dissemination of the results of research through international channels;

(c) By co-operation in measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes. No such activity shall form the legal basis for any claims with respect to any part of the area or its resources.

11. With respect to activities in the area and acting in conformity with the international régime to be established, States shall take appropriate measures for and shall co-operate in the adoption and implementation of international rules, standards and procedures for, *inter alia*:

(a) The prevention of pollution and contamination, and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment;

(b) The protection and conservation of the natural resources of the area and the prevention of damage to the flora and fauna of the marine environment.

12. In their activities in the area, including those relating to its resources, States shall pay due regard to the rights and legitimate interests of coastal States in the region of such activities, as well as of all other States, which may be affected by such activities. Consultations shall be maintained with the coastal States concerned with respect to activities relating to the exploration of the area and the exploitation of its resources with a view to avoiding infringement of such rights and interests.

³ Resolution 2625 (XXV), reproduced in this *Yearbook*, p. 104.

13. Nothing herein shall affect:

(a) The legal status of the waters superjacent to the area or that of the air space above those waters;

(b) The rights of coastal States with respect to measures to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the area, subject to the international régime to be established.

14. Every State shall have the responsibility to ensure that activities in the area, including those relating to its resources, whether undertaken by governmental agencies, or non-governmental entities or persons under its jurisdiction, or acting on its behalf, shall be carried out in conformity with the international régime to be established. The same responsibility applies to international organizations and their members for activities undertaken by such organizations or on their behalf. Damage caused by such activities shall entail liability.

15. The parties to any dispute relating to activities in the area and its resources shall resolve such dispute by the measures mentioned in Article 33 of the Charter of the United Nations and such procedures for settling disputes as may be agreed upon in the international régime to be established.

*1933rd plenary meeting,
17 December 1970.*

3. INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE (AGENDA ITEM 26)

Resolution [2733 C (XXV)] adopted by the General Assembly

2733 (XXV). International co-operation in the peaceful uses of outer space

C

The General Assembly,

Recalling its resolutions 2600 (XXIV) and 2601 (XXIV) of 16 December 1969,

Having considered the report of the Committee on the Peaceful Uses of Outer Space,⁴

Reaffirming the common interest of mankind in furthering the exploration and use of outer space for peaceful purposes,

Recognizing the importance of international co-operation in developing the rule of law in the exploration and peaceful uses of outer space,

Convinced of the need for increased efforts to promote applications of space technology for the benefit of all countries, particularly the developing countries,

Believing that the benefits of space exploration can be extended to States at all stages of economic and scientific development if Member States conduct their space programmes in a manner designed to promote the maximum international co-operation, including the widest possible and practical application of information in this field,

1. *Endorses* the recommendations and decisions contained in the report of the Committee on the Peaceful Uses of Outer Space;

⁴ See *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 20 (A/8020)*.

2. *Requests* the Committee on the Peaceful Uses of Outer Space to continue to study questions relative to the definition of outer space and the utilization of outer space and celestial bodies including various implications of space communications, as well as those comments which, may be brought to the attention of the Committee by specialized agencies and the International Atomic Energy Agency as a result of their examination of problems that have arisen or that may arise from the use of outer space in the fields within their competence;

3. *Invites* those States which have not yet become parties to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space to give consideration to ratifying or acceding to those agreements so that they may have the broadest possible effect;

4. *Reaffirms its belief*, as expressed in its resolution 1721 D (XVI) of 20 December 1961, that communication by means of satellites should be available to the nations of the world as soon as practicable on a global and non-discriminatory basis, and recommends that States parties to negotiations regarding international arrangements in the field of satellite communication should constantly bear this principle in mind so that its ultimate realization may be achieved;

5. *Welcomes* the intensified efforts of the Committee on the Peaceful Uses of Outer Space to encourage international programmes to promote such practical applications of space technology as earth resources surveying, for the benefit of both developed and developing countries, and commends to the attention of Member States, specialized agencies and interested United Nations bodies the new programmes and proposals to promote international benefits from space applications noted by the Committee in its report, such as the organization of technical panels, the utilization of internationally sponsored education and training opportunities in the practical applications of space technology and the conduct of experiments in the transfer of space-generated technology to non-space applications;

6. *Takes note* of the recommendation of the Scientific and Technical Sub-Committee of the Committee on the Peaceful Uses of Outer Space that the travel and subsistence of participants in the technical panels mentioned in paragraph 5 above should be funded by their own Governments, but that the United Nations may give timely assistance in exceptional cases within the existing programmes of the United Nations where this appears necessary both to defray costs and to stimulate interest in special areas;

7. *Welcomes* the efforts of Member States to share with other interested Member States the practical benefits which may be derived from their programmes in space technology, including earth resources surveying;

8. *Requests* the Scientific and Technical Sub-Committee, as authorized by the Committee on the Peaceful Uses of Outer Space, to determine at its next session whether, at what time and in what specific frame of reference to convene a working group on earth resources surveying, with special reference to satellites, and in so doing to take into account the importance of appropriate co-ordination with the Committee on Natural Resources, established under Economic and Social Council resolution 1535 (XLIX) of 27 July 1970;

9. *Welcomes* the efforts of Member States to keep the Committee on the Peaceful Uses of Outer Space fully informed of their activities and invites all Member States to do so;

10. *Notes with appreciation* the report of the Expert on Applications of Space Technology concerning the promotion of space applications;⁵

⁵ See *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 20 (A/8020)*, annex II.

11. *Recalls* the recommendation⁶ that Member States give consideration to designating specific offices or individuals, within their Governments, as a point of contact for communications regarding the promotion of the application of space technology and thereafter inform the Secretary-General of such designations, and urges those Member States which have not yet designated a point of contact to do so;

12. *Takes note* of the report provided by the Secretary-General to the Committee on the Peaceful Uses of Outer Space concerning improved co-ordination of Secretariat activities in the field of outer space;⁷

13. *Endorses* the suggestion of the Scientific and Technical Sub-Committee that the Secretary-General should bring to the attention of Member States all relevant documents relating to applications of space technology submitted to the Sub-Committee by Member States, the United Nations, the specialized agencies and other bodies;

14. *Approves* the continuing sponsorship by the United Nations of the Thumba Equatorial Rocket Launching Station and the CELPA Mar del Plata Station and recommends that Member States should give consideration to the use of these facilities for appropriate space research activities;

15. *Notes* that, in accordance with General Assembly resolution 1721 B (XVI) of 20 December 1961, the Secretary-General continues to maintain a public registry of objects launched into orbit or beyond on the basis of information furnished by Member States;

16. *Endorses* the recommendation of the Committee on the Peaceful Uses of Outer Space that the Secretary-General be requested to issue an index of existing international instruments—conventions, treaties and agreements—relating to or bearing upon broadcasting satellite services;

17. *Requests* the specialized agencies and the International Atomic Energy Agency to furnish the Committee on the Peaceful Uses of Outer Space with progress reports on their work in the field of the peaceful uses of outer space, and to examine and report to the Committee on the particular problems which arise or may arise from the use of outer space in the fields within their competence and which should in their opinion be brought to the attention of the Committee;

18. *Requests* the Committee on the Peaceful Uses of Outer Space to continue its work as set out in the present resolution and in previous resolutions of the General Assembly, and to report to the Assembly at its twenty-sixth session.

*1932nd plenary meeting,
16 December 1970.*

4. QUESTION OF CHEMICAL AND BACTERIOLOGICAL (BIOLOGICAL) WEAPONS: REPORT OF THE CONFERENCE OF THE COMMITTEE ON DISARMAMENT (AGENDA ITEM 28)

Resolution [2662 (XXV)] adopted by the General Assembly

2662 (XXV). Question of chemical and bacteriological (biological) weapons

The General Assembly,

Mindful of the increasing concern of the international community over developments in the field of chemical and bacteriological (biological) weapons,

⁶ *Ibid.*, *Twenty-fourth Session, Supplement No. 21 (A/7621)*, annex II, para. 25.

⁷ *Ibid.*, *Twenty-fifth Session, Supplement No. 20 (A/8020)*, annex III.

Recalling its resolutions 2454 A (XXIII) of 20 December 1968 and 2603 B (XXIV) of 16 December 1969,

Having considered the report of the Conference of the Committee on Disarmament,⁸

Noting the report entitled *Chemical and Bacteriological (Biological) Weapons and the Effects of Their Possible Use*,⁹ prepared by the Secretary-General in accordance with General Assembly resolution 2454 A (XXIII), with the assistance of consultant experts, and the report of the World Health Organization's group of consultants entitled *Health Aspects of Chemical and Biological Weapons*,¹⁰

Deeply convinced that the prospects for international peace and security, as well as the achievement of the goal of general and complete disarmament under effective international control, would be enhanced if the development, production and stockpiling of chemical and bacteriological (biological) agents for purposes of war were to end and if those agents were eliminated from all military arsenals,

Conscious of the need to maintain inviolate 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 1925,¹¹ and to ensure its universal applicability,

Conscious of the urgent need for all States that have not already done so to accede to the Geneva Protocol,

1. Reaffirms its resolution 2162 B (XXI) of 5 December 1966 and calls anew for the 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 Warfare, signed at Geneva on 17 June 1925;

2. Invites all States that have not already done so to accede to or ratify the Geneva Protocol;

3. Takes note of:

(a) The revised draft Convention for the Prohibition of Biological Methods of Warfare,¹² submitted on 18 August 1970 to the Conference of the Committee on Disarmament by the United Kingdom of Great Britain and Northern Ireland;

(b) The revised draft Convention on the Prohibition of the Development, Production and Stockpiling of Chemical and Bacteriological (Biological) Weapons and on the Destruction of Such Weapons,¹³ submitted on 23 October 1970 to the General Assembly by Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, Hungary, Mongolia, Poland, Romania, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics;

(c) The working papers, expert views and suggestions put forward in the Conference of the Committee on Disarmament and in the First Committee;

4. Takes further note of the joint memorandum on the question of chemical and bacteriological (biological) methods of warfare,¹⁴ submitted on 25 August 1970 to the Conference of the Committee on Disarmament by Argentina, Brazil, Burma, Ethiopia,

⁸ *Official Records of the Disarmament Commission, Supplement for 1970*, document DC/233.

⁹ United Nations publication, Sales No.: E.69.I.24.

¹⁰ World Health Organization (Geneva, 1970).

¹¹ League of Nations, *Treaty Series*, vol. XCIV (1929), No. 2138.

¹² *Official Records of the Disarmament Commission, Supplement for 1970*, document DC/233, annex C, document CCD/255/Rev.2.

¹³ *Official Records of the General Assembly, Twenty-fifth Session, Annexes*, agenda items 27, 28, 29, 30, 31, 93 and 94, document A/8136.

¹⁴ *Official Records of the Disarmament Commission, Supplement for 1970*, document DC/233, annex C, document CCD/310.

India, Mexico, Morocco, Nigeria, Pakistan, Sweden, the United Arab Republic and Yugoslavia;

5. *Commends* the following basic approach, contained in the joint memorandum, for reaching an effective solution to the problem of chemical and bacteriological (biological) methods of warfare:

(a) It is urgent and important to reach agreement on the problem of chemical and bacteriological (biological) methods of warfare:

(b) Both chemical and bacteriological (biological) weapons should continue to be dealt with together in taking steps towards the prohibition of their development, production and stockpiling and their effective elimination from the arsenals of all States;

(c) The issue of verification is important in the field of chemical and bacteriological (biological) weapons, and verification should be based on a combination of appropriate national and international measures, which would complement and supplement each other, thereby providing an acceptable system that would ensure the effective implementation of the prohibition;

6. *Requests* the Conference of the Committee on Disarmament to continue its consideration of the problem of chemical and bacteriological (biological) methods of warfare, with a view to prohibiting urgently the development, production and stockpiling of those weapons and to their elimination from the arsenals of all States;

7. *Requests* the Conference of the Committee on Disarmament to submit a report on the results achieved to the General Assembly at its twenty-sixth session;

8. *Requests* the Secretary-General to transmit to the Conference of the Committee on Disarmament all documents and records of the First Committee relating to questions connected with the problem of chemical and bacteriological (biological) methods of warfare.

*1919th plenary meeting,
7 December 1970.*

5. URGENT NEED FOR SUSPENSION OF NUCLEAR AND THERMONUCLEAR TESTS: REPORT OF THE CONFERENCE OF THE COMMITTEE ON DISARMAMENT (AGENDA ITEM 29)

Resolution [2663 B (XXV)] adopted by the General Assembly

2663 (XXV). Urgent need for suspension of nuclear and thermonuclear tests

B

The General Assembly,

Having considered the question of the urgent need for suspension of nuclear and thermonuclear tests and the report of the Conference of the Committee on Disarmament,¹⁵

Recalling its resolutions 1762 (XVII) of 6 November 1962, 1910 (XVIII) of 27 November 1963, 2032 (XX) of 3 December 1965, 2163 (XXI) of 5 December 1966, 2343 (XXII) of 19 December 1967, 2455 (XXIII) of 20 December 1968 and 2604 B (XXIV) of 16 December 1969,

¹⁵ *Official Records of the Disarmament Commission, Supplement for 1970, document DC/233.*

Noting with regret 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 1963,¹⁶

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

Taking into account that several concrete suggestions have been set forth in the Conference of the Committee on Disarmament as to possible provisions in a treaty banning underground nuclear weapon tests,

1. *Urges* all States that have not yet done so to adhere without further delay 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. *Requests* the Conference of the Committee on Disarmament to continue, as a matter of urgency, its deliberations on a treaty banning underground nuclear weapon tests, taking into account the proposals already made in the Conference as well as the views expressed at the current session of the General Assembly, and to submit to the Assembly at its twenty-sixth session a special report on the results of its deliberations.

*1919th plenary meeting,
7 December 1970.*

6. CONSIDERATION OF MEASURES FOR THE STRENGTHENING OF INTERNATIONAL SECURITY: REPORT OF THE SECRETARY-GENERAL (AGENDA ITEM 32)

Resolution [2734 (XXV)] adopted by the General Assembly

2734 (XXV). Declaration on the Strengthening of International Security

The General Assembly,

Recalling the determination of the peoples of the United Nations, as proclaimed by the Charter, to save succeeding generations from the scourge of war, and to this end to live together in peace with one another as good neighbours and to unite their strength to maintain international peace and security,

Considering that in order to fulfil the purposes and principles of the United Nations Member States must strictly abide by all provisions of the Charter,

Recalling its resolution 2606 (XXIV) of 16 December 1969 in which the General Assembly, *inter alia*, expressed the desire that the twenty-fifth year of the Organization's existence should be marked by new initiatives to promote peace, security, disarmament and economic and social progress for all mankind and the conviction of the urgent need to make the United Nations more effective as an instrument for maintaining international peace and security,

Mindful of the observations, proposals and suggestions advanced during the debate at the twenty-fourth session of the General Assembly or presented subsequently by Governments of Member States concerning the attainment of this objective, and of the report

¹⁶ United Nations, *Treaty Series*, vol. 480, p. 43.

submitted by the Secretary-General in conformity with paragraph 5 of resolution 2606 (XXIV),¹⁷

Having in mind the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted unanimously at the current session,¹⁸

Conscious of its duty to examine in depth the present international situation and to study the means and recourses provided by the relevant provisions of the Charter in order to build peace, security and co-operation in the world,

1. *Solemnly reaffirms* the universal and unconditional validity of the purposes and principles of the Charter of the United Nations as the basis of relations among States irrespective of their size, geographical location, level of development or political, economic and social systems and declares that the breach of these principles can not be justified in any circumstances whatsoever;

2. *Calls upon* all States to adhere strictly in their international relations to the purposes and principles of the Charter, including 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; 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; the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; the duty of States to co-operate with one another in accordance with the Charter; the principle of equal rights and self-determination of peoples; the principle of sovereign equality of States; and the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

3. *Solemnly reaffirms* that, in the event of a conflict between the obligations of the Members of the United Nations under the Charter and their obligations under any other international agreement, their obligations under the Charter shall prevail;

4. *Solemnly reaffirms* that States must fully respect the sovereignty of other States and the right of peoples to determine their own destinies, free of external intervention, coercion or constraint, especially involving the threat or use of force, overt or covert, and refrain from any attempt aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country;

5. *Solemnly reaffirms* that every State has the duty to refrain from the threat or use of force against the territorial integrity and political independence of any other State, and that the territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter that the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force, that no territorial acquisition resulting from the threat or use of force shall be recognized as legal and that every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State;

6. *Urges* Member States to make full use and seek improved implementation of the means and methods provided for in the Charter for the exclusively peaceful settlement of any dispute or any situation, the continuance of which is likely to endanger the maintenance of international peace and security, including negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, good offices including those of the Secretary-General, or other peaceful means of their own choice,

¹⁷ A/7922 and Add.1-6.

¹⁸ Resolution 2625 (XXV), reproduced in this *Yearbook*, p. 104.

it being understood that the Security Council in dealing with such disputes or situations should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court;

7. *Urges* all Member States to respond to the immediate need to agree on guidelines for more effective peace-keeping operations in accordance with the Charter, which could increase the effectiveness of the United Nations in dealing with situations endangering international peace and security, and consequently to support the efforts of the Special Committee on Peace-keeping Operations to reach agreement on all questions relating to such operations, as well as on provisions for their appropriate and equitable financing;

8. *Recognizes* the need for effective, dynamic and flexible measures, in accordance with the Charter, to prevent and remove threats to the peace, suppress acts of aggression or other breaches of the peace, and in particular for measures to build, maintain and restore international peace and security;

9. *Recommends* that the Security Council take steps to facilitate the conclusion of the agreements envisaged in Article 43 of the Charter in order fully to develop its capacity for enforcement action as provided for under Chapter VII of the Charter;

10. *Recommends* that the Security Council consider, in conformity with Article 29 of the Charter, whenever appropriate and necessary, the desirability of establishing subsidiary organs, on an *ad hoc* basis, and with the participation of the parties concerned, when conditions so warrant, to assist the Council in the performance of its functions as defined in the Charter;

11. *Recommends* that all States contribute to the efforts to ensure peace and security for all nations and to establish, in accordance with the Charter, an effective system of universal collective security without military alliances;

12. *Invites* Member States to do their utmost to enhance by all possible means the authority and effectiveness of the Security Council and of its decisions;

13. *Calls upon* the Security Council, including the permanent members, to intensify efforts to discharge, in conformity with the Charter, its primary responsibility for the maintenance of international peace and security;

14. *Recommends* that Member States support the efforts of the Special Committee on the Question of Defining Aggression to bring its work to a successful conclusion, thus achieving the definition of aggression as soon as possible;

15. *Reaffirms* its competence under the Charter to discuss and recommend measures for the peaceful adjustment of any situation which it deems likely to impair the general welfare or friendly relations among States, including situations resulting from a violation of the provisions of the Charter setting forth the purposes and principles of the United Nations;

16. *Urges* all Member States to implement the decisions of the Security Council in accordance with their obligations under Article 25 of the Charter and to respect, as provided for in the Charter, the resolutions of United Nations organs responsible for the maintenance of international peace and security and the peaceful settlement of disputes;

17. *Urges* Member States to reaffirm their will to respect fully their obligations under international law in accordance with the relevant provisions of the Charter and to continue and intensify the efforts towards the progressive development and codification of international law;

18. *Calls upon* all States to desist from any forcible or other action which deprives peoples, in particular those still under colonial or any other form of external domination,

of their inalienable right to self-determination, freedom and independence and to refrain from military and repressive measures aimed at preventing the attainment of independence by all dependent peoples in accordance with the Charter and in furtherance of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960, and render assistance to the United Nations and, in accordance with the Charter, to the oppressed peoples in their legitimate struggle in order to bring about the speedy elimination of colonialism or any other form of external domination;

19. *Affirms* its belief that there is a close connexion between the strengthening of international security, disarmament and the economic development of countries, so that any progress made towards any of these objectives will constitute progress towards all of them;

20. *Urges* all States, particularly the nuclear-weapon States, to make urgent and concerted efforts within the framework of the Disarmament Decade and through other means for the cessation and reversal of the nuclear and conventional arms race at an early date, the elimination of nuclear weapons and other weapons of mass destruction and the conclusion of a treaty on general and complete disarmament under effective international control, as well as to ensure that the benefits of the technology of the peaceful use of nuclear energy shall be available to all States, to the maximum extent possible, without discrimination;

21. *Emphatically reiterates* the need to undertake, within the framework of the Second United Nations Development Decade, urgent and concerted international action based on a global strategy aimed at reducing and eliminating as soon as possible the economic gap between developed and developing countries, which is closely and essentially correlated to the strengthening of the security of all nations and the establishment of lasting international peace;

22. *Solemnly reaffirms* that universal respect for and full exercise of human rights and fundamental freedoms and the elimination of the violation of those rights are urgent and essential to the strengthening of international security, and hence resolutely condemns all forms of oppression, tyranny and discrimination, particularly racism and racial discrimination, wherever they occur;

23. *Resolutely condemns* the criminal policy of *apartheid* of the Government of South Africa and reaffirms the legitimacy of the struggle of the oppressed peoples to attain their human rights and fundamental freedoms and self-determination;

24. *Expresses its conviction* that the achievement of universality of the United Nations, in accordance with the Charter, would increase its effectiveness in strengthening international peace and security;

25. *Considers* that the promotion of international co-operation, including regional, subregional and bilateral co-operation among States, in keeping with the provisions of the Charter and based on the principle of equal rights and on strict respect for the sovereignty and independence of States, can contribute to the strengthening of international security;

26. *Welcomes* the decision of the Security Council¹⁹ to hold periodic meetings in accordance with Article 28, paragraph 2, of the Charter and expresses the hope that these meetings will make an important contribution to the strengthening of international security;

27. *Emphasizes* the need for the United Nations to exert continuous efforts for the strengthening of international peace and security and requests the Secretary-General to submit a report to the General Assembly at its twenty-sixth session on steps taken in pursuance of the present Declaration.

1932nd plenary meeting,
16 December 1970.

¹⁹ See *Official Records of the Security Council, Twenty-fifth Year, 1544th meeting.*

7. RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS: REPORT OF THE SECRETARY-GENERAL (AGENDA ITEM 47)

Resolutions [2673 (XXV), 2674 (XXV), 2675 (XXV), 2676 (XXV) and 2677 (XXV)] adopted by the General Assembly

2673 (XXV). Protection of journalists engaged in dangerous missions in areas of armed conflict

The General Assembly,

Recalling its resolution 2444 (XXIII) of 19 December 1968, in which it invited the Secretary-General, in consultation with the International Committee of the Red Cross and other appropriate international organizations, to study:

(a) Steps which could be taken to secure the better application of existing humanitarian international conventions and rules in all armed conflicts,

(b) The need for additional humanitarian international conventions or for other appropriate legal instruments to ensure the better protection of civilians, prisoners and combatants in all armed conflicts,

Recalling also the fundamental principle that a distinction must be made at all times between combatants and persons not taking part in the hostilities,

Considering that it is essential for the United Nations to obtain complete information concerning armed conflicts and that journalists, whatever their nationality, have an important role to play in that regard,

Noting with regret that journalists engaged in missions in areas where an armed conflict is taking place sometimes suffer as a result of their professional duty, which is to inform world public opinion objectively,

Bearing in mind the appeal made by the Secretary-General on 30 September 1970 on behalf of missing journalists,

Recognizing that certain types of protection can be granted to journalists under:

(a) Article 4 of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949,²⁰

(b) Article 13 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of 12 August 1949,²¹

(c) Article 13 of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, of 12 August 1949,²²

(d) Article 4 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,²³

Being aware, however, that these provisions do not cover some categories of journalists engaged in dangerous missions and do not correspond to their present needs,

Convinced of the need for an additional humanitarian international instrument to ensure the better protection of journalists engaged in dangerous missions, particularly in areas where an armed conflict is taking place,

²⁰ United Nations, *Treaty Series*, vol. 75, p. 135.

²¹ *Ibid.*, p. 31.

²² *Ibid.*, p. 85.

²³ *Ibid.*, p. 287.

1. *Expresses its grave concern* about the fate of press correspondents carrying out dangerous missions;
2. *Expresses its deepest regret* that some of those correspondents have paid with their lives for their conscientious approach to their missions;
3. *Invites* all States and all authorities parties to an armed conflict to respect and apply in all circumstances the provisions of the Geneva Conventions of 12 August 1949 in so far as they are applicable, in particular, to war correspondents who accompany armed forces but are not actually a part of them;
4. *Invites* the Economic and Social Council to request the Commission on Human Rights to consider at its twenty-seventh session the possibility of preparing a draft international agreement ensuring the protection of journalists engaged in dangerous missions and providing, *inter alia*, for the creation of a universally recognized and guaranteed identification document;
5. *Invites* the Commission on Human Rights to consider this question as a matter of priority at its twenty-seventh session in order that a draft international agreement may be adopted as soon as possible by the General Assembly or by some other appropriate international body;
6. *Requests* the Secretary-General, in consultation with the International Committee of the Red Cross and other appropriate international organizations, to submit a report on this question to the General Assembly at its twenty-sixth session;
7. *Decides* to give the highest priority to the consideration of this question at its twenty-sixth session.

*1922nd plenary meeting,
9 December 1970.*

2674 (XXV). Respect for human rights in armed conflicts

The General Assembly,

Recalling its resolutions 2444 (XXIII) of 19 December 1968 and 2597 (XXIV) of 16 December 1969 and noting resolution XXIII adopted by the International Conference on Human Rights held at Teheran in 1968,²⁴

Referring to resolution XIII and to the other pertinent resolutions on human rights in armed conflicts adopted by the twenty-first International Conference of the Red Cross held at Istanbul in 1969,²⁵

Expressing its deep concern in connexion with the fact that wars unleashed in violation of the Charter of the United Nations in several parts of the world lead to incalculable disasters and suffering among civilians,

Having considered with appreciation the Secretary-General's report on respect for human rights in armed conflicts,²⁶

1. *Solemnly reaffirms* that, in order effectively to guarantee human rights, all States should devote their efforts to averting the unleashing of aggressive wars and armed conflicts that violate the Charter of the United Nations and the provisions of the Declaration on

²⁴ *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2), p. 18.

²⁵ See A/7720, annex I, section D.

²⁶ A/8052.

Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations; ²⁷

2. *Condemns* the actions of countries which, in flagrant violation of the Charter, continue to conduct aggressive wars and defy the generally accepted principles of the Geneva Protocol of 1925 ²⁸ and the Geneva Conventions of 1949; ²⁹

3. *Considers* that the principles of the Geneva Protocol of 1925 and the Geneva Conventions of 1949 should be strictly observed by all States and that States violating these international instruments should be condemned and held responsible to the world community;

4. *Affirms* that the participants in resistance movements and the freedom fighters in southern Africa and territories under colonial and alien domination and foreign occupation, struggling for their liberation and self-determination, should be treated, in case of their arrest, as prisoners of war in accordance with the principles of the Hague Convention of 1907 ³⁰ and the Geneva Conventions of 1949;

5. *Considers* that air bombardments of civilian populations and the use of asphyxiating, poisonous or other gases and of all analogous liquids, materials and devices, as well as bacteriological (biological) weapons, constitute a flagrant violation of the Hague Convention of 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949;

6. *Recognizes* the necessity of developing additional international instruments providing for the protection of civilian populations and freedom fighters against colonial and foreign domination as well as against racist régimes.

1922nd plenary meeting,
9 December 1970.

2675 (XXV). Basic principles for the protection of civilian populations in armed conflicts

The General Assembly,

Noting that in the present century the international community has accepted an increased role and new responsibilities for the alleviation of human suffering in any form and in particular during armed conflicts,

Recalling that to this end a series of international instruments has been adopted, including the four Geneva Conventions of 1949, ³¹

Recalling further its resolution 2444 (XXIII) of 19 December 1968 on respect for human rights in armed conflicts,

Bearing in mind the need for measures to ensure the better protection of human rights in armed conflicts of all types,

Noting with appreciation the work that is being undertaken in this respect by the International Committee of the Red Cross,

Noting with appreciation the reports of the Secretary-General on respect for human rights in armed conflicts, ³²

²⁷ Resolution 2625 (XXV), reproduced in this *Yearbook*, p. 104.

²⁸ League of Nations, *Treaty Series*, vol. XCIV, p. 65.

²⁹ United Nations, *Treaty Series*, vol. 75.

³⁰ Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

³¹ United Nations, *Treaty Series*, vol. 75.

³² A/7720 and A/8052.

Convinced that civilian populations are in special need of increased protection in time of armed conflicts,

Recognizing the importance of the strict application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,³³

Affirms the following basic principles for the protection of civilian populations in armed conflicts, without prejudice to their future elaboration within the framework of progressive development of the international law of armed conflict:

1. Fundamental human rights, as accepted in international law and laid down in international instruments, continue to apply fully in situations of armed conflict.

2. In the conduct of military operations during armed conflicts, a distinction must be made at all times between persons actively taking part in the hostilities and civilian populations.

3. In the conduct of military operations, every effort should be made to spare civilian populations from the ravages of war, and all necessary precautions should be taken to avoid injury, loss or damage to civilian populations.

4. Civilian populations as such should not be the object of military operations.

5. Dwellings and other installations that are used only by civilian populations should not be the object of military operations.

6. Places or areas designated for the sole protection of civilians, such as hospital zones or similar refuges, should not be the object of military operations.

7. Civilian populations, or individual members thereof, should not be the object of reprisals, forcible transfers or other assaults on their integrity.

8. The provision of international relief to civilian populations is in conformity with the humanitarian principles of the Charter of the United Nations, the Universal Declaration of Human Rights and other international instruments in the field of human rights. The Declaration of Principles for International Humanitarian Relief to the Civilian Population in Disaster Situations, as laid down in resolution XXVI adopted by the twenty-first International Conference of the Red Cross,³⁴ shall apply in situations of armed conflict, and all parties to a conflict should make every effort to facilitate this application.

*1922nd plenary meeting,
9 December 1970.*

2676 (XXV). Respect for human rights in armed conflicts

The General Assembly,

Recalling that the Preamble of the Charter of the United Nations affirms faith in the dignity and worth of the human person,

Recalling that the United Nations has as one of its purposes the achievement of international co-operation in solving international problems of a humanitarian character and the promotion of respect for human rights,

Reiterating the obligation of Member States for the urgent termination of all armed aggression, as envisaged in Articles 1 and 2 of the Charter and in other relevant documents of the United Nations,

Noting the obligation of Member States under the Charter to promote universal respect for, and observance of, human rights,

³³ United Nations, *Treaty Series*, vol. 75, p. 287.

³⁴ *International Review of the Red Cross*, No. 104 (November 1969), p. 631.

Recalling its resolutions 2444 (XXIII) of 19 December 1968 and 2597 (XXIV) of 16 December 1969, in which it invited the Secretary-General, in consultation with the International Committee of the Red Cross, to study, *inter alia*:

(a) Steps which could be taken to secure the better application of existing humanitarian international conventions and rules in all armed conflicts,

(b) The need for additional humanitarian international conventions or for other appropriate legal instruments to ensure the better protection of civilians, prisoners and combatants in all armed conflicts,

Believing, therefore, that the treatment accorded to victims of war and armed aggression is a concern of the United Nations,

Noting resolution XI, adopted by the twenty-first International Conference of the Red Cross held at Istanbul in 1969,³⁵ calling upon all parties to the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949,³⁶ to ensure that all persons entitled to prisoner-of-war status are treated humanely and given the fullest measure of protection prescribed by the Convention, and that all parties involved in an armed conflict, no matter how it is characterized, provide free access to prisoners of war and to all places of their detention by a protecting Power or by the International Committee of the Red Cross,

Considering that the direct repatriation of seriously wounded and seriously sick prisoners of war and the repatriation or internment in a neutral country of prisoners of war who have undergone a long period of captivity constitute important aspects of human rights as advanced and preserved under the Geneva Convention of 1949 and the Charter of the United Nations,

1. *Calls upon* all parties to any armed conflict to comply with the terms and provisions of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, so as to ensure the humane treatment of all persons entitled to the protection of the Convention and, *inter alia*, to permit regular inspection, in accordance with the Convention, of all places of detention of prisoners of war by a protecting Power or humanitarian organization such as the International Committee of the Red Cross;

2. *Endorses* the continuing efforts of the International Committee of the Red Cross to secure the effective application of the Geneva Convention of 1949;

3. *Requests* the Secretary-General to exert all efforts to obtain humane treatment for prisoners of war, especially for the victims of armed aggression and colonial suppression;

4. *Urges* compliance with article 109 of the Geneva Convention of 1949, which requires the repatriation of seriously wounded and seriously sick prisoners of war and which provides for agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity;

5. *Urges* that combatants in all armed conflicts not covered by article 4 of the Geneva Convention of 1949 be accorded the same humane treatment defined by the principles of international law applied to prisoners of war;

6. *Urges* strict compliance with the provisions of the existing international instruments concerning human rights in armed conflicts, and urges those States which have not yet done so to ratify or accede to the relevant instruments in order to facilitate in all aspects the protection of the victims of armed conflicts.

1922nd plenary meeting,
9 December 1970.

³⁵ *International Review of the Red Cross*, No. 104 (November 1969), p. 614.

³⁶ United Nations, *Treaty Series*, vol. 75, p. 135.

2677 (XXV). Respect for human rights in armed conflicts

The General Assembly,

Determined to continue all efforts to eliminate the threat or use of force in international relations, in conformity with the Charter of the United Nations, and to bring about general and complete disarmament under effective international control,

Reaffirming its desire to secure the full observance of human rights applicable in all armed conflicts pending the earliest possible termination of such conflicts,

Convinced of the continuing value of existing humanitarian rules relating to armed conflicts, in particular the Hague Conventions of 1899 and 1907,³⁷ the Geneva Protocol of 1925³⁸ and the Geneva Conventions of 1949,³⁹

Realizing, however, that because existing humanitarian rules do not adequately meet all contemporary situations of armed conflict it is necessary to develop the substance of these rules and procedures for their implementation,

Reaffirming the principles contained in resolution XXIII adopted by the International Conference on Human Rights held at Teheran in 1968,⁴⁰ and in General Assembly resolutions 2444 (XXIII) of 19 December 1968 and 2597 (XXIV) of 16 December 1969,

Aware of the importance and complexity of the tasks undertaken in pursuance of these resolutions, which require the continuing attention and concern of the United Nations, the International Committee of the Red Cross and the international community as a whole,

Noting with appreciation the two reports of the Secretary-General on respect for human rights in armed conflicts,⁴¹

Recalling resolution XIII adopted unanimously by the twenty-first International Conference of the Red Cross held at Istanbul in 1969,⁴² concerning the reaffirmation and development of the laws and customs applicable in armed conflicts,

Welcoming the decision of the International Committee of the Red Cross to convene at Geneva, from 24 May to 12 June 1971, a conference on the reaffirmation and development of international humanitarian law applicable to armed conflicts, to be attended by government experts,

Believing that one or more plenipotentiary diplomatic conferences of States parties to the Geneva Conventions and other interested States might be convened at an appropriate time, after due preparation, in order to adopt international legal instruments for the reaffirmation and development of humanitarian law applicable to armed conflicts,

Considering that the effective implementation of humanitarian rules relating to armed conflicts can best be attained if those rules are laid down in widely accepted agreements,

Emphasizing the importance of continued close collaboration between the United Nations and the International Committee of the Red Cross,

1. *Calls upon* all parties to any armed conflict to observe the rules laid down in the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925, the Geneva Conven-

³⁷ Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

³⁸ League of Nations, *Treaty Series*, vol. XCIV, p. 65.

³⁹ United Nations, *Treaty Series*, vol. 75.

⁴⁰ *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2), p. 18.

⁴¹ A/7720 and A/8052.

⁴² See A/7720, annex I, section D.

tions of 1949 and other humanitarian rules applicable in armed conflicts, and invites those States which have not yet done so to adhere to those instruments;

2. *Expresses the hope* that the conference of government experts to be convened in 1971 by the International Committee of the Red Cross will consider further what development is required in existing humanitarian laws applicable to armed conflicts, and that it will make specific recommendations in this respect for consideration by Governments;

3. *Requests* the Secretary-General:

(a) To invite early comments by Governments on his reports;

(b) To transmit his reports and the comments of Governments thereon, together with the records of relevant discussions and resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights, to the International Committee of the Red Cross for consideration, as appropriate, by the conference of government experts;

(c) To present the comments received to the General Assembly at its twenty-sixth session and to report at that session on the results of the conference of government experts to be convened by the International Committee of the Red Cross and on any other relevant developments;

4. *Decides* to consider this question again, in all its aspects, at the twenty-sixth session.

1922nd plenary meeting,
9 December 1970.

8. QUESTION OF THE PUNISHMENT OF WAR CRIMINALS AND OF PERSONS WHO HAVE COMMITTED CRIMES AGAINST HUMANITY: REPORT OF THE SECRETARY-GENERAL (AGENDA ITEM 50)

Resolution [2712 (XXV)] adopted by the General Assembly

2712 (XXV). Question of the punishment of war criminals and of persons who have committed crimes against humanity

The General Assembly,

Recalling its resolution 2583 (XXIV) of 15 December 1969 on the punishment of war criminals and of persons who have committed crimes against humanity,

Welcoming with satisfaction the fact that the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity entered into force on 11 November 1970,

Noting with regret that the numerous decisions adopted by the United Nations on the question of the punishment of war criminals and of persons who have committed crimes against humanity are still not being fully complied with,

Expressing deep concern at the fact that in present-day conditions, as a result of aggressive wars and the policies and practices of racism, *apartheid* and colonialism and other similar ideologies and practices, war crimes and crimes against humanity are being committed in various parts of the world,

Convinced that a thorough investigation of war crimes and crimes against humanity, as well as the arrest, extradition and punishment of persons guilty of such crimes—wherever they may have been committed—and the establishment of criteria for determining compensation to the victims of such crimes, are important elements in the prevention of similar crimes now and in the future, and also in the protection of human rights and fundamental freedoms,

the strengthening of confidence and the development of co-operation between peoples and the safeguarding of international peace and security,

1. *Draws attention* to the fact that many war criminals and persons who have committed crimes against humanity are continuing to take refuge in the territories of certain States and are enjoying protection;

2. *Calls upon* all States to take measures, in accordance with recognized principles of international law, to arrest such persons and extradite them to the countries where they have committed war crimes and crimes against humanity, so that they can be brought to trial and punished in accordance with the laws of those countries;

3. *Condemns* the war crimes and crimes against humanity at present being committed as a result of aggressive wars and the policies of racism, *apartheid* and colonialism and calls upon the States concerned to bring to trial persons guilty of such crimes;

4. *Also calls upon* all the States concerned to intensify their co-operation in the collection and exchange of information which will contribute to the detection, arrest, extradition, trial and punishment of persons guilty of war crimes and crimes against humanity;

5. *Once again requests* the States concerned, if they have not already done so, to take the necessary measures for the thorough investigation of war crimes and crimes against humanity, as defined in article I of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, and for the detection, arrest, extradition and punishment of all war criminals and persons guilty of crimes against humanity who have not yet been brought to trial or punished;

6. *Requests* States which have not yet become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity to do so as soon as possible;

7. *Appeals* to Governments to provide the Secretary-General with information on the measures which they have taken or are taking to become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity;

8. *Also appeals* to States which have not yet become parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity strictly to observe the provisions of General Assembly resolution 2583 (XXIV) to the effect that they should refrain from action running counter to the main purposes of that Convention;

9. *Requests* the Secretary-General to continue, in the light of the comments and observations submitted by Governments, the study of the question of the punishment of war crimes and crimes against humanity and the criteria for determining compensation to the victims of such crimes, in order to submit a report on this question to the General Assembly at its twenty-sixth session.

*1930th plenary meeting,
15 December 1970.*

9. ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

(a) INTERNATIONAL YEAR FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION: REPORT OF THE SECRETARY-GENERAL

- (b) MEASURES FOR EFFECTIVELY COMBATING RACIAL DISCRIMINATION AND THE POLICIES OF *APARTHEID* AND SEGREGATION IN SOUTHERN AFRICA: REPORT OF THE SECRETARY-GENERAL
- (c) REPORT OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, SUBMITTED UNDER ARTICLE 9 OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION
- (d) STATUS OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION: REPORT OF THE SECRETARY-GENERAL

(AGENDA ITEM 53)

Resolution [2647 (XXV)] adopted by the General Assembly

2647 (XXV). Elimination of all forms of racial discrimination

The General Assembly,

Recalling that Member States pledged themselves solemnly under Article 1 of the Charter of the United Nations to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion,

Gravely concerned at the persistence of *apartheid* and other forms of racial discrimination, which are an intolerable affront to the dignity of the individual,

Noting that disregard for fundamental human rights and manifestations of hostility or intolerance towards any race or distinct group of persons may create lasting antagonisms and deep unrest in society, aggravated by the existence of conditions of economic and social inequality,

Aware that discriminatory prejudices must be combated and eliminated by means of education and information as well as by the adoption of positive legislative or other measures designed to bring about a climate of understanding and co-operation among the various ethnic and cultural groups of society,

Convinced that the International Year for Action to Combat Racism and Racial Discrimination, which the General Assembly has proclaimed for the year 1971, will not achieve its objective unless effective measures are taken in all fields to combat attitudes and laws contrary to the principles of the Charter and the norms of the Universal Declaration of Human Rights,

Welcoming the entry into force of the International Convention on the Elimination of All Forms of Racial Discrimination and noting with satisfaction the first report of the Committee on the Elimination of Racial Discrimination,⁴³

1. *Solemnly reiterates* its condemnation of all forms of racial discrimination wherever they may occur, and particularly of *apartheid*, as a flagrant contradiction of the spirit and the letter of the Charter of the United Nations and the Universal Declaration of Human Rights, and deplores the persistence of such practices;

2. *Appeals* to the Governments of countries where forms of racial discrimination still persist and to the Governments which officially apply such policies as *apartheid* to take

⁴³ *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 27 (A/8027).*

without delay all the legislative, educational and social measures necessary to end them and to ensure respect for human rights in accordance with the Charter;

3. *Vehemently affirms* the need for all men to be given an equal chance and to be enabled to live and work together in an atmosphere of mutual trust and tolerance, without discrimination and with full respect for the national and cultural identity of peoples or distinct ethnic groups;

4. *Urges* Member States to do their utmost to eliminate all racial discrimination in education, employment, housing and other fields of community life, and to encourage the development of multiracial activities with a view to removing obstacles to understanding among the various racial groups;

5. *Invites* all peoples of the world and all men of goodwill to condemn unrelentingly the evils of racial policies and to disseminate all information calculated to combat such policies;

6. *Invites* countries which are not yet parties to the International Convention on the Elimination of All Forms of Racial Discrimination to take any steps necessary to ratify it or accede to it if possible in 1971, on the occasion of the International Year for Action to Combat Racism and Racial Discrimination;

7. *Emphasizes* the importance of the work being done by the United Nations, in particular the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and by the specialized agencies, including the United Nations Educational, Scientific and Cultural Organization and the International Labour Organisation, and the non-governmental organizations associated with their efforts towards the elimination of all forms of racial discrimination;

8. *Reaffirms* its intention to take the opportunity of the International Year for Action to Combat Racism and Racial Discrimination to promote throughout the world social justice based on absolute respect for the dignity of the individual.

*1915th plenary meeting,
30 November 1970.*

10. REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS TWENTY-SECOND SESSION (AGENDA ITEM 84)

(a) *Report of the Sixth Committee*⁴⁴

*[Original: English/Spanish]
[3 November 1970]*

I. INTRODUCTION

1. At its 1843rd plenary meeting, on 18 September 1970, the General Assembly included the item entitled "Report of the International Law Commission on the work of its twenty-second session" (item 84) in the agenda of its twenty-fifth session and allocated it to the Sixth Committee. The Sixth Committee considered the item at its 1186th to 1193rd, 1196th, 1197th and 1200th meetings, held from 30 September to 8 October and from 12 to 14 October 1970.

2. At the 1186th meeting, on 30 September 1970, Mr. Taslim O. Elias, Chairman of the International Law Commission at its twenty-second session, introduced the Commis-

⁴⁴ Document A/8147, reproduced from *Official Records of the General Assembly, Twenty-fifth Session, Annexes*, agenda item 84.

sion's report on the work of that session (A/8010 and Corr.1 and 2). At the 1193rd meeting, on 8 October 1970, he commented on the observations which has been made during the debate on the report.

3. The report of the International Law Commission, which was before the Sixth Committee, is divided into five chapters entitled: I. Organization of the session; II. Relations between States and international organizations; III. Succession of States; IV. State responsibility; V. Other decisions and conclusions of the Commission.

4. At the 1200th meeting, on 14 October 1970, the Rapporteur of the Sixth Committee raised the question whether the Committee wished to include in its report to the General Assembly a summary of the views expressed during the debate on the item. Referring to paragraph (f) of the annex to General Assembly resolution 2292 (XXII), the Rapporteur informed the Committee of the financial implications of the question. At the same meeting, the Committee decided that, in view of the nature of the subject-matter, the report should include a summary of the representative trends of opinion.

II. PROPOSAL AND AMENDMENTS

5. At the 1197th meeting, on 13 October 1970, the representative of Austria introduced a draft resolution (A/C.6/L.795) sponsored by Afghanistan, Algeria, Argentina, Austria, Brazil, Canada, Chile, Cyprus, Ecuador, Finland, Greece, Haiti, Jamaica, Kenya, Liberia, Madagascar, Mali, Mexico, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Sudan, Sweden, Syria, Venezuela and Yugoslavia, with which Uruguay later joined. The twenty-nine-Power draft resolution reads as follows:

"The General Assembly,

"Having considered the report of the International Law Commission on the work of its twenty-second session,

"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 twenty-second session the International Law Commission completed its provisional draft articles on relations between States and international organizations, continued the consideration of matters concerning the codification and progressive development of the international law relating to succession of States in respect of treaties and State responsibility and included in its programme of work the question of treaties concluded between States and international organizations or between two or more international organizations, as recommended by the General Assembly in resolution 2501 (XXIV) of 12 November 1969,

"Noting further that the International Law Commission has proposed to hold a fourteen-week session in 1971 in order to enable it to complete the second reading of the draft articles on relations between States and international organizations and the first reading of draft articles on succession of States in respect of treaties before the end of the term of office of its present members,

"Noting with appreciation that the United Nations Office at Geneva organized, during the twenty-second session of the International Law Commission, a sixth session of the Seminar on International Law,

"1. Takes note of the report of the International Law Commission on the work of its twenty-second session;

"2. Expresses its profound gratitude to the International Law Commission, on the occasion of the celebration of the twenty-fifth anniversary of the United Nations, for its outstanding contribution to the achievements of the Organization during this period, particularly through

the preparation of drafts which have served as the basis for the adoption of important codification conventions, and expresses appreciation to the Commission for the valuable work it accomplished during its twenty-second session;

"3. *Approves* the programme and organization of work of the session planned by the International Law Commission for 1971, as well as its intention to bring up to date its long-term programme of work;

"4. *Recommends* that the International Law Commission should:

"(a) Continue its work on relations between States and international organizations, taking into account the views expressed at the twenty-third, twenty-fourth and twenty-fifth sessions of the General Assembly and the comments which may be submitted by Governments, with the object of presenting in 1971 a final draft on the topic;

"(b) Continue its work on succession of States, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) of 20 November 1962 and 1902 (XVIII) of 18 November 1963, with a view to completing in 1971 the first reading of draft articles on succession of States in respect of treaties and making progress in the consideration of succession of States in respect of matters other than treaties;

"(c) Continue its work on State responsibility, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) of 20 November 1962, 1902 (XVIII) of 18 November 1963 and 2400 (XXIII) of 11 December 1968;

"(d) Continue its study of the most-favoured-nation clause;

"(e) Continue its consideration of the question of treaties concluded between States and international organizations or between two or more international organizations;

"5. *Endorses* the decision of the International Law Commission to request the Secretary-General to prepare new editions, brought up to date, of the publication entitled *The Work of the International Law Commission* and of the document entitled 'Summary of the practice of the Secretary-General as depositary of multilateral agreements';

"6. *Expresses the wish* that, in conjunction with future sessions of the International Law Commission, other seminars might be organized, which should continue to ensure the participation of an increasing number of nationals of developing countries, and supports the suggestion contained in the Commission's report concerning the use of Spanish as a working language of the Seminar on International Law;

"7. *Requests* the Secretary-General to forward to the International Law Commission the records of the discussion on the report of the Commission at the twenty-fifth session of the General Assembly."

6. The Union of Soviet Socialist Republics submitted amendments (A/C.6/L.797) to the draft resolution, as follows:

"1. Delete from the fourth paragraph of the preamble the word 'to hold a fourteen-week session in 1971 in order to enable it'.

"2. Add in the same paragraph, after 'to complete', the words 'at its session in 1971'.

"3. Delete paragraph 3, having in mind the possibility to elaborate on its basis a separate resolution.

"4. Add the following new sub-paragraph to paragraph 4:

'(f) Bring up to date as soon as possible its long-term programme of work'.

"5. Add at the end of paragraph 4 (c) the following words:

'and begin discussion of draft articles on the topic as from its next session'.

"6. Substitute for the words 'Continue consideration of the question', in sub-paragraph 4 (e), the words 'Consider the possibilities and time for initiating work on the question'.

"7. Delete from paragraph 5 the words 'new editions, brought up to date, of the publication entitled *The Work of the International Law Commission* and of'.

"8. Add the following new paragraph after the existing paragraph 4:

‘5. *Recommends* that the International Law Commission should give unconditional priority to the completion of work on the draft articles on relations between States and international organizations’.”

7. The attention of the Committee was drawn to a note by the Secretariat (A/C.6/L.796) on the administrative and financial implications of the draft resolution.

III. DEBATE

8. The main trends of the Sixth Committee's debate on the agenda item dealt with in this report are summarized below, in five sections. The general comments, on the work of the International Law Commission and on the promotion by the United Nations of the progressive development and codification of international law are summarized in section A. Sections B, C, D and E are devoted to the comments in chapters II, III, IV and V respectively of the report of the Commission on the work of its twenty-second session, and each one bears the title of the chapter to which it relates.

A. GENERAL COMMENTS ON THE WORK OF THE INTERNATIONAL LAW COMMISSION AND THE PROMOTION BY THE UNITED NATIONS OF THE PROGRESSIVE DEVELOPMENT AND CODIFICATION OF INTERNATIONAL LAW

9. The representatives who spoke in the debate congratulated the Commission on the valuable work done at its twenty-second session and, in particular, on the progress made in the consideration of certain important topics in its programme of work, and expressed the view that its report constituted yet another important contribution by the Commission to the promotion by the United Nations of the progressive development and codification of international law.

10. Some representatives referred to the factors which, in their view, explained the success achieved by the Commission in fulfilling the task entrusted to it by the General Assembly, such as the excellent quality and objectivity of its drafts, and their balanced and realistic nature, the high level of technical competence of its members, its efforts to take into account the points of view of Governments and the needs and interests of the international community in general, and the relations established with the General Assembly and the Sixth Committee. The latter factor was considered to be of primordial importance for the codification work of the United Nations, which, by its very nature, called for supplementary efforts by the representatives of States in the Sixth Committee and by the experts who were members of the Commission. Stress was laid on the need to strengthen and intensify those relations even further, so that the drafts prepared by the Commission would have a better chance of being accepted by Governments. It was essential for Governments to supplement the juridical considerations which guided the Commission, a subsidiary legal organ of the General Assembly, by expressing their own political, economic or administrative concerns, for otherwise there would be a risk that many conventions which had been carefully drawn up would not be observed or would not be acceded to except by a limited number of States.

11. Some representatives considered that it would be desirable to have more time, in order to be able to study in depth the annual report of the Commission, so that the latter would have more accurate information on the positions of Governments. In that connexion, it was suggested that, within the context of the organization of the Sixth Committee's work, the traditional order in which the agenda items were taken up should be reconsidered and that the examination of the report of the Commission should be left until a later stage in the General Assembly session.

12. Several representatives reiterated their Governments' support for the work of progressive development and codification of international law undertaken by the United Nations. Some observed that that work helped to strengthen international legality and was thus a powerful means of maintaining international peace and security and intensifying peaceful co-operation among all States. Others said that the progressive development and codification of international law offered an opportunity to reformulate certain traditional concepts of international law in the light of current circumstances, needs and aspirations.

13. Some representatives drew attention to the role played by State practice in the formulation of the rules of international law, and expressed the view that it would be desirable to seek to improve and complete existing sources of information on the practice. That would facilitate the progressive development and codification of international law promoted by the United Nations and, in particular, would make the drafts prepared by the Commission more soundly and broadly based. In their view, the Commission should examine the question in accordance with article 24 of its Statute; on the basis of its conclusions, steps could be taken to co-ordinate and promote national efforts to make information on State practice more accessible. Specifically, Member States could be asked to prepare collections and digests of their practice, as some were already doing, or merely to indicate the published sources of their practice. Similarly, it might be possible to examine the possibility of collecting in the United Nations *Legislative Series* (ST/LEG/SER.B/—), which now contained documentation concerning specific questions, information concerning State practice in a more general area. With regard to treaties, it was pointed out that the *List of Treaty Collections* (ST/LEG/5) published by the United Nations in 1956 was limited in scope and out of date. Stress was also laid on the urgent need to bring up to date the United Nations *Treaty Series* and for the Secretariat to make the special efforts necessary to reduce the growing delays in its publication.

14. Some representatives referred to the recent serious attacks on diplomatic agents and to the international tension they created, and stressed the need to adopt measures that would put an end to that situation and adequately guarantee the protection and inviolability of such agents. Some of them commended the Commission for having seen fit to reproduce in paragraph 11 of its report the texts of the letter dated 14 May 1970 from the President of the Security Council addressed to the Chairman of the Commission, the letter dated 5 May 1970 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council, and the letter dated 12 June 1970 from the Chairman of the Commission addressed to the President of the Security Council, and suggested that a statement on the problem of the protection and inviolability of diplomatic agents should be included in the working paper which the Commission had requested the Secretary-General to prepare in connexion with the Commission's review of its long-term programme of work (see paragraph 113 below).

B. RELATIONS BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS

I. OBSERVATIONS ON QUESTIONS RELATING TO THE DRAFT ARTICLES ON REPRESENTATIVES OF STATES TO INTERNATIONAL ORGANIZATIONS, AS A WHOLE

15. Many representatives expressed satisfaction that the Commission had been able in 1970 to complete the first reading of its draft articles on representatives of States to international organizations, and congratulated the Commission and the Special Rapporteur on the topic, Mr. El-Erian, on the results achieved. The sixty-six new draft articles on permanent observer missions (part III—articles 51 to 77) and on delegations to organs and to conferences (part IV—articles 78 to 116), together with the first twenty-one draft articles

adopted in 1968⁴⁵ and the further twenty-nine adopted in 1969⁴⁶ on general provisions (part I—articles 1 to 5) and on permanent missions (part II—articles 6 to 50), constituted an excellent working basis for the second reading and gave good grounds for anticipating that the Commission would be able at its next session to adopt a final set of draft articles on the topic.

16. Most representatives who referred to the draft articles during the debate indicated that their comments were of a general and preliminary nature and that their Governments would study the draft carefully and submit detailed written observations thereon to the Commission within the specified time-limit.

(a) *Scope of the draft*

17. It was generally considered appropriate that the Commission had limited the scope of the draft to international organizations of universal character (article 2) and had included in its provisions regulating the status of permanent missions of member States, permanent observer missions of non-member States, and delegations to organs of international organizations or to conferences convened by such organizations. Some representatives were nevertheless of the opinion that the Commission, when reviewing the draft, should try to supplement it with provisions regulating the status of certain categories of missions, delegations or persons that had for the time being been excluded from its cope. In that connexion, certain representatives enumerated the following: permanent missions and permanent observer missions to international organizations not of a universal character; permanent observer missions of States, not members of an organization; non-permanent observer missions and temporary observers; observers to organs and at conferences; delegations to conferences convened by States; representatives of national liberation movements, of peoples who were victims of colonialism or of groups fighting against racial discrimination or *apartheid*. It was also mentioned that the question of the juridical links between the host State and the meeting or conference convened in its territory should be examined. Lastly, interest was expressed in the fact that the Commission was to examine the possible effects of exceptional situations on the representatives of States in international organizations.

(b) *Structure of the draft*

18. A number of delegations stressed that, at the second reading, the Commission should harmonize the various provisions of the draft and try to formulate them as stringently and precisely as possible. In particular, it was stated that the present number of articles was excessive and should be reduced through appropriate use of the technique of "drafting by reference". It was also suggested that, despite the differences between the two categories of missions, some of the provisions relating to permanent missions and to permanent observer missions could perhaps be combined, in order to simplify the general form of the draft.

(c) *Use of terms*

19. It was observed that the provisions relating to the use of terms (articles 1, 51 and 78) could be properly formulated only in the light of the final form and structure of the draft as a whole. At the second reading, therefore, the Commission should review those provisions and eliminate any lack of precision or duplication that might exist.

⁴⁵ See *Official Records of the General Assembly, Twenty-third Session, Supplement No. 9*, chap. II.

⁴⁶ *Ibid.*, *Twenty-fourth Session, Supplement No. 10*, chap. II.

(d) *Form of the work*

20. The general opinion was that the draft constituted a suitable basis for a future convention on the subject. Some delegations, however, took the view that it would be preferable to prepare a code to serve as a model, rather than a general convention which, owing to the great variety of international organizations and their differing purposes and functions, would probably have to be complemented by specific agreements in individual cases. Moreover, a convention would raise a number of legal problems such as its relationship to existing agreements on the subject (conventions on privileges and immunities of specific international organizations, headquarters agreements, etc.) and the question whether or not international organizations, on which the draft imposed certain obligations, could become parties to the convention.

(e) *Relationship between the draft and other relevant rules and agreements*

21. It was said that the Commission had been right to include in the draft provisions (articles 3-5) safeguarding existing rules and agreements concerning particular international organizations and permitting the conclusion of new agreements in the future. However, certain representatives wondered what effect the adoption of a new set of rules would have on existing agreements on the subject, such as the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly (resolution 22 (I)), since the draft did not merely codify general principles but contained practical provisions similar to those included in those agreements. Although article 4 of the draft stated that the provisions of the draft articles would not affect other agreements in force, it should be remembered that in the present case, in contrast to the situation existing when the rules relating to consular relations had been codified, the agreements in question were mainly multilateral agreements. Furthermore, if previous instruments would not be merged into the future instrument that was now being prepared, as seemed to be the case, it was to be feared that the final outcome of the codification effort would simply be the adoption of yet another convention which would be added to the long list of instruments already existing in that field.

(f) *Consultations between the sending State, the host State and international organizations*

22. If any question arose between the sending State and the host State concerning the implementation of the draft articles, some representatives expressly supported the Commission's intention (see A/8010, para. 21) that article 50, on consultations among the sending State, the host State and an organization, which was now included at the end of part II, should be transformed into a general provision applicable also to parts III and IV of the draft. In that connexion, it was said that the scope of the article should not be limited to questions arising between the sending State and the host State, and it was suggested that the existing text should be amended so that the article would begin with the words: "If any question arises among the sending State, the host State and the Organization . . .".

23. Other representatives said that the Commission should seek for rules which, while guaranteeing the interests of the sending State and the independence of the organization concerned, should also adequately protect the host State against possible abuses by persons enjoying a privileged position under the provisions of the draft. Even the protection of the host State in cases of criminal acts did not seem to be sufficiently guaranteed by the draft. Those representatives considered that provisions such as those contained in article 50 or articles 45, 76 and 112 were inadequate.

24. Some representatives said that the sending State should be obliged to withdraw from its mission or delegation any person who had interfered in the internal affairs of the host State, if the latter so requested. Others agreed with the view, provided that the

organization concerned would determine whether interference in internal affairs had occurred. The commission of a grave and manifest violation of the criminal law of the host State and engaging in professional or commercial activities in that State were also mentioned as legitimate grounds for requesting the recall of a member of a delegation or mission.

2. OBSERVATIONS ON PART III (PERMANENT OBSERVER MISSIONS) AND PART IV (DELEGATIONS TO ORGANS AND TO CONFERENCES) OF THE DRAFT ARTICLES

(a) *General comments*

25. Several representatives noted that the formulation of rules concerning the legal status and the facilities, privileges and immunities of "permanent observer missions" and of "delegations to organs and to conferences", in the context of the draft articles on representatives of States to international organizations, would fill a gap which existed at present in general international law.

26. Certain representatives expressed doubt about the need for a general codification of the status of permanent observer missions, believing that existing practice and international courtesy resolved the question satisfactorily in each specific case. However, many representatives who took part in the debate stressed the particular importance of that codification. The need for it was demonstrated by the very fact that the Charter of the United Nations, General Assembly resolution 169 (II) on the Headquarters Agreement and General Assembly resolution 257 (III) on permanent missions to the United Nations contained no provisions on permanent observer missions of non-member States. In that connexion, it was recalled that the Secretary-General had stated in the introduction to his annual report on the work of the Organization covering the period 16 June 1965 to 15 June 1966 that "all countries should be encouraged and enabled, if they wish to do so, to follow the work of the Organization more closely"⁴⁷ in the opinion of the latter representatives, the codification of the legal status of permanent observer missions would promote international co-operation, ensure a more efficient functioning of international organizations and might be useful to solve some of the problems posed by the "micro-States".

27. Similarly, it was pointed out by other representatives that the formulation of rules concerning permanent observer missions was consistent with the principle of universality and represented an important step towards the elimination of certain discriminatory practices. Pointing out that the Charter was based on universality or that universality was one of the primary objectives of the United Nations, those representatives stated that the establishment of a suitable legal status for permanent observer missions would promote the achievement of the principles and purposes of the Organization. In that connexion, other representatives rejected the unqualified statement that the Charter was based on the principle of universality; universality was a goal that should be attained through the fulfilment of the criteria and requirements laid down in Article 4 of the Charter.

28. Some representatives, emphasizing the need to ensure the effective performance of their functions by permanent observer missions and delegations to organs and conferences, endorsed the solutions proposed by the Commission to determine the privileges and immunities of such missions and delegations. Those representatives considered that, even if they were established by non-member States, permanent observer missions were of a representative and permanent character and that their privileges and immunities should therefore be generally the same as those accorded to "permanent missions", subject to any minor changes which the special characteristics of the functions of permanent observer missions might make it advisable to introduce in individual provisions. They also shared

⁴⁷ *Ibid.*, *Twenty-first Session, Supplement No. IA*, p. 14.

the opinion that the privileges and immunities of delegations to organs and to conferences should, in view of the representative character of such delegations and the temporary nature of their tasks, be formulated in the light of the privileges and immunities of "special missions" and, after any adjustments necessitated by their temporary nature, by reference to the law of international organizations. It was pointed out that the alternative suggested by some—the privileges and immunities would be limited to those which were strictly "necessary for the performance of the functions"—was not sufficiently precise, would lead to inequalities of treatment and would open the way to subjective interpretations of the relevant provisions. In the opinion of those representatives, the Commission had struck a proper balance between the preservation of the interests of the host State and the need to protect relations between permanent observer missions and organizations and the freedom of operation of delegations to organs and to conferences.

29. Other representatives supported in principle the approach adopted by the Commission to the question of the privileges and immunities of permanent observer missions and delegations to organs and to conferences. They felt, however, that the representative character of those missions and delegations and the functions which they performed justified granting them the full range of diplomatic immunities and privileges, without discrimination and irrespective of their permanent or temporary nature. In the view of those representatives, therefore, it would be advisable for the Commission to follow the Vienna Convention on Diplomatic Relations⁴⁸ of 1961 more closely and to remove from the draft article any elements which did not conform to contemporary diplomatic law.

30. Other representatives felt that the objective criterion of functional necessity, embodied in Article 105 of the Charter of the United Nations, rather than theories based on the representative character or on unjustified parallels, should be point of departure for delimiting the privileges and immunities of permanent observer missions and delegations to organs and conferences. There was no legal or historical basis for the view that every mission or delegation was automatically entitled, because it was acting on behalf of a State, to the full range of diplomatic privileges and immunities. Permanent observer missions did not have the same representative capacity as "diplomatic missions" or the same functions and responsibilities as the permanent missions of Member States. Moreover, delegations to organs and conferences did not have the same functions as did special missions, nor did they have the same character.

31. Those representatives expressed reservations about the Commission's approach to the matter. In their opinion, the draft articles relating to the privileges and immunities of permanent observer missions and of delegations to organs and to conferences were based too closely on diplomatic law, tended without justification to identify permanent observer missions with permanent missions and delegations to organs and conferences with special missions, and departed from contemporary practice and existing agreements. The Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies (General Assembly resolution 179(II)) should be regarded, as a general rule, as a maximum and no privileges and immunities which were not really necessary should be asked for. In their present form the draft articles could produce the anomalous situation in which delegations to organs and conferences of lesser importance would be accorded a higher scale of privileges and immunities than delegations to United Nations organs or conferences convened under its auspices. Those representatives concluded by expressing the hope that the Commission would review the draft

⁴⁸ United Nations Conference on Diplomatic Intercourse and Immunities, 1961, *Official Records*, vol. II (United Nations publication, Sales No.: 62.X.I), p. 82.

articles in question in the light of those observations, for it was essential to avoid the future convention being ratified by only a small number of States.

32. In support of the observations mentioned in the preceding paragraph, it was stated that limiting privileges and immunities was the best way of ensuring their application in practice; that it was desirable to avoid imposing excessively heavy administrative burdens on the host State; that parliaments and public opinion were opposed to broadening the categories of persons enjoying privileged treatment; that special missions could be sent to another State only with the latter's consent and that the number of persons enjoying privileges and immunities by virtue of such missions was much smaller than the number of persons constituting delegations to organs or to conferences; and that an unnecessarily high level of privileges and immunities would make States reluctant to invite international organizations or conferences to establish themselves or meet in their territory. In response to the latter argument, it was said that no State was obliged to permit an organization to establish its headquarters or an organ or conference to meet in its territory, but if it did it should accept the obligation to accord the appropriate privileges and immunities to the missions and delegations concerned.

33. It was also said that although the Commission based its draft as a whole on functional necessity, it departed from that criterion with regard to some specific provisions. Attention was drawn to the difference between multilateral diplomacy and bilateral diplomacy. In the case of the latter, the host State could protect itself by various measures such as the declaration of *persona non grata*, reciprocity, etc. The interests at stake were much more complex and much less complementary in multilateral diplomacy, where it could happen that the host State did not recognize the sending State.

34. Certain representatives said they had no objection to the scope of the privileges and immunities conferred in the draft articles, provided that they were applied only to organizations in the United Nations family and to others of similar importance. In their view, it was necessary to find a more precise definition of the term "international organization of universal character".

35. Finally, attention was drawn to the question of the application of the privileges and immunities provided for in the draft articles to the large numbers of regional or technical conferences convened by international organizations of a universal character; the view was expressed that it would be advisable to limit the application of the draft articles to the more important conferences and organs of such organizations.

(b) *Comments on specific provisions*

Part III: Permanent observer missions to international organizations

Article 51 (a) (Definition of the term "permanent observer mission")

36. The definition of the term "permanent observer mission" contained in article 51, sub-paragraph (a), mentions the "representative character" of such missions. During the debate, stress was laid on the importance of that question with regard to the general structure of part III of the draft and, in particular, the determination of the scope of the facilities, privileges and immunities which should be accorded to permanent observer missions. In that connexion, certain representatives referred to paragraph (2) of the commentary on article 53, which stated that a permanent observer mission did not represent the sending State "in" the organization but "at" the organization.

37. Some representatives said that permanent observer missions did indeed have a "representative character" and that the reference to it should therefore be retained. Others

considered that that reference should be deleted, since an observer observed but did not represent.

38. It was also said that if the term "representation" was taken in the technical sense, it was clear that permanent observer missions were not representative, since in order to be representative in an international organization a State had to be a member of it. By definition, an observer did not participate in the organization's decisions and did not, in principle, have the right to take part in its debates. However, if the term "representation" was given the wider meaning which it had in ordinary usage and if emphasis was laid on the link which existed between the sending State and its permanent observer mission it might be possible to speak of "representation", because the mission acted on behalf of the State which had appointed it. The sending State was not a member of the organization, but the permanent observer mission, in so far as it acted within the limits of its functions on behalf of the sending State, could be considered representative of that State.

39. Lastly, it was pointed out that in article 51, sub-paragraph (a), it would be useful to insert the words, "as defined in article 1" after the words "international organization", in view of the considerations outlined in paragraph (1) of the commentary on that article.

Article 52 (Establishment of permanent observer missions)

40. The provisions of the article as well as the principles on which they were based, were interpreted in different ways. In the light of those interpretations, some representatives thought that the provisions should be retained unchanged, others considered they should be redrafted in order to eliminate the existing ambiguity, and others proposed to amend the article, while a fourth group stated that, perhaps the best course might be to consider deleting it altogether.

41. Several representatives considered that the article should be retained as drafted by the Commission, because it recognized the need to enable States which were not members of international organizations to follow their work which was of interest to the international community as a whole, while safeguarding the essential autonomy of those organizations and respect for their rules and practice. Those representatives felt that non-member States did not have an unconditional and absolute right to establish permanent observer missions, for that right was subject to and conditioned by the rules of practice of the organization concerned. The will of the organization could not be ignored. Some of them added that if the organization had no relevant rules or practice, the establishment of such missions would be regulated by the provisions of the future convention to be drawn up on the basis of the draft articles. Certain representatives thought that it would be advisable for paragraph (2) of the commentary on the article to specify that the rule provided for in the article presupposed that the organization concerned was of universal character.

42. Other representatives stressed that the establishment of a permanent observer mission by a non-member State was a question whose practical solution should continue to depend on the rules and general practice of the organization concerned or on specific agreements concluded for that purpose. Principles such as the sovereign equality of States or universality could not prevail over the rules and practice of international organizations in that sphere. If no such rules and practices existed, the establishment of permanent observer missions should remain subject to an agreement between the sending State and the host State or the international organization concerned. The future convention was not the proper instrument to grant non-member States an absolute and unreserved right to establish permanent observer missions. Since the article in its entire form had been interpreted in other ways, those representatives considered that the Commission should redraft it, bearing in mind the considerations they had mentioned. It was also suggested that

paragraph (3) of the commentary should be redrafted in order to bring it into line with the text of the article.

43. Other representatives considered that the Commission should give the article a broader legal basis more in keeping with the principles of sovereign equality of States and universality. They proposed that the phrase "in accordance with the rules or practice of the Organization" should be deleted from the article. In their view, the article should state clearly that non-member States had the right to establish permanent observer missions in order to perform the functions mentioned in article 53 of the draft. The existing wording was unduly restrictive, created the possibility of discrimination between States in contradiction with the other provisions of the draft, did not take fully into account the considerations formulated in the commentary on the article, did not facilitate the implementation of the principle of universality or, generally speaking, the purposes and principles of international organizations of universal character, and was inconsistent with the aforementioned statement of the Secretary-General. It was also pointed out that in any case the "rules or practice" referred to in the article could not be considered valid unless they conformed to the general principles of the Charter of the United Nations. Reference to them would merely create difficulties in the interpretation of the provisions of the article.

44. It was also said that the existing wording of the article was unsatisfactory because the phrase "in accordance with the rules or practice of the Organization" could give rise to interpretations which assimilated the requirements for the establishment of permanent observer missions to the conditions and procedures provided for in Article 4 of the Charter for the admission of States to membership in the United Nations. Since the main purpose of permanent observer missions was precisely to enable non-member States to follow closely the work of organizations of universal character, a restrictive interpretation of that kind should be precluded by redrafting the article in a more suitable way.

45. The view was also expressed that the Commission was not supposed to deal with the question of the "right" of non-member States to follow closely the activities of international organizations of universal character in the context of its draft articles on representatives of States to international organizations. The situation of permanent observer missions could only be improved through a better interpretation of the statutes of international organizations.

46. Lastly, some representatives questioned the need for the article and said that the Commission should re-examine the question of retaining it. The deletion of the article would affect neither the symmetry nor the legal content of the rest of the draft. In that connexion, it was also pointed out that the wording of the article raised the difficult question of determining what entities were entitled to be regarded as States. It was also suggested that the main point at issue was the right of States members of an organization to maintain control over the establishment of permanent observer missions; the efficacy of and the need for the article should be considered from that standpoint.

Article 53 (Functions of a permanent observer mission)

47. Certain representatives questioned the desirability of attempting an enumeration of the functions of a permanent observer mission. Each observer mission constituted a special case and it would therefore be inadvisable to lay down guidelines which would inevitably tend to introduce an element of rigidity in practice. Certain representatives observed that permanent observer missions maintained the necessary liaison between the sending State and the organization but did not represent that State in the organization. [Concerning the representative character of permanent observer missions, see paragraphs 36 to 38 above.] Representatives of non-member States could sometimes be invited to participate in meetings of organs or conferences on an equal footing with member States, but in

such cases the representatives of non-member States fell into the category of “delegations to organs and to conferences” and not into that of “permanent observer missions”. It was also observed that, strictly speaking, “negotiation” was not one of the functions of an observer.

Article 55 (Appointment of the members of the permanent observer mission)

48. Certain representatives agreed with the principle of the freedom of choice by the sending State of the members of the permanent observer mission. Others took the view that the article did not give adequate protection to the host State.

Article 63 (Offices of permanent observer missions)

49. Some doubts were expressed about paragraph 2 of the article. International practice had not yet crystallized sufficiently to warrant the inclusion of such a provision in the draft articles. Certain representatives said that it was inadvisable to give the impression of encouraging States to establish offices of their permanent observer missions in the territory of a State other than the host State because such situations gave rise to problems, particularly where privileges and immunities were involved. On the other hand, it was argued that to make such establishment conditional on the prior consent of the host State might cause special difficulties for newly independent countries which still lacked an extensive network of embassies and missions.

Article 64 (Use of [flag and] emblem)

50. There were differences of opinion concerning the right of the permanent observer mission to use the flag of the sending State. Certain representatives took the view that reference to the use of the flag should be deleted because it sufficed to grant such missions the right to use the emblem. Others, however, suggested that the reference to the flag should be retained, on the ground that a permanent observer mission had the right to use both the emblem and the flag of the sending State.

Article 67 (Privileges and immunities of the permanent observer mission)

51. This article refers back to articles 25, 26, 27, 29 and 38, paragraph 1 (a), relating to permanent missions. Some representatives made the general comment that the privileges and immunities thus granted to permanent observer missions might be too extensive, and suggested that the Commission should reconsider the question.

52. Other representatives emphasized that the inviolability of the premises of the mission, as provided for in article 25, must be respected and ensured. These representatives criticized the present wording of paragraph 1 of the latter article and expressed the view that, even in case of disaster, no derogation from the inviolability of the premises should be allowed without the permission of the head of the mission concerned. A further comment was that the words at the end of article 25, paragraph 1,—“and only in the event that it has not been possible to obtain the express consent of the permanent representative”—were too restrictive of the presumption of consent in case of fire or other disaster that seriously endangered public safety provided for in that paragraph; it was suggested those words should be replaced by a sentence based on the criterion of “the reasonableness of efforts to obtain the consent of the permanent representative”. [In connexion with the inviolability of premises, see also comments on article 94 in paragraph 68 below.]

Article 68 (Freedom of movement) and article 69 (Personal privileges and immunities)

53. Article 68 refers back to article 28, part II of the draft which relates to permanent missions, and article 69 refers back to articles 30, 31, 32, 35, 36, 37, 38, paragraphs 1 (b) and 2, and 40 in the same part. The general comment was made that the Commission

should reconsider whether all the privileges and immunities thus granted were really necessary in the case of permanent observer missions and their members.

54. With regard to article 30 on personal inviolability, it was stated that consideration should be given to insertion of a second paragraph, reading: "This principle does not exclude in respect of the permanent representative either measures of self-defence or, in exceptional circumstances, measures to prevent him from committing serious crimes or offences".

55. In reference to the categories of persons enjoying privileges and immunities under the terms of article 40, paragraph 1, concerning the members of the family forming part of the household of the permanent representative and those of a member of the diplomatic staff of the permanent mission, respectively, it was observed that the phrase in that paragraph "if they are not nationals of the host State" should be replaced by "if they are not nationals of or permanently resident in the host State".

Article 71 (Waiver of immunity and settlement of civil claims)

56. This article refers back to articles 33 and 34 relating to permanent missions. The view was expressed that, where a waiver of immunity could not be obtained because it would impede the performance of the functions of the permanent observer mission, the sending State should use its best endeavours to bring about a just settlement of the claim.

Article 73 (Duration of privileges and immunities)

57. This article refers back to article 42 relating to permanent missions. In connexion with the notifications mentioned in article 42, paragraph 1, the view was expressed that mention should be made only of notification to the host State "by the Organization".

Article 75 (Non-discrimination)

58. Some representatives agreed with the inclusion of this article in the draft, noting that it was based on the principle of sovereign equality of States proclaimed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970 in resolution 2625 (XXV) at the closing meeting of the commemorative session on the occasion of the twenty-fifth anniversary of the United Nations.

Article 76 (Conduct of the permanent observer mission and its members)

59. This article refers back to articles 45 and 46 relating to permanent missions. It was argued that the provision concerning respect for the laws and regulations of the host State (article 45) did not give adequate protection to that State, since it could not be established whether the person concerned had committed a "grave and manifest violation" so long as the sending State did not waive his immunity.

60. The view was also expressed that a provision concerning compulsory insurance against third-party risks arising from the use, in the host State, of vehicles owned by permanent observer missions or their members should be included in this article.

Article 77 (End of functions)

61. This article refers back to articles 47, 48 and 49 relating to permanent missions. It was stated that article 48, concerning facilities for departure, imposed an unrealistic duty on the host State. The last sentence of that article should be replaced by the following: "It shall, in case of emergency, facilitate in every possible way the obtaining of means of transport for them, and for such of their personal effects as is reasonable under the circumstances, to leave the territory".

Part IV: Delegations of States to organs and to conferences

62. Observations similar to those mentioned above in connexion with articles 55, 71 and 75 in part III of the draft were made on article 84 (Appointment of the members of the delegation), article 101 (Waiver of immunity) and article 111 (Non-discrimination), respectively. In addition, there were the observations summarized below.

Article 79 (Derogation from the present part) and article 80 (Conference rules of procedure)

63. It was noted with approval that these articles introduced an element of flexibility into the draft and prevented unduly rigid application of its provisions.

Article 82 (Size of delegation)

64. Certain representatives referred approvingly to this article. Others did not consider it really necessary and suggested its deletion. It was also stated that the article did not give adequate protection to the host State.

Article 83 (Principle of single representation)

65. Some representatives expressed reservations concerning the desirability of the article and its present wording. The principle of single representation should not be formulated too categorically, but provision should be made for deviation from it in certain circumstances. At a time of increasing interdependence, it seemed wrong to prevent joint representation in some cases by providing that a delegation to an organ or to a conference might represent only one State. It should be borne in mind that joint representation facilitated the participation of small and developing countries, if only for financial reasons, and that there existed international agreements concerning the representation of one country by another. The following solutions were proposed: the insertion at the beginning of the article of the words "as a rule"; the addition at the end of the article of the words "unless the rules and practice of the organ or conference otherwise provide"; the deletion of the article, leaving the solution of the question to the practice of the international organization concerned.

Article 88 (Full powers to represent the State in the conclusion of treaties)

66. It was observed that a representative to an organ or to a conference should be in possession of full powers for the purpose of signing a treaty and that paragraph 3 of the article was therefore redundant.

Article 91 (Status of the Head of State and persons of high rank)

67. The Commission was commended for having included in the draft this provision, which is based on article 21 of the Convention on Special Missions (General Assembly resolution 2530 (XXIV)).

Article 94 (Inviolability of the premises)

68. Some representatives urged that paragraph 1 of this article should be brought into line with the corresponding provision of the Vienna Convention on Diplomatic Relations of 1961. They expressed serious reservations with regard to the last sentence of that paragraph. In their view, the sentence should be deleted and they argued that the provision set out in it imposed limitations on the principle of inviolability of the premises that might result in practice in its virtual negation; the legal prerogative of inviolability was subject "in case of fire or other disaster that seriously endangers public safety" to the subjective evaluation of the host State in detriment of the rights of the sending State. Apart from the fact that it opened the way to abuses, the provision was ambiguously worded and might consequently lead to misunderstandings and disputes. It was noted that the

words "that seriously endangers public safety" referred only to "other disaster", from which it would appear that "in case of fire" local authorities could enter the premises of the delegation even if there was no serious danger to public safety. Furthermore, the words "and only in the event that it has not been possible to obtain the express consent of the head of the delegation or of the head of the permanent diplomatic mission" could be interpreted to mean that local authorities were allowed to enter the premises of the delegation even if the head of the delegation or of the permanent diplomatic mission expressly refused to admit them because in his view there was no serious danger to public safety. [In connexion with this question, see observations on article 67 in paragraphs 51 and 52 above.]

Article 100 (Immunity from jurisdiction)

69. Some representatives expressed a preference for alternative A of this article as being broader and being based directly on the corresponding article of the Convention on Special Missions of 1969. Others stated that they favoured alternative B, because they considered that it set out all the safeguards that were needed for the proper functioning of delegations or because they felt that the future convention must be acceptable to the largest possible number of States. Other representatives expressly reserved their positions for the time being.

Article 112 (Respect for the laws and regulations of the host State)

70. Some representatives were of the opinion that the article did not fully guarantee the freedom of delegations' members, since on occasion they might have to perform functions of the delegation outside the premises where the organ or conference was meeting or outside the premises of the delegation.

71. Observations similar to those reported in connexion with article 76 were made [see paragraphs 59 and 60 above] with regard to protection of the host State generally and to accidents caused by vehicles owned by the delegation or its members.

C. SUCCESSION OF STATES

1. OBSERVATIONS ON THE TOPIC AS A WHOLE

72. Several representatives stressed the need for the Commission to continue to give priority to the study of the various aspects of the succession of States, in view of the importance and usefulness of the progressive development and codification of the topic to all States, and particularly the new States. Congratulations were offered to the Commission on the progress it had made during its last session in studying the substantive questions raised by succession in respect of treaties, as well as to Sir Humphrey Waldock, the Special Rapporteur on that aspect of the topic, and Mr. Bedjaoui, the Special Rapporteur on "succession in respect of matters other than treaties", on the new reports presented.⁴⁹

2. OBSERVATIONS ON SUCCESSION IN RESPECT OF TREATIES

73. Noting that on the basis of the reports presented by Sir Humphrey Waldock, the Special Rapporteur,⁵⁰ the Commission had reached almost unanimous agreement on the approach to the question and the fundamental principles on which its codification should be based, a number of representatives expressed the view that the Commission was now in a position to prepare a set of draft articles on succession in respect of treaties in the

⁴⁹ A/CN.4/224 and Add.1 and A/CN.4/226, respectively.

⁵⁰ A/CN.4/202, A/CN.4/214 and Add.1 and Add.1/Corr.1 and Add.2 (reproduced in the *Yearbook of the International Law Commission*, 1970, vol. II) and A/CN.4/224 and Add.1.

near future. The hope was expressed that the first reading of the draft articles would be concluded in the course of the Commission's next session. Some representatives felt that it was premature to make any comments on the relevant part of the Commission's report. Others, however, put forward the preliminary observations summarized below.

(a) *Succession in respect of treaties and law of treaties*

74. The conclusion of the Commission that succession in respect of treaties should be dealt with as a particular topic within the framework of the law of treaties met with almost general approval. Some representatives stressed the need for the Vienna Convention on the Law of Treaties⁵¹ of 1969 to be taken specially into account. However, some doubts were expressed as to the appropriateness of the conclusion referred to, on the ground that succession was a branch of international law separate from the law of treaties. It was also commented that it might be useful to undertake a parallel study of succession in respect of treaties and succession in respect of matters other than treaties. Parallel consideration of the various problems of succession would help to crystallize the general legal rules which were to be applied in all situations involving the problem of succession. That *modus operandi* would facilitate the definition of a general theory of succession based on the practice of States which had recently attained independence as a result of the decolonization process.

(b) *Specific problems of new States*

75. A number of representatives emphasized that succession in respect of treaties was of practical importance and particular interest to the new States which had recently gained their independence. They stressed the need to protect the political and economic independence of those States, and, consequently, to ensure that the rules codified should be based on the fundamental principles of contemporary international law incorporated in the United Nations Charter. Those rules should conform to principles such as those of equal rights and self-determination of peoples, sovereign equality of States and permanent sovereignty of each nation over its natural wealth and resources. In their view, it was inappropriate to speak of the transfer of sovereignty, since that implied the devolution of obligations assumed under unfair and abusive treaties, concluded by the former colonial Powers with third States in disregard of the interests of the administered Territory, which never was a part of the territory of the colonial Powers.

76. Certain representatives considered that in view of the general approach to the subject of succession in respect of treaties followed in the preliminary reports submitted by the Special Rapporteur it was no longer necessary to deal with problems arising out of decolonization in a separate chapter.

(c) *Origins and types of succession*

77. It was observed that the rules regulating succession varied considerably according to the origins and types of the succession. In cases of succession resulting from decolonization, for example, progressive development was more important than codification because many of the traditional rules were inapplicable.

78. Some representatives urged that the draft articles should look towards the future and cover all the possible causes of succession, for example the formation and dissolution of unions of States and confederations, dismemberment and, in general, all the causes of succession which could occur after accession to independence. Others considered that

⁵¹ United Nations Conference on the Law of Treaties, Official Records, *Documents of the Conference* (United Nations publication, Sales No.: E.70.V.5), p. 287.

consideration of questions relating to protectorates, mandates and trusteeships would be an anachronism and divert the attention of the Commission from really important questions.

(d) *Distinction between multilateral treaties and bilateral treaties*

79. It was felt that it was necessary to draw a distinction between succession to multilateral treaties and succession to bilateral treaties. The former were, generally speaking, susceptible of uniform treatment. Bilateral treaties, on the other hand, gave rise to varied and complex situations, so that the rules relating to succession to bilateral treaties must be drafted with much greater flexibility and care.

(e) *Definition of the term "succession"*

80. Some representatives approved the fact that the Special Rapporteur, in the relevant article of his second report⁵² (article 1 (a)) had given up the notion of succession accepted in municipal law, which involved the devolution of rights and obligations, in favour of a definition which was more neutral and appropriate to international law: "the replacement of one State by another in the sovereignty of territory or in the competence to conclude treaties with respect to territory". These representatives considered that such a definition would help to dissipate the confusion created by the analogy between the ideas of succession in international law and in succession in municipal law. It was added that the definition should be expanded by the inclusion of a reference to the subjective element deriving from respect for the principle of self-determination; that would unequivocally indicate that the legal consequences of the replacement of State sovereignty or of the competence to conclude treaties with respect to a given territory were not automatic but dependent on the wishes of the people of the territory.

81. Other representatives, however, expressed some doubts as to the appropriateness of the definition proposed and felt that the matter should be studied in greater depth. It had to be remembered that the concept of succession was not necessarily associated with that of territory. It was also observed that the definition was not broad enough, since it did not cover the case of a revolutionary Government which did not consider itself bound by all the treaties concluded by the Government preceding it. Although properly speaking that was a case of succession of Governments, it was to be hoped that the Commission would provide some clarification in that respect.

82. Lastly, it was commented that the way in which the question of the definition of the term "succession" was resolved would to a great extent determine the scope of the future draft articles.

(f) *Definition of the expression "new State"*

83. Certain representatives considered the definition of the expression "new State" given by the Special Rapporteur in his third report⁵³ (article 1 (e)) to be unsatisfactory, and agreed on the need to reconsider it with a view to an eventual modification of the definition. To define a "new State" as "a succession where a territory which previously formed part of an existing State has become an independent State" was not historically correct, since many new States had recovered independence, and not acquired it. In addition, all new States which had emerged as a result of decolonization had never formed part of the metropolitan territory. It was also stated that the definition did not seem appropriate to other causes of succession, such as unions of States.

⁵² A/CN.4/214 (reproduced in the *Yearbook of the International Law Commission, 1970*, vol. II).

⁵³ A/CN.4/224.

(g) *Area of territory passing from one State to another*

84. Doubt was expressed as to whether a provision on this question should appear in the context of the introductory articles, and it was felt that in its present form the provision proposed by the Special Rapporteur in his second report (article 2) might raise difficulties in regard to problems of sovereignty and territorial integrity.

(h) *Agreements for the devolution of treaty obligations and rights*

85. Some representatives shared the view that an agreement concluded between the predecessor State and the successor State for the devolution of treaty obligations and rights upon a succession could not be considered a source of treaty relations between the successor State and third States. It was pointed out that the contrary approach would be incompatible with articles 34 and 36 of the Vienna Convention on the Law of Treaties and with customary international law. It was added that the Commission's commentary on the provision, as eventually formulated, should try to clarify the nature of devolution agreements and of the obligations which they involved.

86. Certain representatives observed that devolution agreements provided a basis on which, with the acquiescence of the third States concerned, a novation of treaty relations could occur in cases where the latter would not otherwise devolve. Such agreements, like the unilateral declarations referred to below, were conducive to a measure of continuity that was advantageous both to the new State and to third States. The new State would suffer most from the abrupt termination on independence of a large part of the treaty régime previously applicable to its territory.

(i) *Unilateral declarations*

87. Some representatives likewise considered it correct to say that a general unilateral declaration by the successor State regarding the maintenance in force of treaties previously applied to its territory by the predecessor State could not by itself create treaty relations between the successor State and a third State. Such treaty relations could be based only on a rule of international law or on specific treaty provisions. These representatives therefore considered acceptable the basic principle enunciated in the provision proposed by the Special Rapporteur in an addendum to his second report⁵⁴ (article 4). It was stated in this connexion that general unilateral declarations constituted a better legal basis for the maintenance in force of treaties than any presumption of continuity, but that the real problem was what effect they might by themselves produce in regard to the maintenance in force of a given treaty.

(j) *General rule regarding a new State's obligations in respect of its predecessor's treaties*

88. Support was expressed for the provision on this point proposed by the Special Rapporteur in his third report (article 6), which reads as follows:

"Subject to the provisions of the present articles, a new State is not bound by any treaty by reason only of the fact that the treaty was concluded by its predecessor and was in force in respect of its territory at the date of the succession. Nor is it under any obligation to become a party to such treaty."

89. Many representatives supported the fundamental principle enunciated in this general rule. A new State was not bound by its predecessor's treaties and was under no

⁵⁴ A/CN.4/214/Add.2 (reproduced in the *Yearbook of the International Law Commission, 1970*, vol. II).

obligation to become a party to such treaties, unless it expressly agreed to do so. Contemporary positive international law did not sanction the so-called "theory of continuity" in respect of treaties, nor could the existence of a rule in favour of continuity on the basis of prevailing State practice be presumed. The principle of sovereign equality of States and the need to protect new States against any interference in their domestic affairs required that any idea of "automatic" succession to treaties concluded by the former administering Powers should be rejected. In addition, a presumption of continuity, highly desirable as it might appear in certain cases, would conflict with the principle of self-determination laid down in the United Nations Charter.

90. Some representatives stated that their support for the principle enunciated in the general rule did not mean that they approved of the extreme theory of the "clean slate". The Commission should now give thorough consideration to the various categories of treaties, especially "dispositive", "territorial" or "localized" treaties, with a view to determining what exceptions to the general rule were pertinent.

91. Certain representatives considered it impossible to assert that international law laid down absolute rules on the matter, and they consequently rejected any extreme theory. State practice varied considerably from country to country, and very few new States systematically rejected the treaties concluded by their predecessors. Absolute application of the proposed general rule would create difficulties, because the question of succession to rights was interrelated with that of succession to obligations. The principle of self-determination could not be disregarded, but it must be borne in mind that international law subjected that principle to limitations based on the need to protect the general interests of the international community and of third States. The provision enunciated in the proposed general rule could be acceptable only if it was clearly established that the successor State was bound by certain categories of treaties. These representatives reserved their final positions on the question until the Commission had considered the nature and scope of exceptions to the general rule, particularly with regard to "dispositive", "territorial" or "localized" treaties.

92. Other representatives also stressed the advantages of continuity in treaty relations. A proper balance should be struck between the continuity of obligations and the necessity of not holding new States to duties which they had not themselves undertaken. The Commission should therefore carefully examine the actual practice of States, so that the rules which it formulated would have due regard to the interests of the new States, the predecessor State and third States.

93. Various views were expressed on the scope of possible exceptions to the general rule. For instance, certain representatives felt that "territorial", "dispositive" or "localized" treaties should in principle constitute one of the exceptions. Others reserved their positions with regard to "dispositive" or "localized" treaties. Another view expressed was that the general rule applied especially to "territorial" or "dispositive" treaties. In this connexion, it was stated that the Commission should avoid giving legal endorsement to situations created by old treaties relating to colonial boundaries, which had been drawn with the strategic and economic interests of the former administering Powers in mind, since that would conflict with the universally accepted principle of self-determination and would be contrary to General Assembly resolutions 1514 (XV) and 1654 (XVI). In the case of such treaties, succession could not take place without the freely expressed consent of all the parties concerned. The new State was entitled to reclaim what it had previously held as a right, particularly if the revindication was based on its people's right to self-determination. It was also stated that the general rule should apply to so-called devolution treaties and that new States should not be able to evade the provisions of treaties which enunciated rules of *jus cogens*.

94. Lastly, the view was expressed that consideration should be given to some special situations, such as the problem of the implications of the legal nexus that was established in the case of an agreement entered into between two entities which were not fully sovereign and which subsequently at different times gained their sovereignty and did not repudiate the agreement.

(k) *Right of a new State to notify its succession in respect of multilateral treaties*

95. Some representatives expressed complete agreement with the provision proposed by the Special Rapporteur in his third report (article 7), which had been supported by most members of the Commission. Some of them considered that the right of a new State to notify its succession in respect of multilateral treaties was based on a positive rule of customary law. Others took the view that, if a rule of customary law did exist on the subject, that rule could not be based on the purely administrative practice of depositaries.

96. It was suggested that it might be desirable to set a time-limit within which the new State must notify its intention of considering itself a party to multilateral treaties that had applied to its territory prior to independence. The view was expressed that it was not advisable to make the time-limit too short, since a study of the relevant instruments was a long and delicate task for new States.

(l) *Settlement of disputes*

97. It was stated that the settlement of disputes arising from succession in respect of treaties should be entrusted to the International Court of Justice so as to ensure proper interpretation and application of the rules being codified.

D. STATE RESPONSIBILITY

98. A number of representatives expressed satisfaction at the fact that the Commission had continued to make progress in laying down the general lines to be followed in the progressive development and codification of the complex topic of State responsibility and in establishing a broad initial basis of agreement which would permit the task to be continued with the greatest possible prospects of success. The Special Rapporteur, Mr. Ago, was congratulated on his second report, entitled "The origin of international responsibility",⁵⁵ in which, after dealing with certain questions of method, he discussed the principle of the internationally wrongful act as a source of responsibility, the conditions for the existence of an internationally wrongful act, and the question of what was described as the "capacity" of States to commit internationally wrongful acts. The general conclusions reached by the Commission on the basis of the report were considered broadly acceptable.

99. Some representatives stressed that consideration of the question should proceed more rapidly than had thus far been the case. They believed that the reason why the codification of State responsibility was progressing so slowly was that not everyone was aware of the importance of the subject in the present international political context. The question was in point of fact extremely urgent, because it was linked to the maintenance of international peace and security. Those representatives considered that special attention should be paid to State responsibility for aggression, the use of armed force, colonial repression, racial discrimination and non-compliance with other obligations set forth in the United Nations Charter.

100. Other representatives supported the approach adopted by the Commission, under which the general rules defining the responsibility of States would be defined at the

⁵⁵ A/CN.4/233.

outset, since the violation of any international legal rule could in fact entail responsibility. That would also facilitate the eventual consideration of the special questions arising in connexion with responsibility for violations of specific rules of international law, such as those relating to the maintenance of international peace and security.

101. Certain representatives were pleased that the Special Rapporteur had taken as a premise the existence of an international legal order which imposed obligations on subjects of international law which were members of the international community. Whenever a State violated an international obligation, it committed a wrongful act for which it was accountable to the international community as it was juridically constituted. The wrongful nature of the act derived from the violation of the obligations set forth in the legal rule, and not from the violation of the rule, as was often stated. It was the non-fulfilment of the obligation—and sometimes the exercise of rights beyond the bounds of the rule—which made the act wrongful. Certain representatives felt that a purely theoretical study based on initial assumptions would be extremely dangerous, and criticized the tendency in the Commission's report to allow States not directly injured by a wrongful act to implicate other States on grounds of the international responsibility of the latter.

102. It was considered desirable that there should be an analysis of the subjective and objective elements which must be present for an internationally wrongful act to exist. It was further stated that the Commission should take up the question of "abuse of right" in due course.

103. Certain representatives felt that it would have been preferable to base the study of State responsibility on the "theory of risk", which rested on the objective notion of material or moral injury. In their view, that would have represented a step forward in the development of law from the economic and social point of view and would have avoided the complications arising from the preference given to responsibility for the wrongful act, in view of the difficulty involved in drawing up a comprehensive list of duties, the non-fulfilment of which determined the existence of a wrongful act.

104. Some representatives stressed that, in addition to responsibility for wrongful acts, it was necessary to study responsibility for lawful acts. Some agreed that the Commission could consider the latter question separately at a later stage in its work. Others felt that the two questions should be dealt with simultaneously. It was also observed that the two forms of responsibility could be dealt with in parallel but separate studies. Some representatives felt that responsibility for lawful acts should cover all types of activities giving rise to such responsibility, such as the pollution of the oceans, and should not be restricted only to some of them (outer space and nuclear activities). Other representatives said that it would be useful to consider a third category of acts—such as pollution of the atmosphere or the oceans with radioactive substances or deadly gases—which, because of their dangerous nature, fell half way between lawful and wrongful acts.

105. With regard to questions of method, a number of representatives stressed the need for a careful and flexible approach in seeking practical solutions which could meet with general approval, and favoured the essentially inductive method proposed by the Special Rapporteur. In that connexion, some representatives were pleased that the Special Rapporteur had been requested in the early stages of the work to preface each draft article with a full explanation of the reasons which had led him to propose a particular provision and an indication of the precedents offered by practice and jurisprudence, together with the various doctrinal views. Other representatives agreed with the Commission that the question of State responsibility was one where the progressive development of international law could play a particularly important part. It was noted in that regard that it might be appropriate to send a questionnaire to Governments in order to give the Commission assistance in applying the method of progressive development.

106. Certain representatives felt that the Spanish expression "*hecho ilícito*" should be replaced by "*acto ilícito*". The word "*hecho*" was extremely vague and imprecise. The expression "*acto ilícito*", on the other hand, referred to any behaviour which was objectively contrary to law and could apply both to acts of commission and acts of omission.

107. It was considered appropriate that the Commission had decided to consider, in a first phase, the origin of international responsibility and, in a subsequent phase, the content of that responsibility. However, some doubts were expressed as to the possibility of keeping the two phases entirely separate. It was also agreed that questions relating to the responsibility of subjects of international law other than States should be left to a later stage. Lastly, it was stated that there was need to codify the rules for the judicial settlement of disputes and for the implementation of compensation procedures for internationally wrongful acts.

E. OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION

1. CELEBRATION OF THE TWENTY-FIFTH ANNIVERSARY OF THE UNITED NATIONS

108. Attention was drawn to the part played by the progressive development and codification of international law in the creation of favourable conditions for the attainment of the fundamental objectives of the United Nations and the outstanding contribution of the Commission, within its terms of reference, to the attainment of those objectives, particularly through the preparation of drafts which have served as the basis for the adoption of important codification conventions; on the occasion of the celebration of the twenty-fifth anniversary of the United Nations, deep gratitude was expressed to the Commission for that contribution.

2. THE MOST-FAVOURLED-NATION CLAUSE

109. Some representatives recalled that their countries were particularly interested in the study of the most-favoured-nation clause. The question of the most-favoured-nation clause was of special importance for the developing countries, and the codification of the legal norms relating to it would help to encourage international trade and economic co-operation and promote the development of international trade law. The Special Rapporteur, Mr. Ustor, was congratulated on his second report⁵⁶ and hope was expressed that the Commission would make progress in its consideration of the topic at its next sessions.

3. THE QUESTION OF TREATIES CONCLUDED BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS OR BETWEEN TWO OR MORE INTERNATIONAL ORGANIZATIONS

110. Some representatives expressed approval of the arrangements made by the Commission with a view to considering the preliminary problems which the study of that new item entailed, in pursuance of General Assembly resolution 2501 (XXIV) of 12 November 1969. In particular, they approved of the decision to refer consideration of those preliminary problems to the Sub-committee formed for the purpose. Certain representatives drew attention to the increasing significance in international life of the role of treaties concluded between States and international organizations or between two or more international organizations, citing as an example the agreements between States and the International Atomic Energy Agency concerning the use of atomic energy for peaceful purposes. It was also observed that the importance of those types of agreements had

⁵⁶ A/CN.4/228 and Add.1.

been enhanced by the entry into force of the Treaty on the Non-Proliferation of Nuclear Weapons (General Assembly resolution 2373 (XXII)). The hope was expressed that the Commission would receive maximum co-operation from all the principal international organizations and particularly from their legal departments to assist it in its consideration of the item.

4. THE BRINGING UP TO DATE OF THE COMMISSION'S LONG-TERM PROGRAMME OF WORK

111. All the representatives who referred to this question expressed approval of the Commission's intention of bringing up to date in 1971 its long-term programme of work, taking into account the General Assembly recommendations and the international community's current needs, and discarding those topics on the 1949 list which are no longer suitable for treatment. Some representatives said that they hoped that the Commission would submit to the General Assembly at its twenty-sixth session a revised long-term programme of work. In that connexion, the opinion was expressed that it might also be useful to establish an order of priority for the examination of the various items included in the programme.

112. Pointing out that the world situation had changed considerably since the 1949 list had been drawn up, some representatives considered that the Commission should revise the programme with a view to the future by taking into account the needs of States and of the international community in the coming years and should concentrate on the topics of international law which could best contribute to the development of international relations in conformity with the United Nations Charter.

113. Lastly, it was suggested that it would be useful to study such questions as various aspects of humanitarian law, aerial piracy,⁵⁷ protection of members of diplomatic and consular missions (see para. 14 above), international watercourses⁵⁸ and historic bays.⁵⁹ It was also stated that consideration should be given to methods for the peaceful settlement of legal disputes with a view to ensuring that progress regarding the substance of the rules of international law was matched by progress in the procedural field. Because⁶⁰ codifying norms could be applied or interpreted differently, it was essential to develop appropriate means for settling disputes to which their application or interpretation might give rise.

5. ORGANIZATION OF FUTURE WORK

114. Those representatives who spoke supported the view that the Commission should proceed at its next session to the second reading of the draft articles on representatives of States to international organizations, with the object of presenting to the General Assembly

⁵⁷ At its twenty-fourth session, the General Assembly adopted resolution 2551 (XXIV) of 12 December 1969, entitled "Forcible diversion of civil aircraft in flight". At its current session the General Assembly allocated to the Sixth Committee the item entitled "Aerial hijacking or interference with civil air travel" (agenda item 99).

⁵⁸ In 1959, the General Assembly adopted resolution 1401 (XIV) on "Preliminary studies on the legal problems relating to the utilization and use of international rivers". At its current session the General Assembly allocated to the Sixth Committee the item entitled "Progressive development and codification of the rules of international law relating to international watercourses" (agenda item 91).

⁵⁹ In accordance with General Assembly resolution 1453 (XIV), the International Law Commission included in its programme of work the item entitled "General Assembly resolution 1453 (XIV) on the study of the juridical régime of historic waters, including historic bays".

⁶⁰ At its current session the General Assembly allocated to the Sixth Committee the item entitled "Review of the role of the International Court of Justice" (agenda item 96).

at its twenty-sixth session a final draft on the question of relations between States and international organizations, and to complete at that session the first reading of the draft articles on succession in respect of treaties. It was also agreed that the Commission should begin its discussion of the first series of draft articles on State responsibility and continue consideration of succession in respect of matters other than treaties and the most-favoured-nation clause and of preliminary problems relating to the question of treaties concluded between States and international organizations or between two or more international organizations. This view was reflected in paragraph 4 of the twenty-nine-Power draft resolution (A/C.6/L.795).

115. Various opinions were expressed with regard to the convening of a fourteen-week session for 1971, as mentioned in paragraphs 86 and 104 of the report of the Commission. Most representatives who took part in the discussion believed that the General Assembly should give the Commission the facilities which the latter deemed necessary for the completion of the above-outlined programme of work, in particular the second reading of the draft articles on relations between States and international organizations and the first reading of draft articles on succession of States in respect of treaties, before the end of the term of office of its present members. Those representatives therefore supported the fourth preambular paragraph and paragraph 3 of the draft resolution. Other representatives reiterated their countries' traditional backing for the Commission's work on the progressive development and codification of international law but could not support the proposal for an extended session in view of the additional burden it would place upon the heavy budget of the United Nations. They held that improved organization of the methods of work of the Commission would enable it successfully to complete the anticipated work programme within the normal ten-week session, particularly since the only task requiring immediate action was the conclusion of the draft articles on representatives of States to international organizations. Those representatives supported the third amendment of the USSR (A/C.6/L.797). Lastly, other representatives expressed reservations regarding the adoption of measures which, like the proposed extension of the normal session, were of questionable utility and entailed increased expenditure for the United Nations. Some representatives in the latter group ultimately accepted the view of the majority, while others refrained from taking a position on the matter.

6. PREPARATION OF A NEW EDITION OF THE PUBLICATION *The Work of the International Law Commission* AND OF THE DOCUMENT ENTITLED "SUMMARY OF THE PRACTICE OF THE SECRETARY-GENERAL AS DEPOSITARY OF MULTILATERAL AGREEMENTS"

116. Divergent views were expressed regarding the Commission's request to the Secretary-General to prepare a new edition of the publication entitled *The Work of the International Law Commission*,⁶¹ with a view to incorporating therein a summary of the latest developments of the work of the Commission as well as the texts of new drafts prepared by it and codification conventions recently adopted. Some representatives considered that, although the publication was useful, it was not really necessary, and said that they could not support that proposal in view of the increased expenditure it entailed for the United Nations. Some representatives did not take a position on the matter. Others favoured the preparation of the new edition and supported paragraph 5 of the draft resolution.

117. There was unreserved support for the preparation of a new edition, brought up to date, of the document entitled "Summary of the practice of the Secretary-General

⁶¹ United Nations publication, Sales No.: 67.V.4.

as depositary of multilateral agreements",⁶² published in 1959, in view of the reasons indicated by the Commission in paragraph 91 of its report.

7. RELATIONS WITH THE INTERNATIONAL COURT OF JUSTICE

118. A number of representatives welcomed the fact that the contacts established between the International Court of Justice and the Commission continued, thereby contributing to better mutual understanding of the concerns and activities of those bodies.

8. CO-OPERATION WITH OTHER BODIES

119. Various representatives noted with satisfaction the continued maintenance and development of relations established several years earlier between the Commission and the Asian-African Legal Consultative Committee, the European Committee on Legal Co-operation and the Inter-American Juridical Committee. Stressing the importance of those regional juridical bodies' activities for the progressive development and codification of international law by the United Nations, some representatives felt that existing co-operation should be enhanced further in order to develop an even more effective exchange of information and experience between the Commission and those bodies.

120. A number of representatives noted that their countries had recently become full members of the Asian-African Legal Consultative Committee. Others pointed out that, since the Charter of the Organization of American States had been revised, the Inter-American Juridical Committee had become one of its principal organs. Lastly, other representatives said that the extensive programme of work of the European Committee on Legal Co-operation included various aspects of public international law of particular relevance to the current work of the Commission, and recalled that the European Committee had recently made a study of privileges and immunities of international organizations and persons connected with them, which had been communicated to the Commission.

9. SEMINAR ON INTERNATIONAL LAW

121. Those representatives who referred to this item expressed their satisfaction with the success of the sixth session of the Seminar on International Law and expressed their gratitude to the members of the Commission, professors and members of the Secretariat who had participated in it and to the United Nations Office at Geneva for the way in which the new session of the Seminar had been organized, in particular for the fact that it had entailed no costs for the United Nations. It was also considered very appropriate that the 1970 Seminar had been designated the "Gilberto Amado Session" in a tribute to the memory of the recently deceased Brazilian jurist a former member of the Commission, who had been an illustrious international figure, and it was suggested that the possibility should be considered of naming a series of sessions after him or of establishing a permanent conference in his name within the Seminar.

122. Many representatives pointed out that the Seminar enabled students of international law and young officials responsible in their own countries for matters relating to international law to familiarize themselves with the Commission's work and to have valuable exchanges of views with its members, thus fostering a better appreciation and wider dissemination of international law. The special importance of the Seminar for participants of developing countries was stressed. A number of representatives thanked the States which had provided scholarships for participants from developing countries and expressed the hope that similar assistance would be offered for future sessions of the Seminar.

⁶² ST/LEG/7.

123. The recommendation that future sessions of the Seminar should be held in conjunction with the Commission's forthcoming sessions met with general approval. Four representatives announced that their Governments had provided or planned to provide a scholarship for the 1971 session of the Seminar. A great number of representatives were in favour of the suggestion made during the debate to the effect that those organizing the Seminar should do everything possible within the framework of the present arrangement, to enable the young jurists who participated in the work of the Sixth Committee, especially those from the developing countries, to be given the opportunity to take part in the sessions of the Seminar, thereby helping to strengthen the close bond which existed between the Sixth Committee and the Commission; others said that participation in the Seminar should be as wide as possible in order to assist all those wishing to acquire a deeper knowledge of international law. Lastly, the Committee supported the suggestion contained in paragraph 109 of the report of the Commission that Spanish should be made a working language of the Seminar on a footing with French and English.

IV. VOTING

124. At its 1200th meeting, on 14 October 1970, after the representative of the Union of Soviet Socialist Republics indicated that he would not insist on a vote on all its amendments (A/C.6/L.797) but only on the third and seventh amendments, the Sixth Committee voted on those two amendments and later on the twenty-nine-Power draft resolution (A/C.6/L.795), as follows:

(a) By a roll-call vote of 60 to 12, with 24 abstentions, it rejected the third amendment of the USSR. The voting was as follows:

In favour: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, Hungary, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania.

Against: Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burundi, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Democratic Republic of), Cyprus, Denmark, Ecuador, El Salvador, Finland, Ghana, Greece, Guatemala, Haiti, India, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lesotho, Liberia, Madagascar, Malaysia, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Rwanda, Senegal, Sierra Leone, Singapore, Spain, Sweden, Thailand, Togo, Uganda, United States of America, Uruguay, Venezuela, Yugoslavia, Zambia.

Abstaining: Afghanistan, Burma, Cambodia, Gabon, Guyana, Indonesia, Iran, Kuwait, Laos, Libya, Mali, People's Republic of the Congo, Philippines, Portugal, Saudi Arabia, South Africa, Southern Yemen, Sudan, Syria, Trinidad and Tobago, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, Yemen.

(b) By a roll-call vote of 28 to 16, with 52 abstentions, it rejected the seventh amendment of the USSR. The voting was as follows:

In favour: Algeria, Australia, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, Hungary, Iran, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania.

Against: Argentina, Austria, Brazil, Canada, Central African Republic, Chile, China, Colombia, Denmark, Ecuador, Finland, Greece, Haiti, Israel, Kenya, Madagascar, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Senegal, Sierra Leone, Sweden, Thailand, Yugoslavia.

Abstaining: Afghanistan, Bolivia, Burundi, Cambodia, Cameroon, Ceylon, Congo (Democratic Republic of), Cyprus, El Salvador, Gabon, Ghana, Guatemala, Guyana, India, Indonesia, Italy, Ivory Coast, Jamaica, Japan, Kuwait, Laos, Lesotho, Liberia, Libya, Malaysia, Mali, Mexico, Nepal, Pakistan, People's Republic of the Congo, Philippines, Portugal, Rwanda, Saudi Arabia, Singapore, South Africa, Southern Yemen, Spain, Sudan, Syria, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen, Zambia.

(c) By a roll-call vote of 81 to 4, with 11 abstentions, it adopted the twenty-nine-Power draft resolution (A/C.6/L.795). The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Cambodia, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Democratic Republic of), Cyprus, Denmark, Ecuador, El Salvador, Finland, Ghana, Greece, Guatemala, Guyana, Haiti, India, Indonesia, Iran, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Kuwait, Laos, Lesotho, Liberia, Libya, Madagascar, Malaysia, Mali, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, People's Republic of the Congo, Philippines, Romania, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Southern Yemen, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Against: Byelorussian Soviet Socialist Republic, Mongolia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Bulgaria, Burundi, Cuba, Czechoslovakia, France, Gabon, Hungary, Poland, Portugal, Rwanda, United Republic of Tanzania.

125. At the same meeting, the representatives of Italy, France, Australia, Romania, the Ukrainian Soviet Socialist Republic, Hungary, Poland, Iran, Bulgaria, Gabon, Portugal, Mongolia, Czechoslovakia, Canada, the United Republic of Tanzania, and Algeria made statements in explanation of vote.

Recommendation of the Sixth Committee

126. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

REPORT OF THE INTERNATIONAL LAW COMMISSION

[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 1093rd plenary meeting, on 12 November 1970, the General Assembly adopted the draft resolution submitted by the Sixth Committee (para. 126 above). For the final text see resolution 2634 (XXV) below.

2634 (XXV). Report of the International Law Commission

The General Assembly,

Having considered the report of the International Law Commission on the work of its twenty-second session,⁶³

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 twenty-second session the International Law Commission completed its provisional draft articles on relations between States and international organizations, continued the consideration of matters concerning the codification and progressive development of the international law relating to succession of States in respect of treaties and State responsibility and included in its programme of work the question of treaties concluded between States and international organizations or between two or more international organizations, as recommended by the General Assembly in resolution 2501 (XXIV) of 12 November 1969,

Noting further that the International Law Commission has proposed to hold a fourteen-week session in 1971 in order to enable it to complete the second reading of the draft articles on relations between States and international organizations and the first reading of draft articles on succession of States in respect of treaties before the end of the term of office of its present members,

Noting with appreciation that the United Nations Office at Geneva organized, during the twenty-second session of the International Law Commission, a sixth session of the Seminar on International Law,

1. *Takes note* of the report of the International Law Commission on the work of its twenty-second session;

2. *Expresses its profound gratitude* to the International Law Commission, on the occasion of the celebration of the twenty-fifth anniversary of the United Nations, for its outstanding contribution to the achievements of the Organization during this period, particularly through the preparation of drafts which have served as the basis for the adoption of important codification conventions, and expresses its appreciation to the Commission for the valuable work it accomplished during its twenty-second session;

3. *Approves* the programme and organization of work of the session planned by the International Law Commission for 1971, as well as its intention to bring up to date its long-term programme of work;

4. *Recommends* that the International Law Commission should:

(a) Continue its work on relations between States and international organizations, taking into account the views expressed at the twenty-third, twenty-fourth and twenty-fifth sessions of the General Assembly and the comments which may be submitted by Governments, with the object of presenting in 1971 a final draft on the topic;

(b) Continue its work on succession of States, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) of 20 November 1962 and 1902 (XVIII) of 18 November 1963, with a view to completing in 1971 the first reading

⁶³ *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 10 (A/8010/Rev.1).*

of draft articles on succession of States in respect of treaties and making progress in the consideration of succession of States in respect of matters other than treaties;

(c) Continue its work on State responsibility, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) of 20 November 1962, 1902 (XVIII) of 18 November 1963 and 2400 (XXIII) of 11 December 1968;

(d) Continue its study of the most-favoured-nation clause;

(e) Continue its consideration of the question of treaties concluded between States and international organizations or between two or more international organizations;

5. *Endorses* the decision of the International Law Commission to request the Secretary-General to prepare new editions, brought up to date, of the publication entitled *The Work of the International Law Commission*⁶⁴ and of the document entitled "Summary of the practice of the Secretary-General as depositary of multilateral agreements";⁶⁵

6. *Expresses the wish* that, in conjunction with future sessions of the International Law Commission, other seminars might be organized, which should continue to ensure the participation of an increasing number of nationals of developing countries, and supports the suggestion contained in the Commission's report concerning the use of Spanish as a working language of the Seminar on International Law;⁶⁶

7. *Requests* the Secretary-General to forward to the International Law Commission the records of the discussion on the report of the Commission at the twenty-fifth session of the General Assembly.

*1903rd plenary meeting,
12 November 1970.*

11. CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS: REPORT OF THE SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES (AGENDA ITEM 85)

Resolution [2625 (XXV)] adopted by the General Assembly

2625 (XXV). Declaration on 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, 2103 (XX) of 20 December 1965, 2181 (XXI) of 12 December 1966, 2327 (XXII) of 18 December 1967, 2463 (XXIII) of 20 December 1968 and 2533 (XXIV) of 8 December 1969, in which it affirmed the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

⁶⁴ United Nations publication, Sales No.: 67.V.4.

⁶⁵ ST/LEG/7.

⁶⁶ *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 10 (A/8010/Rev.1)*, para. 109.

Having considered the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States,⁶⁷ which met in Geneva from 31 March to 1 May 1970,

Emphasizing the paramount importance of the Charter of the United Nations for the maintenance of international peace and security and for the development of friendly relations and co-operation among States,

Deeply convinced that the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations on the occasion of the twenty-fifth anniversary of the United Nations would contribute to the strengthening of world peace and constitute a landmark in the development of international law and of relations among States, in promoting the rule of law among nations and particularly the universal application of the principles embodied in the Charter,

Considering the desirability of the wide dissemination of the text of the Declaration,

1. *Approves* the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the text of which is annexed to the present resolution;

2. *Expresses its appreciation* to the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States for its work resulting in the elaboration of the Declaration;

3. *Recommends* that all efforts be made so that the Declaration becomes generally known.

*1883rd plenary meeting,
24 October 1970.*

ANNEX

DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

PREAMBLE

The General Assembly,

Reaffirming in the terms of the Charter of the United Nations that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

Recalling that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

Bearing in mind the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

Bearing in mind also the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States and the fulfilment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security and for the implementation of the other purposes of the United Nations,

⁶⁷ *Ibid.*, Supplement No. 18 (A/8018).

Noting that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter give increased importance to these principles and to the need for their more effective application in the conduct of States wherever carried on,

Recalling the established principle that 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, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

Convinced that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security,

Recalling the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

Considering it essential that all 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,

Considering it equally essential that all States shall settle their international disputes by peaceful means in accordance with the Charter,

Reaffirming, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

Convinced that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security,

Convinced that the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

Convinced in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

Considering the provisions of the Charter as a whole and taking into account the role of relevant resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

Considering that the progressive development and codification of the following principles:

(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 duty of States to co-operate with one another in accordance with the Charter,

(e) The principle of equal rights and self-determination of peoples,

(f) The principle of sovereign equality of States,

(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter, so as to secure their more effective application within the international community, would promote the realization of the purposes of the United Nations,

Having considered the principles of international law relating to friendly relations and co-operation among States,

1. *Solemnly proclaims* the following principles:

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

Every State has the duty to refrain in its 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. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special régimes or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal. Nothing in the foregoing shall be construed as affecting:

(a) Provisions of the Charter or any international agreement prior to the Charter régime and valid under international law; or

(b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

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

Every State shall settle its international disputes with other States by peaceful means in such a manner that international peace and security and justice are not endangered.

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute.

The parties to a dispute have the duty, in the event of failure to reach a solution by any one of the above peaceful means, to continue to seek a settlement of the dispute by other peaceful means agreed upon by them.

States parties to an international dispute, as well as other States, shall refrain from any action which may aggravate the situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.

International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice of means. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality.

Nothing in the foregoing paragraphs prejudices or derogates from the applicable provisions of the Charter, in particular those relating to the pacific settlement of international disputes.

The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

The duty of States to co-operate with one another in accordance with the Charter

States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences.

To this end:

(a) States shall co-operate with other States in the maintenance of international peace and security;

(b) States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

(c) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;

(d) States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.

States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. States should co-operate in the promotion of economic growth throughout the world, especially that of the developing countries.

The principle of equal rights and self-determination of peoples

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:

(a) To promote friendly relations and co-operation among States; and

(b) To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned;

and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

The territory of a colony or other Non-Self-Governing Territory has, under the Charter a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

The principle of sovereign equality of States

All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

- (a) States are juridically equal;
- (b) Each State enjoys the rights inherent in full sovereignty;
- (c) Each State has the duty to respect the personality of other States;
- (d) The territorial integrity and political independence of the State are inviolable;
- (e) Each State has the right freely to choose and develop its political, social, economic and cultural systems;
- (f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.

The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter

Every State has the duty to fulfil in good faith the obligations assumed by it in accordance with the Charter of the United Nations.

Every State has the duty to fulfil in good faith its obligations under the generally recognized principles and rules of international law.

Every State has the duty to fulfil in good faith its obligations under international agreements valid under the generally recognized principles and rules of international law.

Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations, the obligations under the Charter shall prevail.

GENERAL PART

2. *Declares that:*

In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles.

Nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights and duties of Member States under the Charter or the rights of peoples under the Charter, taking into account the elaboration of these rights in this Declaration.

3. *Declares further that:*

The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles.

12. REPORT OF THE UNITED NATIONS COMMISSION OF INTERNATIONAL TRADE LAW ON THE WORK OF ITS THIRD SESSION (AGENDA ITEM 86)

Resolution [2635 (XXV)] adopted by the General Assembly

2635 (XXV). Report of the United Nations Commission on International Trade Law

The General Assembly,

Having considered the report of the United Nations Commission on International Trade Law on the work of its third session,⁶⁸

Recalling its resolution 2205 (XXI) of 17 December 1966 establishing the United Nations Commission on International Trade Law and defining the object and terms of reference of the Commission,

Recalling its resolution 2502 (XXIV) of 12 November 1969 with respect to the report of the United Nations Commission on International Trade Law on the work of its second session, in which the General Assembly recommended that the Commission should keep its programme of work under constant review, bearing in mind the important contribution that the progressive harmonization and unification of international trade law can make to economic co-operation among all peoples and, thereby, to their well-being,

Noting the forthcoming publication of the *Register of Texts*⁶⁹ and of the first volume of the *Yearbook of the United Nations Commission on International Trade Law*,⁷⁰

Noting that the Trade and Development Board, at its tenth session, expressed its appreciation of the report of the United Nations Commission on International Trade Law,⁷¹

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on its third session and of the progress made in its work;

2. *Notes with appreciation* that the desire, expressed in General Assembly resolution 2502 (XXIV), that there be the widest possible participation by the members of the United Nations Commission on International Trade Law in the preparatory work to be done by working groups has been fulfilled, and that this participation has substantially advanced the work of the Commission;

3. *Endorses* the desire expressed by the United Nations Commission on International Trade Law to obtain, where necessary, the services of consultants or organizations with special expertise in technical matters dealt with by the Commission, it being understood that recourse to such services is made only in special circumstances;

4. *Expresses the hope* that, in accordance with the desire set forth in the report of the United Nations Commission on International Trade Law, it will prove possible to staff the Commission's secretariat appropriately so as to cope with any increases in the work-load involved in servicing the Commission, provided that this does not entail supplemental appropriation;

5. *Recommends* that the United Nations Commission on International Trade Law should:

⁶⁸ *Ibid.*, Supplement No. 17 (A/8017). Also reproduced in the *Yearbook of the United Nations Commission on International Trade Law, Vol. I* (United Nations publication, Sales No.: E.71.V.1), p. 129.

⁶⁹ United Nations publication, Sales No.: E.71.V.3.

⁷⁰ See foot-note 68 above.

⁷¹ *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 15 (A/8015/Rev.1 and Rev.1/Corr.1)*, part two, para. 232.

(a) Continue its work on the topics to which it has decided to give priority, that is, the international sale of goods, international payments, international commercial arbitration and international legislation on shipping;

(b) Continue to give attention to ways and means of promoting training and assistance in the field of international trade law;

(c) Continue to collaborate fully with international organizations active in the field of international trade law;

(d) Continue to develop working methods which will enhance the efficiency of working groups and ensure full consideration of the commercial practices and needs of all regions;

(e) Continue to give special consideration, in promoting the harmonization and unification of international trade law, to the interests of developing and landlocked countries;

6. *Requests* the Secretary-General to forward to the United Nations Commission on International Trade Law the records of the discussions on the Commission's third report at the twenty-fifth session of the General Assembly.

1903rd plenary meeting,
12 November 1970.

13. STATUS OF THE IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 2456 B (XXIII) CONCERNING THE SIGNATURE AND RATIFICATION OF ADDITIONAL PROTOCOL II OF THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA (TREATY OF TLATELOLCO) (AGENDA ITEM 93)

Resolution [2666 (XXV)] adopted by the General Assembly

2666 (XXV). Status of the implementation of General Assembly resolution 2456 B (XXIII) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)

The General Assembly,

Recalling its resolution 1911 (XVIII) of 27 November 1963, in which it expressed its confidence that the States that possess nuclear weapons would give their full co-operation for the effective realization of the initiative aimed at the military denuclearization of Latin America,

Recalling also its resolution 2286 (XXII) of 5 December 1967, in which it welcomed with special satisfaction the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)⁷² and declared that the Treaty constituted an event of historic significance in the efforts to prevent the proliferation of nuclear weapons and to promote international peace and security,

Bearing in mind that the Treaty has an Additional Protocol II, which was opened for signature by States possessing nuclear weapons on 14 February 1967,

Noting that the Conference of Non-Nuclear-Weapon States, in its resolution B, ⁷³ expressed the conviction that, for the maximum effectiveness of any treaty establishing a

⁷² United Nations, *Treaty Series*, vol. 634, p. 281.

⁷³ *Official Records of the General Assembly, Twenty-third Session*, agenda item 96, document A/7277 and Corr.1 and 2, p. 5.

nuclear-weapon-free zone, the co-operation of the nuclear-weapon States is necessary and that such co-operation should take the form of commitments likewise undertaken in a formal international instrument which is legally binding, such as a treaty, convention or protocol,

Considering that accession to that Protocol only entails the following obligations for the nuclear-weapon States:

(a) To respect, in all its express aims and provisions, the statute of denuclearization of Latin America in respect of warlike purposes, as defined, delimited and set forth in the Treaty of Tlatelolco,

(b) Not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies,

(c) Not to use or threaten to use nuclear weapons against the contracting parties of the Treaty,

Convinced that these obligations are entirely in conformity with the general obligations assumed under the Charter of the United Nations, which every Member of the Organization has solemnly undertaken to fulfil in good faith, as set forth in Article 2 of the Charter,

Noting that, despite the appeals that the General Assembly has addressed to them on two occasions, in resolutions 2286 (XXII) of 5 December 1967 and 2456 B (XXIII) of 20 December 1968, and the appeals they have received from the Conference of Non-Nuclear-Weapon States, in resolution B, and from the General Conference of the Agency for the Prohibition of Nuclear Weapons in Latin America, in resolution 1 (I)⁷⁴ only two of the States that possess nuclear weapons have so far signed Additional Protocol II and only one has ratified it,

Noting also that the Treaty of Tlatelolco, which has been signed by twenty-two Latin American States, is already in force for sixteen of them,

Bearing in mind the repeatedly stated declarations of the nuclear-weapon States to the effect that nuclear-weapon-free zones established on the initiative of the States within the zone should be supported,

Noting that the Treaty of Tlatelolco is the only one it has been possible to conclude for the establishment of such a zone in a densely populated area and that, as a result of the Treaty, there already exists a statute of total absence of nuclear weapons covering an area of 6.6 million square kilometres with a population of approximately 117 million inhabitants,

Noting also that the Agency for the Prohibition of Nuclear Weapons in Latin America has been duly established in conformity with the Treaty and became operative on 2 September 1969,

1. *Reaffirms* the appeals it has addressed to the nuclear-weapon States, in its resolutions 2286 (XXII) and 2456 B (XXIII), to sign and ratify Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) as soon as possible;

2. *Notes with satisfaction* that one of those States has already signed and ratified the Protocol and that another has signed it and is now actively engaged in the ratification process;

3. *Deplores* that not all nuclear-weapon States have as yet signed the Protocol;

4. *Decides* to include in the provisional agenda of its twenty-sixth session an item entitled "Status of the implementation of General Assembly resolution 2666 (XXV) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)";

⁷⁴ See A/7681, annex, chapter I.

5. *Requests* the Secretary-General to arrange for transmittal of the present resolution to the nuclear-weapon States and to inform the General Assembly at its twenty-sixth session of any measure adopted by them in order to implement it.

*1919th plenary meeting,
7 December 1970.*

14. AERIAL HIJACKING OR INTERFERENCE WITH CIVIL AIR TRAVEL (AGENDA ITEM 99)

Resolution [2645 (XXV)] adopted by the General Assembly

2645 (XXV). Aerial hijacking or interference with civil air travel

The General Assembly,

Recognizing that international civil aviation is a vital link in the promotion and preservation of friendly relations among States and that its safe and orderly functioning is in the interest of all peoples,

Gravely concerned over acts of aerial hijacking or other wrongful interference with civil air travel,

Recognizing that such acts jeopardize the lives and safety of the passengers and crew and constitute a violation of their human rights,

Aware that international civil aviation can only function properly in conditions guaranteeing the safety of its operations and the due exercise of the freedom of air travel,

Endorsing the solemn declaration ⁷⁵ of the extraordinary session of the Assembly of the International Civil Aviation Organization held at Montreal from 16 to 30 June 1970,

Bearing in mind General Assembly resolution 2551 (XXIV) of 12 December 1969 and Security Council resolution 286 (1970) of 9 September 1970 adopted by consensus at the 1552nd meeting of the Council,

1. *Condemns*, without exception whatsoever, all acts of aerial hijacking or other interference with civil air travel, whether originally national or international, through the threat or use of force, and all acts of violence which may be directed against passengers, crew and aircraft engaged in, and air navigation facilities and aeronautical communications used by civil air transport;

2. *Calls upon* States to take all appropriate measures to deter, prevent or suppress such acts within their jurisdiction, at every stage of the execution of those acts, and to provide for the prosecution and punishment of persons who perpetrate such acts, in a manner commensurate with the gravity of those crimes, or, without prejudice to the rights and obligations of States under existing international instruments relating to the matter, for the extradition of such persons for the purpose of their prosecution and punishment;

3. *Declares* that the exploitation of unlawful seizure of aircraft for the purpose of taking hostages is to be condemned;

4. *Declares further* that the unlawful detention of passengers and crew in transit or otherwise engaged in civil air travel is to be condemned as another form of wrongful interference with free and uninterrupted air travel;

⁷⁵ International Civil Aviation Organization, *Resolutions adopted by the Assembly, Seventeenth Session (Extraordinary)* (Montreal, 1970), resolution A17-1.

5. *Urges* States to the territory of which a hijacked aircraft is diverted to provide for the care and safety of its passengers and crew and to enable them to continue their journey as soon as practicable, and to return the aircraft and its cargo to the persons lawfully entitled to possession;

6. *Invites* States to ratify or accede to the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963,⁷⁶ in conformity with the Convention;

7. *Requests* concerted action on the part of States, in accordance with the Charter of the United Nations, towards suppressing all acts which jeopardize the safe and orderly development of international civil air transport;

8. *Calls upon* States to take joint and separate action, in accordance with the Charter, in co-operation with the United Nations and the International Civil Aviation Organization to ensure that passengers, crew and aircraft engaged in civil aviation are not used as a means of extorting advantage of any kind;

9. *Urges* full support for the current efforts of the International Civil Aviation Organization towards the development and co-ordination, in accordance with its competence, of effective measures in respect of interference with civil air travel;

10. *Calls upon* States to make every possible effort to achieve a successful result at the diplomatic conference to convene at The Hague in December 1970 for the purpose of the adoption of a convention on the unlawful seizure of aircraft, so that an effective convention may be brought into force at an early date.

*1914th plenary meeting,
25 November 1970.*

B. Decisions, recommendations and reports of a legal character by intergovernmental organizations related to the United Nations

1. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

UNESCO's contribution to peace and its tasks with respect to the elimination of colonialism, and utilization of UNESCO's programme as a means of strengthening co-operation between European States in the interest of peace and security in Europe—Resolution adopted by the General Conference on 7 November 1970 during its sixteenth session⁷⁷

The General Conference,

Recalling the provisions of UNESCO's Constitution defining the Organization's responsibilities in the matter of strengthening international peace and security,

Convinced that it is one of the Organization's essential practical tasks to give active assistance to the cause of strengthening peace and international security by reflecting, in its programme and activities, the ideals of peace and friendship among peoples,

Recalling the need to continue implementing and with increased effectiveness resolution 8.1 "peaceful and neighbourly relations", resolution 6.2 on "UNESCO's tasks in contri-

⁷⁶ United Nations, *Treaty Series*, vol. 704.

⁷⁷ 16 C/Resolution 8.

buting to peace, peaceful co-operation and living peacefully together, among States with different economic and social systems”,⁷⁸ resolution 9 on “UNESCO’s contribution to peace and UNESCO’s tasks with respect to the elimination of colonialism and racialism”,⁷⁹ adopted by the General Conference at its eleventh (1960), thirteenth (1964) and fifteenth (1968) sessions respectively,

Recalling the tenth anniversary of the adoption by the General Assembly of the United Nations of the *Declaration on the Granting of Independence to Colonial Countries and Peoples* (1960)⁸⁰ as well as the historic importance of the principles proclaimed therein,

Stressing furthermore the importance of the *Declaration on Principles of International Law concerning Friendly Relations among States, in Accordance with the Charter of the United Nations*, solemnly adopted by the General Assembly at its jubilee session on the occasion of the twenty-fifth anniversary of the United Nations (1970),⁸¹

Reaffirming its faith in the principle 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 nations must fulfil in a spirit of mutual assistance and concern”.

Considering that UNESCO should take all appropriate initiatives, within its fields of responsibility, designed to create and consolidate the intellectual conditions which provide a proper climate for international understanding and peace,

Believing that UNESCO and its Member States should take effective measures for wider recognition, appreciation and strengthening of the principles of the *Universal Declaration of Human Rights*, particularly the right to “freedom of thought, conscience and religion”, the right to “freedom of opinion and expression”, and the right “freely to participate in the cultural life of the community” (Articles 18, 19 and 27),

Welcoming the recommendations of the Intergovernmental Conference on Cultural Policies convened by UNESCO in Venice (1970) with respect to the role of cultural and information bodies in strengthening international peace and security and, in particular, the recommendation to Member States to study “the possibility of calling an international conference of persons engaged in science, culture and education, devoted to the problems of peace and humanism”.

Deeming it essential to meet the will expressed by the peoples in all countries to strengthen peace and security on all continents and *noting* more particularly the crucial role of peace and security in Europe,

Noting that military occupation by foreign forces constitutes a constant danger to peace and human rights, including the uncontested rights to national education and cultural life,

Observing that the United Nations General Assembly has designated the year 1971 as the International Year to Combat Racial Discrimination,

Recalling General Assembly resolutions 2555 (XXIV) of 23 December 1969, and 2621 (XXV) of 12 October 1970, with particular reference to the appeal made therein to all international agencies to give assistance to peoples struggling against colonialism and racialism,

Noting that *apartheid* is an affront to mankind and that it should not be countenanced or supported in any form by UNESCO,

⁷⁸ See *Juridical Yearbook*, 1968, p. 142.

⁷⁹ *Ibid.*, pp. 140 and 144 to 146.

⁸⁰ General Assembly resolution 1514 (XV), of 14 December 1960.

⁸¹ General Assembly resolution 2625 (XXV), reproduced in this *Yearbook*, p. 104.

Noting that international non-governmental organizations which are associated with UNESCO may play an important part in implementing the objectives of the Organization, including its policy of unremitting opposition to, and elimination of, colonialism and racialism, and that some of these organizations have branches or affiliates in which colonialism and racialism are practised,

Noting with concern the continuing pernicious influence of colonialism, neo-colonialism, racialism and fascism and other anti-humanistic concepts on the intellectual life of the peoples of a number of countries, and *according* paramount importance to the struggle against the infiltration of neo-colonialism and racialism into education and culture,

Recalling anew that the policy of colonialism, neo-colonialism and racialism constitutes a constant danger to the peace and security of nations,

Having examined with interest the report and proposals submitted by the Director-General for a long-term plan of integrated action for the advancement of peace and international co-operation in the field of UNESCO's competence (doc. 16C, 12) and *taking note* of the debate on items 9 and 10,

Considering, however, that UNESCO and its Member States should further increase their efforts in favour of human rights, peace and international security and the development of mutual understanding and co-operation in the realms of education, science, technology, culture and information,

I

1. *Reaffirms* resolution 9, adopted at its fifteenth session, on "UNESCO's contribution to peace and UNESCO's tasks with respect to the elimination of colonialism and racialism";

2. *Reaffirms* resolution 9.13, adopted at its fifteenth session, which "invites all Member States to ensure the strictest respect for the resolutions adopted at the Teheran Conference on Human Rights, and particularly resolution I concerning respect for, and implementation of, human rights in occupied territories";⁸²

3. *Calls* on Member States actively to oppose colonialism, neo-colonialism, racialism and fascism and all forms of oppression and tyranny;

4. *Reaffirms* its decision not to accord any help to the governments of Portugal and the Republic of South Africa or to the illegal régime in Southern Rhodesia in the realms of education, science and culture and, in particular, not to invite them to participate in conferences and other UNESCO activities until such time as the authorities of those countries desist from their policy of colonial oppression and racial discrimination;

5. Once again *draws the attention* of the Executive Board and of the Director-General to the need to strengthen UNESCO's action within the limits of its competence, as regards the assistance to be given to (a) refugees from colonial territories, and (b) other peoples striving to liberate themselves from colonial domination and all forms of *apartheid*;

6. To this end *invites* the Director-General to send a mission to the Organization of African Unity and, after examination of its report by the Executive Board, evolve concrete programmes for assistance to (a) refugees from colonial territories, and (b) other peoples striving to liberate themselves from colonial domination and all forms of *apartheid*;

7. *Requests* the Director-General to examine the situation in the Portuguese African territories and in Namibia with regard to education, information, the social sciences, the human sciences and culture;

⁸² See *Final Act of the International Conference on Human Rights* (A/CO NF.32/41, Sales No.: E.68.XIV.2).

8. *Requests* the Director-General to intensify his efforts to counteract the propaganda of the Government of the Republic of South Africa by furnishing the Organization of African Unity and those countries desirous of receiving it with information obtained under the projects outlined above, in a form that can be adapted for use by the communication media of such countries in their efforts to counteract the said propaganda;

9. *Requests* the Director-General to undertake investigations of all international non-governmental organizations enjoying relations with UNESCO which have branches, sections, affiliates or constituent parts in the Republic of South Africa or Southern Rhodesia or Portuguese-dominated African territories, with respect to the practice of racial discrimination or racial segregation in their policies, activities, or membership or their co-operation in any way with the *apartheid* policy of the Government of the Republic of South Africa; and to report thereon to the Executive Board;

10. *Calls upon* the Executive Board to take the necessary measures, in the light of the Director-General's report, to break off, as from 31 December 1971, all relations with those international non-governmental organizations in respect of which it has not been established, to the satisfaction of the Board, that their branches, sections, affiliates or constituent parts in the Republic of South Africa, Southern Rhodesia or Portuguese-dominated African territories neither practise racial discrimination or segregation in their policies, their activities or in their membership, nor co-operate in any way with the Government of the Republic of South Africa in the latter's *apartheid* policy;

11. *Invites* the Director-General to report on the implementation of this resolution to the General Conference at its seventeenth session;

II

12. *Approves* the proposals by the Director-General concerning a long-term plan of action for the advancement of peace (doc. 16C/12) and *authorizes* him to implement it, taking due account of the deliberation on items 9 and 10 during the session;

13. *Invites* the Director-General:

(a) to implement this resolution and strengthen UNESCO's action for peace, particularly as regards:

- (i) interdisciplinary studies and research on: peace and racialism, and, in particular, their sociological and economic aspects; socio-economic, psychological and ethical factors in the behaviour of individuals and communities and in the relations among nations; effects of social change in the world on peaceful relations between nations and individuals; conditions under which international contacts and exchanges produce the maximum beneficial effect; sociology of international co-operation; interaction between peace and development; role of the United Nations system in the development of peaceful co-operation between nations and the development of the human personality; social prerequisites for strengthening international peace and co-operation among different countries and peoples;
- (ii) training of teachers in the spirit of respect for human rights, peace and international co-operation;
- (iii) education of youth for international understanding and effective participation in the achievement of the objectives of peace of the Organization;
- (iv) studies on information media, in order to: (a) determine and examine the obstacles which in the minds of men oppose intellectual co-operation between nations; (b) examine the contribution that information makes to development of education, science and culture and thus to the strengthening of the bases for peace; (c) exam-

ine the way in which the technical revolution in information media could contribute to strengthening peace by facilitating greater dissemination of information;

(v) the use of information media in favour of peace (improvement of the content of information and its impact on international life);

(vi) the promotion of the fundamental principles of international law and their application to international co-operation in UNESCO's fields of competence;

(vii) the normative action of the Organization and its application in favour of peace;

(b) to enlist, where appropriate, for the implementation of this plan of action and of the present resolution, the effective help of Member States and of their National Commissions;

(c) to call on international non-governmental organizations which co-operate with UNESCO for the more effective implementation of the ideals of the Organization in the fields of human rights, peace and international security;

III

14. *Invites* further the Director-General:

(a) in the course of the implementation of the Organization's programme for 1971-72 and in the preparation of future programmes, to take into account the need for more effective fulfilment of the present resolution and the carrying out, in accordance with the principles of the United Nations Charter and within UNESCO's fields of competence, of measures to strengthen international peace and security, including measures to create a favourable climate for the calling of a Pan-European security conference;

(b) in pursuance of resolution 9, adopted at the fifteenth session, on peace and UNESCO's tasks, and in line with his statements to the Executive Board at its 83rd session, to study with the international non-governmental organizations playing a part in international collaboration between local communities all possible forms of co-operation for the intimate association of inter-community activities with the execution of UNESCO's programme;

(c) to include in his annual report a section on steps taken in consequence of the present resolution.

2. INTERNATIONAL TELECOMMUNICATION UNION

Resolution No. 676 adopted at its twenty-fifth session by the Administrative Council⁸³

Position of Southern Rhodesia vis-a-vis the ITU

The Administrative Council,

Having examined

Document No. 4005/CA 25 containing communications from the Secretary General of the United Nations and particularly with respect to the Security Council Resolution No. 277 (1970), operative paragraph 12, which calls upon Member States to take appropriate action to suspend any membership or associate membership that the illegal régime of Southern Rhodesia has in specialized agencies of the United Nations;

⁸³ Ref.: Docs. 4005; 4078, 4091, 4096, 4107, 4115 and 4121/CA 25—May/June 1970.

Recalling and reaffirming

Resolution No. 599 adopted by the Administrative Council in 1966;⁸⁴

Considers

That Resolution No. 599 bars the illegal régime of Southern Rhodesia from assuming membership of the ITU;

Requests the Secretary General

1. To continue the strict enforcement of Resolution No. 599 and in addition not to have any communication with the illegal régime of Southern Rhodesia;

2. To place all funds contributing to the regular budget which have been received as from the date of Resolution No. 599 or which may be received in the future, in the name of Rhodesia, in a special account to be established by the Union; such contributions are to be held in abeyance until the Administrative Council, taking into account the decisions taken by the United Nations, shall find that the conditions for active membership have been restored;

3. To bring this Resolution to the attention of all of the Members of the Union;

4. To inform the Secretary General of the United Nations of the action taken by the ITU under Resolution 599 adopted in 1966, and the action proposed in this Resolution.

⁸⁴ See *Juridical Yearbook*, 1966, p. 164.

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

TREATY ON THE PROHIBITION OF THE EMPLACEMENT OF NUCLEAR WEAPONS AND OTHER WEAPONS OF MASS DESTRUCTION ON THE SEA-BED AND THE OCEAN FLOOR AND IN THE SUBSOIL THEREOF^{1, 2}

The States Parties to this Treaty,

Recognizing the common interest of mankind in the progress of the exploration and use of the sea-bed and the ocean floor for peaceful purposes,

Considering that the prevention of a nuclear arms race on the sea-bed and the ocean floor serves the interests of maintaining world peace, reduces international tensions and strengthens friendly relations among States,

Convinced that this Treaty constitutes a step towards the exclusion of the sea-bed, the ocean floor and the subsoil thereof from the arms race,

Convinced that this Treaty constitutes a step towards a treaty on general and complete disarmament under strict and effective international control, and determined to continue negotiations to this end,

Convinced that this Treaty will further the purposes and principles of the Charter of the United Nations, in a manner consistent with the principles of international law and without infringing the freedoms of the high seas,

Have agreed as follows:

Article I

1. The States Parties to this Treaty undertake not to implant or emplace on the sea-bed and the ocean floor and in the subsoil thereof beyond the outer limit of a sea-bed zone, as defined in article II, any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons.

2. The undertakings of paragraph 1 of this article shall also apply to the sea-bed zone referred to in the same paragraph, except that within such sea-bed zone, they shall not apply either to the coastal State or to the sea-bed beneath its territorial waters.

¹ By resolution 2660 (XXV) of 7 December 1970, the General Assembly commended the Treaty, requested the depositary Governments to open the Treaty for signature and ratification at the earliest possible date and expressed the hope for the widest possible adherence to the Treaty.

² Signed in London, Moscow and Washington on 11 February 1971.

3. The States Parties to this Treaty undertake not to assist, encourage or induce any State to carry out activities referred to in paragraph 1 of this article and not to participate in any other way in such actions.

Article II

For the purpose of this Treaty, the outer limit of the sea-bed zone referred to in article I shall be coterminous with the twelve-mile outer limit of the zone referred to in part II of the Convention on the Territorial Sea and the Contiguous Zone, signed at Geneva on 29 April 1958, and shall be measured in accordance with the provisions of part I, section II, of that Convention and in accordance with international law.

Article III

1. In order to promote the objectives of and ensure compliance with the provisions of this Treaty, each State Party to the Treaty shall have the right to verify through observation the activities of other States Parties to the Treaty on the sea-bed and the ocean floor and in the subsoil thereof beyond the zone referred to in article I, provided that observation does not interfere with such activities.

2. If after such observation reasonable doubts remain concerning the fulfilment of the obligations assumed under the Treaty, the State Party having such doubts and the State Party that is responsible for the activities giving rise to the doubts shall consult with a view to removing the doubts. If the doubts persist, the State Party having such doubts shall notify the other States Parties, and the Parties concerned shall co-operate on such further procedures for verification as may be agreed, including appropriate inspection of objects, structures, installations or other facilities that reasonably may be expected to be of a kind described in article I. The Parties in the region of the activities, including any coastal State, and any other Party so requesting, shall be entitled to participate in such consultation and co-operation. After completion of the further procedures for verification, an appropriate report shall be circulated to other Parties by the Party that initiated such procedures.

3. If the State responsible for the activities giving rise to the reasonable doubts is not identifiable by observation of the object, structure, installation or other facility, the State Party having such doubts shall notify and make appropriate inquiries of States Parties in the region of the activities and of any other State Party. If it is ascertained through these inquiries that a particular State Party is responsible for the activities, that State Party shall consult and co-operate with other Parties as provided in paragraph 2 of this article. If the identity of the State responsible for the activities cannot be ascertained through these inquiries, then further verification procedures, including inspection, may be undertaken by the inquiring State Party, which shall invite the participation of the Parties in the region of the activities, including any coastal State, and of any other Party desiring to co-operate.

4. If consultation and co-operation pursuant to paragraphs 2 and 3 of this article have not removed the doubts concerning the activities and there remains a serious question concerning fulfilment of the obligations assumed under this Treaty, a State Party may, in accordance with the provisions of the Charter of the United Nations, refer the matter to the Security Council, which may take action in accordance with the Charter.

5. Verification pursuant to this article may be undertaken by any State Party using its own means, or with the full or partial assistance of any other State Party, or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

6. Verification activities pursuant to this Treaty shall not interfere with activities of other States Parties and shall be conducted with due regard for rights recognized under

international law, including the freedoms of the high seas and the rights of coastal States with respect to the exploration and exploitation of their continental shelves.

Article IV

Nothing in this Treaty shall be interpreted as supporting or prejudicing the position of any State Party with respect to existing international conventions, including the 1958 Convention on the Territorial Sea and the Contiguous Zone, or with respect to rights or claims which such State Party may assert, or with respect to recognition or non-recognition of rights or claims asserted by any other State, related to waters off its coasts, including, *inter alia*, territorial seas and contiguous zones, or to the sea-bed and the ocean floor, including continental shelves.

Article V

The Parties to this Treaty undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the seabed, the ocean floor and the subsoil thereof.

Article VI

Any State Party may propose amendments to this Treaty. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and, thereafter, for each remaining State Party on the date of acceptance by it.

Article VII

Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any relevant technological developments. The review conference shall determine, in accordance with the views of a majority of those Parties attending, whether and when an additional review conference shall be convened.

Article VIII

Each State Party to this Treaty shall in exercising its national sovereignty have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject-matter of this Treaty have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it considers to have jeopardized its supreme interests.

Article IX

The provisions of this Treaty shall in no way affect the obligations assumed by States Parties to the Treaty under international instruments establishing zones free from nuclear weapons.

Article X

1. This Treaty shall be open for signature to all States. Any State which does not sign the 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 of accession shall be deposited with the Government 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 after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositary Governments of this Treaty.

4. For States whose instruments of ratification or accession are deposited after 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 the Governments of all signatory and acceding States of the date of each signature, of the date of deposit of each instrument of ratification or of accession, of the date of the entry into force of this Treaty, and of the receipt of other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XI

This Treaty, the Chinese, English, French, Russian and Spanish texts of which 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 States signatory and acceding thereto.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Treaty.

DONE in _____, at _____, this _____ day of _____, _____.

B. Treaties concerning international law concluded under the auspices of inter-governmental organizations related to the United Nations

1. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. Adopted by the General Conference at the sixteenth session, Paris, 14 November 1970

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 October to 14 November 1970, at its sixteenth session,

Recalling the importance of the provisions contained in the Declaration of the Principles of International Cultural Co-operation,³ adopted by the General Conference at its fourteenth session,

Considering that the interchange of cultural property among nations for scientific, cultural and educational purposes increases the knowledge of the civilization of Man, enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations,

³ See *Juridical Yearbook*, 1966, p. 150.

Considering that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting,

Considering that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export,

Considering that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations,

Considering that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles,

Considering that the illicit import, export and transfer of ownership of cultural property is an obstacle to that understanding between nations which is part of UNESCO's mission to promote by recommending to interested States, international conventions to this end,

Considering that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation,

Considering that the UNESCO General Conference adopted a Recommendation to this effect in 1964,

Having before it further proposals on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, a question which is on the agenda for the session as item 19,

Having decided, at its fifteenth session, that this question should be made the subject of an international convention,

Adopts this Convention on the fourteenth day of November 1970.

Article 1

For the purposes of this Convention, the term "cultural property" means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories:

(a) rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;

(b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;

(c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;

(d) elements of artistic or historical monuments or archaeological sites which have been dismembered;

(e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;

(f) objects of ethnological interest;

(g) property of artistic interest, such as:

(i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);

(ii) original works of statuary art and sculpture in any material;

- (iii) original engravings, prints and lithographs;
- (iv) original artistic assemblages and montages in any material;
- (h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- (i) postage, revenue and similar stamps, singly or in collections;
- (j) archives, including sound, photographic and cinematographic archives;
- (k) articles of furniture more than one hundred years old and old musical instruments.

Article 2

1. The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country's cultural property against all the dangers resulting therefrom.

2. To this end, the States Parties undertake to oppose such practices with the means at their disposal, and particularly by removing their causes, putting a stop to current practices, and by helping to make the necessary reparations.

Article 3

The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

Article 4

The States Parties to this Convention recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State:

- (a) cultural property created by the individual or collective genius of nationals of the State concerned, and cultural property of importance to the State concerned created within the territory of that State by foreign nationals or stateless persons resident within such territory;
- (b) cultural property found within the national territory;
- (c) cultural property acquired by archaeological, ethnological or natural science missions, with the consent of the competent authorities of the country of origin of such property;
- (d) cultural property which has been the subject of a freely agreed exchange;
- (e) cultural property received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property.

Article 5

To ensure the protection of their cultural property against illicit import, export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions:

- (a) contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;

(b) establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;

(c) promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops...) required to ensure the preservation and presentation of cultural property;

(d) organizing the supervision of archaeological excavations, ensuring the preservation "in situ" of certain cultural property, and protecting certain areas reserved for future archaeological research;

(e) establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules;

(f) taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;

(g) seeing that appropriate publicity is given to the disappearance of any items of cultural property.

Article 6

The States Parties to this Convention undertake:

(a) to introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;

(b) to prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned export certificate;

(c) to publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property.

Article 7

The States Parties to this Convention undertake:

(a) to take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;

(b) (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;

(ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

Article 8

The States Parties to this Convention undertake to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under Articles 6 (b) and 7 (b) above.

Article 9

Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.

Article 10

The States Parties to this Convention undertake:

(a) to restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;

(b) to endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.

Article 11

The export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit.

Article 12

The States Parties to this Convention shall respect the cultural heritage within the territories for the international relations of which they are responsible, and shall take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.

Article 13

The States Parties to this Convention also undertake, consistent with the laws of each State:

(a) to prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;

(b) to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;

(c) to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;

(d) to recognize the indefeasible right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore *ipso facto* not

be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.

Article 14

In order to prevent illicit export and to meet the obligations arising from the implementation of this Convention, each State Party to the Convention should, as far as it is able, provide the national services responsible for the protection of its cultural heritage with an adequate budget and, if necessary, should set up a fund for this purpose.

Article 15

Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

Article 16

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

Article 17

1. The States Parties to this Convention may call on the technical assistance of the United Nations Educational, Scientific and Cultural Organization, particularly as regards:

- (a) information and education;
- (b) consultation and expert advice;
- (c) co-ordination and good offices.

2. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative conduct research and publish studies on matters relevant to the illicit movement of cultural property.

3. To this end, the United Nations Educational, Scientific and Cultural Organization may also call on the co-operation of any competent non-governmental organization.

4. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative, make proposals to States Parties to this Convention for its implementation.

5. At the request of at least two States Parties to this Convention which are engaged in a dispute over its implementation, UNESCO may extend its good offices to reach a settlement between them.

Article 18

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

Article 19

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 20

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited to accede to it by the Executive Board of the Organization.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 21

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 22

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territories but also to all territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is applied, the notification to take effect three months after the date of its receipt.

Article 23

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

Article 24

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 20, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 19 and 20, and of the notifications and denunciations provided for in Articles 22 and 23 respectively.

Article 25

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 26

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

DONE in Paris this seventeenth day of November 1970, in two authentic copies bearing the signature of the President of the sixteenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 19 and 20 as well as to the United Nations.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its sixteenth session, which was held in Paris and declared closed the fourteenth day of November 1970.

IN FAITH WHEREOF we have appended our signatures this seventeenth day of November 1970.

The Director-General:
René MAHEU

The President of the General Conference:
Atilio DELL'ORO MAINI

2. INTERNATIONAL CIVIL AVIATION ORGANIZATION

Convention for the Suppression of Unlawful Seizure of Aircraft. Signed at The Hague on 16 December 1970

PREAMBLE

The States parties to this Convention

Considering that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have agreed as follows:

Article 1

Any person who on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or

(b) is an accomplice of a person who performs or attempts to perform any such act commits an offence (hereinafter referred to as "the offence").

Article 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

(a) when the offence is committed on board an aircraft registered in that State;

(b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1 (c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

Article 9

1. When any of the acts mentioned in Article 1 (a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation

of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

Article 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

Article 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the 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 Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession whichever is later.

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 or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

Article 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

3. INTERNATIONAL ATOMIC ENERGY AGENCY

Amendment of Article VI of the Statute: ⁴ Resolution adopted during the 142nd plenary meeting on 28 September 1970

The General Conference,

(a) *Recalling* Resolutions GC(XII)/RES/241 and GC(XIII)/RES/261 whereby it requested the Board of Governors to undertake a review of Article VI of the Statute, and to continue the study of the problem as an urgent matter, respectively,

(b) *Noting* that the Ad Hoc Committee of the Whole to Review Article VI of the Statute, established by the Board in February 1969, has afforded an opportunity to all Members of the Agency to participate in the discussions which took place during eleven meetings of the Committee,

(c) *Noting further* that the Board has also studied the problem in the course of nine meetings,

(d) *Having examined* the proposals for amendment of Article VI contained in part A of document GC(XIV)/437, and

(e) *Having considered* the Board's report contained in part B of, and in the Appendix to, document GC(XIV)/437, which constitute the Board's observations on the amendments, submitted in accordance with Article XVIII.C(i) of the Statute,

1. *Approves* the following amendment of paragraphs A, B, C and D of Article VI of the Statute:

(a) Replace sub-paragraphs A.1-A.3 by the following:

⁴ United Nations, *Treaty Series*, vol. 276, p. 3.

1. The outgoing Board of Governors shall designate for membership on the Board the nine members most advanced in the technology of atomic energy including the production of source materials, and the member most advanced in the technology of atomic energy including the production of source materials in each of the following areas in which none of the aforesaid nine is located:

- (1) North America
- (2) Latin America
- (3) Western Europe
- (4) Eastern Europe
- (5) Africa
- (6) Middle East and South Asia
- (7) South East Asia and the Pacific
- (8) Far East

2. The General Conference shall elect to membership of the Board of Governors:

(a) Twenty members, with due regard to equitable representation on the Board as a whole of the members in the areas listed in sub-paragraph A-1 of this article, so that the Board shall at all times include in this category five representatives of the area of Latin America, four representatives of the area of Western Europe, three representatives of the area of Eastern Europe, four representatives of the area of Africa, two representatives of the area of the Middle East and South Asia, one representative of the area of South East Asia and the Pacific, and one representative of the area of the Far East. No member in this category in any one term of office will be eligible for re-election in the same category for the following term of office; and

(b) One further member from among the members in the following areas:
Middle East and South Asia
South East Asia and the Pacific
Far East;

(c) One further member from among the members in the following areas:
Africa
Middle East and South Asia
South East Asia and the Pacific.

(b) In paragraph B:

(i) First sentence—replace “sub-paragraphs A-1 and A-2” by “sub-paragraph A-1” and

(ii) Second sentence—replace “sub-paragraph A-3” by “sub-paragraph A-2”;

(c) In paragraph C, replace “sub-paragraph A-1 and A-2” by “sub-paragraph A-1”;

and

(d) In paragraph D, replace “sub-paragraph A-3” by “sub-paragraph A-2”, and delete the second sentence;

2. *Urges* all Members of the Agency to accept this amendment as soon as possible in accordance with their respective constitutional procedures, as provided for in Article XVIII.C (ii) of the Statute;⁵ and

3. *Requests* the Director General to report to the General Conference at its fifteenth regular session on the progress made towards entry into force of the amendment.

⁵ In order to come into force for all Member States, the amendment must be accepted by two-thirds of all the Members in accordance with their respective constitutional processes.

Chapter V

DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Decisions of the Administrative Tribunal of the United Nations¹

1. JUDGEMENT NO. 135 (26 OCTOBER 1970):² TOUHAMI V. SECRETARY-GENERAL OF THE UNITED NATIONS

A fixed-term appointment does not carry any expectancy of renewal or of conversion to any other type of appointment—Obligation to provide every staff member with a letter of appointment defining the terms and conditions of his appointment

The applicant, a Moroccan national, entered the service of the UNDP Office at Rabat on 1 September 1966 for a trial period of three months as a finance clerk at level 5, step II of the local salary scale (12,840 dirhams per annum). Just prior to his recruitment by UNDP he had been employed for five years by the United States Embassy at Rabat. On 23 November 1966 he expressed his willingness to continue in service with UNDP after the expiration of his initial appointment provided his salary was increased to 1,500 dirhams per month. Effective 1 December 1966 the appointment was apparently converted into a fixed-term appointment of one year at the same salary level, although no letter of appointment was issued. In January 1967 a revised salary scale for the local staff of the Rabat Office was issued with retroactive effect from 1 September 1966. The applicant was then reclassified to level 5, step I of the revised scale, his salary being thus fixed at 16,000 dirhams per annum. On 25 October 1967 he was informed that his appointment would not be renewed upon its expiration on 30 November 1967 and that, since his leave credit stood at ten and a half days, his last working day would be 16 November 1967. In March 1968 the applicant appealed to the Joint Appeals Board asking to be reinstated with an indefinite

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 1970, 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 Mr. R. Venkataraman, President; Mr. F. T. P. Plimpton, Member; Mr. Z. Rossides, Member.

appointment and raising the subsidiary questions of (1) his salary level and (2) the number of days of accrued annual leave and cash payment for the amount due him from the Administration for such leave.

The Board considered that the appellant had been separated from the UNDP Office upon expiration of his fixed-term appointment and that he had no legally valid claim to an extension of his fixed-term appointment. With respect to the question of salary level, the Board was of the opinion that the appellant's grade at level 5, step II was binding upon the appellant as well as the Administration; it indicated that, as a matter of principle, a general revision of salary scales should not entail any downward adjustment of a staff member's grade, and that the action was particularly unjustifiable in the case in point since it was applied to the appellant in a discriminatory manner. On the question of accrued annual leave the Board indicated that it did not consider it to be consonant with the relevant provisions of the Staff Regulations and Rules for the UNDP Office to put the appellant on compulsory annual leave. It therefore recommended that the appellant should be paid for the ten and a half days of accrued annual leave in accordance with Staff Rule 109.8 (a). Finally, viewing the case as a whole, the Board indicated that sound administrative practice did not appear to have been followed in regard to the appellant. It mentioned, in that connexion, the fact that (1) the appellant had been led to forsake his former post by encouraging him in the belief that his appointment would be a long term proposition and that (2) there had been no letter of appointment for the last twelve months of the appellant's employment. Inasmuch as the appellant had suffered considerable hardship because of the administrative negligence, the Board recommended that he should be compensated by an *ex gratia* payment of an amount equivalent to his last month's salary.

The Secretary-General accepted the recommendations of the Joint Appeals Board.

The Tribunal, having examined the case, pointed out that the initial three-month appointment and the one-year appointment from 1 December 1966 should be regarded as fixed-term appointments coming under Staff Rule 104.12 (b) which reads in part:

"The fixed-term appointment does not carry any expectancy of renewal or of conversion to any other type of appointment."

It also observed that the letter of appointment, signed by the applicant, referred specifically to the Staff Regulations and Rules, stating:

"This fixed-term appointment does not carry any expectancy of renewal."

The Tribunal also noted that the applicant's initial fixed-term appointment for the trial period of three months, followed by the fixed-term appointment of one year, conformed to the UNDP practice, as evidenced by the UNDP Field Manual provisions. The Tribunal observed, however, that the applicant's fixed-term appointment for one year had not been followed by a written letter of appointment and that that omission might have led the applicant to believe that he had been accorded an indefinite contract. The Tribunal noted that, taking that circumstance into account, the Joint Appeals Board had recommended, and the Administration accepted, an *ex gratia* payment. On the question of the applicant's level, the Tribunal noted that the evidence produced by the applicant in support of his claim for grant of salary level 5, step VI showed clearly that he had made a strong claim but did not prove that the claim had been accepted. The Tribunal recognized that the reclassification of the applicant to a lower step than that at which he had been recruited was incorrect, but pointed out that the necessary corrective action had been taken in accordance with the recommendation of the Joint Appeals Board. The Tribunal therefore rejected the application.

2. JUDGEMENT NO. 136 (29 OCTOBER 1970):³ DETIERE V. SECRETARY-GENERAL OF THE CIVIL AVIATION ORGANIZATION

Obligation, when transferring a staff member, to ascertain that the positions are comparable and to have due regard to the personal interest of the staff member concerned—The fact that the two positions are of the same grade is not sufficient to ensure fulfilment of the comparability requirement

The applicant had been Secretary of the European Civil Aviation Conference (ECAC)—an organ associated with ICAO and whose secretariat services were provided by ICAO—for about ten years. His appointment was explicitly subject to the provisions of the ICAO Service Code and specified that the applicant's first assignment would be to the Paris Regional Office of the Air Navigation Bureau. On 16 October 1968, the Secretary-General informed the applicant that he had decided to transfer him to the Air Transport Bureau at Montreal for certain statistical work requested by a recent resolution of the Assembly and that the transfer would take place between 1 January and 1 March 1969. On the same day, the Director of the Air Transport Bureau had addressed to the Secretary-General a memorandum in which he indicated *inter alia* that he would certainly have to write adverse reports about the applicant if the latter was not transferred, and that advantage should be taken of the Assembly resolution because it provided a good opportunity to take a measure that was not too punitive. On the applicant's request the transfer was deferred but was later irrevocably set for 1 December 1969. The latter was referred to the ICAO Advisory Joint Appeals Board which recommended to the Secretary-General that the transfer decision be rescinded. The Secretary-General rejected the recommendation. The applicant then filed his application with the Tribunal.

The Tribunal observed that the applicant's various letters of appointment, including the letter of appointment to permanent employment, expressly stated that the appointment was to the staff of ICAO, that the first assignment was to the Paris Regional Office of the Air Transport Bureau and that the appointment was subject to the provisions of the ICAO Service Code and subsequent amendments. It concluded from its examination of the applicant's administrative situation that he could not cite any special commitment by ICAO subordinating the Secretary-General's right to transfer an ICAO staff member to special requirements and that no specific obligation on that score rested with the respondent.

While recognizing the importance for the proper functioning of the Organization of the right to transfer staff, the Tribunal emphasized that in exercising that prerogative the respondent should, in order to transfer a staff member, ascertain that the positions were comparable and pay due regard to the personal interest of the staff member concerned. Furthermore, since those requirements had to be met in order for the Secretary-General to take his decision, it was clear that the regularity of the decision could not be justified simply by citing any action which was subsequent and which the respondent considered sufficient to meet those requirements. Before deciding the transfer, the Secretary-General should have notified his intention to the staff member concerned, informed him of the position to which he was to be assigned and told him how he intended to pay regard to his interests.

The Tribunal noted that, in the opinion of the respondent, the comparability of positions was assured if the staff member was transferred to a position of the same grade. The Tribunal recognized that that was one requirement but that the concept of "comparability" of positions was more complex. It observed that GSI 1.7.3, paragraphs 3 (b) and 8 (b),

³ Mme P. Bastid, Vice-President, presiding; Mr. F. A. Forteza, Member; Mr. V. Mutuale, Member; Mr. F. T. P. Plimpton, Alternate Member.

concerned transfers to a vacancy “of the same character”. Besides, it was only at the request of the Advisory Joint Appeals Board that a draft description of the post to which the applicant was transferred was prepared and it was only after the respondent had rejected the Board’s recommendations that a final post description was prepared and a true assessment could be made of the comparability of the positions. By that time, however, the decision to transfer the applicant was already an established fact and it had been taken and confirmed without a reasonable procedure whereby the requirement of comparability of positions laid down in part III, article IV.7 of the Service Code could be met.

The Tribunal also observed that nothing in the decision notified on 16 October 1968 revealed an effort to pay “due regard to the personal interest of the staff member concerned”, that the applicant was given no means of submitting, for the consideration of the Secretary-General, what he considered to be his personal interest and that under part III, article IV.7, interest did not merely mean “professional” interest. Consequently, the Tribunal considered that the requirements of article IV.7 had not been met and that the transfer decision was therefore irregular.

The applicant maintained that the transfer decision constituted a misuse of power, on the ground that its real purpose was the exercise of disciplinary power against him. The Tribunal noted in this connexion that the applicant’s superior had referred in the periodic report for 1967 to a relationship which he had had with the applicant before the latter’s entry on duty and that in the above-mentioned memorandum to the Secretary-General he had stated that he intended in the future to make unfavourable evaluations in the applicant’s periodic reports. The Tribunal observed that such attitudes were contrary to sound administrative practice. In addition, it observed that the applicant had solemnly affirmed that he had not been informed of the criticisms made of his services. The Tribunal considered that such a situation was particularly unfortunate in view of the special nature of the applicant’s duties in ECAC and made it even more necessary, at the time of the transfer decision, to follow a procedure enabling the Secretary-General to observe the requirement laid down in the Service Code. Having reached the conclusion that the transfer decision was irregular, it considered that no ruling was required on the complaint of misuse of power or on the complaint of abuse of right.

The Tribunal rescinded the contested decision. It decided that the respondent should either reinstate the applicant in his previous position or compensate him for the material damage he had suffered and the damage to his career.

3. JUDGEMENT NO. 137 (30 OCTOBER 1970):⁴ KHEDERIAN V. SECRETARY-GENERAL OF THE UNITED NATIONS

Requirements that must be met if the Tribunal is to revise a judgement according to its Statute—A request for interpretation of a judgement shall be receivable only if its object is to obtain clarification of the meaning and scope of what the Tribunal decided with binding force

The applicant requested that Judgement No. 120, rendered on 25 October 1968,⁵ be revised under article 12 of the Statute of the Administrative Tribunal, on the ground that on 18 October 1969 she had discovered facts of such nature as to be a decisive factor in the revision of the Judgement namely, an aggravation of the conditions for which she had

⁴ Mme P. Bastid, Vice-President, presiding; Mr. R. Venkataraman, President; Mr. Z. Rossides, Member.

⁵ See *Juridical Yearbook*, 1968, p. 170.

applied for compensation. She contended that in Judgement No. 12) the Tribunal had failed to fix the compensation which should have been payable to her under article 11.2 (d) of Appendix D to the Staff Rules, as read with article 11.1 (c) of Appendix D. She claimed that the provisions of article 9 of the Tribunal's Statute were intended to apply to cases of termination and were not intended as an alternative to the award of compensation for disability. The Tribunal should have itself assessed the degree of disablement on the evidence contained in the Medical Board's report dated 1 December 1956. The applicant, therefore, requested that the Tribunal revise Judgement No. 120; she further requested that it (a) give all such necessary directions to give effect to the intentions of its Judgement No. 120; (b) assess the compensation to be paid to the applicant under article 11.2 of Appendix D to the Staff Rules, and (c) direct the Secretary-General to pay all such moneys and compensation to which the applicant might be entitled under article 11.2 of Appendix D.

The Tribunal recalled that, according to its Statute, it could revise a judgement if (a) some fact, unknown to the Tribunal and the party claiming revision at the time the judgement was given, was subsequently discovered, (b) such fact was a decisive factor and (c) the ignorance of such fact was not due to the negligence of the party claiming revision. The Tribunal emphasized that its powers of revision were strictly limited by its Statute and could not be enlarged or abridged by it in the exercise of its jurisdiction.

The Tribunal noted that assuming that the deterioration of the applicant's medical condition constituted a new fact, it was not alleged that that fact existed before the date when the Judgement was given and consequently, it could not be the basis for a revision of the Judgement under article 12 of the Statute of the Tribunal. The Tribunal therefore rejected the request for revision.

Concerning the applicant's request that the Tribunal should give directions and elaborations of Judgement No. 120 so as to give effect to the Judgement, the Tribunal had observed in Judgement No. 61⁶ that a request for interpretation of a judgement was receivable only if its object was to obtain clarification of the meaning and scope of what the Tribunal had decided with binding force and not to obtain an answer to questions not so decided, and that, in addition, it was necessary that there should exist a dispute as to the meaning or scope of the decision. The Tribunal pointed out that what had been decided with binding force was the amount of compensation. It noted that the decision had been implemented and that no difficulty of interpretation had arisen in ascertaining the amount of compensation. In view of the fact that the questions raised by the applicant were related either to issues which had not been submitted previously to the Tribunal, or to the grounds on which the Tribunal's Judgement was based and that, in effect, the applicant wished to appeal against the Judgement not to obtain an interpretation of what had been decided with binding force, the Tribunal rejected the application.

4. JUDGEMENT NO. 138 (30 OCTOBER 1970):⁷ PEYNADO V. SECRETARY-GENERAL OF THE UNITED NATIONS

Request for the rescission of a decision to terminate a probationary appointment—Such a decision is within the Tribunal's power, to the extent that it is vitiated by an error in fact or in law—Obligation of the administration to conduct an investigation when a staff member rebuts allegations contained in his periodic report

The applicant, who had a probationary contract, was recommended, at the end of his probationary period, for a permanent appointment by his supervisors and the Office

⁶ *Judgements of the United Nations Administrative Tribunal*, Numbers 1 to 70, 1950-1957 (United Nations publication, Sales No.: 58.X.1), p. 331.

⁷ Mr. R. Venkataraman, President; Mme P. Bastid, Vice-President; Mr. F. A. Forteza, Member.

of Personnel. The Appointment and Promotion Committee took note of the recommendation and passed it on to the Appointment and Promotion Board, which in turn took note of it. The recommendation was approved by the Secretary-General on 1 July 1967 but it appeared that the applicant was not informed. On 4 August 1967 the Chief of his Department informed the applicant that he could not maintain his recommendation for a permanent appointment and had proposed to the Director of Personnel, who had been in agreement, that the recommendation should be changed to a recommendation that the probationary period be extended for one year. The matter was referred to the Appointment and Promotion Committee, which reported to the Appointment and Promotion Board its endorsement of the Office of Personnel's recommendation, made with prior approval of the Secretary-General, that the applicant's probationary appointment be extended for one year. The Appointment and Promotion Board in turn made a recommendation to the Secretary-General, who accepted it. The applicant then submitted his case to the Joint Appeals Board, stating that the measure taken against him was based not on reasons related to the service but on personal vengeance for reasons which were foreign to it. Later he withdrew his appeal. At the end of his third year of probation the applicant was given a third periodic report in which he was rated as "a staff member who maintains only a minimum standard". The Office of Personnel transmitted to the Chairman of the Appointment and Promotion Committee a recommendation that the applicant's probationary appointment be terminated. The Committee approved the recommendation in a report endorsed by the Appointment and Promotion Board. The applicant then referred the matter to the Joint Appeals Board, which decided to make no recommendation in support of the appeal. The Secretary-General, having taken note of the decision and of the separate opinion of one of the members of the Board, maintained the decision terminating the appointment.

The applicant then applied to the Tribunal, requesting the rescission of the termination decision which, he said, had been taken following a procedure vitiated by many errors in fact and in law.

The Tribunal recalled that it had consistently upheld the discretionary power of the Secretary-General to terminate all appointments other than permanent or fixed-term appointments if, in his opinion, such action would be in the interest of the United Nations. It emphasized that such discretionary power should, however, be exercised without improper motive so that there should be no misuse of authority and referred in that connexion to Judgement No. 54.⁸ It recalled that procedures were prescribed for a proper assessment of the suitability of staff members on probation for the grant of permanent or regular appointments. They included, in the absence of a favourable recommendation agreed between the Office of Personnel and the Department concerned, the possibility of intervention by the Appointment and Promotion Board. The respondent contended that the applicant's case had been referred to the Appointment and Promotion Board, that the applicant had been afforded an opportunity to present his views and that, as the Board had come to a conclusion regarding the applicant's standard of performance, there had been no lack of due process or improper exercise of discretion in the case of the staff member concerned. However, where the Board reached its conclusions in the light of inadequate or erroneous information and the Secretary-General relied on those conclusions for the termination of the appointment, the fact that there had been a review by the Board did not secure that the Secretary-General's decision was valid.

Although the applicant had rebutted some of the assessments of his performance when he signed the periodic report for his third year of probation, the Chief of his Department had not made the investigation required in such cases under Administrative Instruc-

⁸ *Judgements of the United Nations Administrative Tribunal*, Numbers 1 to 70, 1950-1957, p. 266.

tion ST/AI/115. Yet the Appointment and Promotion Committee has explicitly based its report recommending termination on the assessments in question. In this particular case, an investigation would have been all the more necessary since antagonism existed between the applicant and his Chief of Department.

The Tribunal therefore held that the applicant had been deprived of a fair and reasonable procedure, that the recommendation of the Appointment and Promotion Board was therefore unsustainable and that the decision of the Secretary-General based on the recommendation of the Board, suffered the same defect.

The Tribunal said it was disturbed by a number of unsatisfactory features of the case. It observed that that was the only case in the last five years where, after a favourable recommendation had been made and approved by the Secretary-General, the recommendation had been changed and the case referred to the Appointment and Promotion Board. In such an extraordinary case, the applicant should have been afforded an opportunity for oral rebuttal of the case made against him.

It further noted that in spite of two favourable periodic reports, one of which had been signed by the same officer who subsequently changed his mind, the Office of Personnel had eventually made a recommendation at variance with those reports. Such retroactive reappraisal of earlier performance properly evaluated in periodic reports might affect prejudicially the protection which staff members were entitled to.

On the merits of the case, considering that the applicant had been denied the protection afforded by Administrative Instruction ST/AI/115 the Tribunal declared that the application was well founded. Noting, however, that rescinding the decision terminating the applicant's appointment would provide no relief to the applicant as the period of probation had expired and that there was on the part of the respondent no obligation whose specific performance might be invoked, the Tribunal, referring to the precedents set in Judgements Nos. 68⁹ and 92,¹⁰ ordered that compensation be made for the injury caused to the applicant by procedural defects.

B. Decisions of the Administrative Tribunal of the International Labour Organisation¹¹

1. JUDGEMENT NO. 144 (26 MAY 1970):¹² TARRAB V. INTERNATIONAL LABOUR ORGANISATION

The Tribunal recorded the fact that the complainant's suit had been withdrawn.

⁹ *Ibid.*, p. 398.

¹⁰ *Ibid.*, Numbers 87 to 113, 1963-1967 (United Nations publication, Sales No.: E.68.X.1), p. 41.

¹¹ 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 1970, 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 con-

2. JUDGEMENT NO. 145 (26 MAY 1970):¹³ DHAWAN V. WORLD HEALTH ORGANIZATION

A note written in the margin of a routing slip does not constitute a decision which may be appealed against before the Tribunal

The complainant, considering that a marginal note by one of his superiors on a routing slip he had filled in was insulting, and having been unable to obtain reparation of the wrong he felt had been done him, stated his intention of appealing to the WHO Regional Board of Appeal. He requested, and obtained, an extension of the time-limit allowed for that purpose. The day after the expiration of the extended time-limit he requested a further extension. He was then informed that his complaint was time-barred. He appealed to the Tribunal which, without pronouncing on the Organization's conclusions concerning the non-receivability of the complaint as being time-barred, found that the contested note did not constitute a decision and that, furthermore, since it had in no way been made public, it was not of a nature to cause the complainant any damage entitling him to any kind of reparation. The Tribunal therefore dismissed the complaint.

3. JUDGEMENT NO. 146 (26 MAY 1970):¹⁴ MCMULLAN V. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Unless authorized to do so by the respondent organization, the Tribunal may not hear a complaint until the internal appeal procedure has been exhausted

The complainant's appointment, which was to terminate on 31 December 1968, was, in fact, terminated before that date for health reasons. The complainant then appealed directly to the Tribunal without going through the UNESCO Appeals Board, although the Organization had warned him repeatedly that such a procedure was irregular. In his complaint he asked the Tribunal to rescind the decision to terminate his appointment and to order the renewal of his contract or payment of compensation. Three months later, on 24 June 1969, UNESCO informed him that the decision to terminate his appointment had been reversed and that he would therefore receive his full salary until the date on which his contract would normally have expired, namely, until 31 December 1968. It further informed him that his contract would not be renewed beyond that date.

With regard to the rescinding of the decision to terminate the complainant's appointment, the Tribunal noted that the complaint had been deprived of all substance.

With regard to the decision not to renew his contract, UNESCO maintained that the complainant's claims had only become relevant after the decision of 24 June 1969 and that

cluded 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.

¹³ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

¹⁸ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

¹⁴ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

he should have appealed against the second decision in accordance with the procedure laid down in the Staff Regulations and Rules, namely, by laying the matter before the UNESCO Appeals Board. He had failed to do so although he had at no time and in no way either requested or received authorization to appeal directly to the Tribunal. The complainant replied that the Director-General had been wrong to take the decision of 24 June 1969 since at that date he was no longer a UNESCO official and his case was pending before the Tribunal.

The Tribunal recalled that under article VII, paragraph 1 of its Statute an official's complaint was not receivable unless the person concerned had exhausted such other means of resisting the decision impugned as were open to him under the applicable Staff Regulations. Chapter XI of the UNESCO Staff Regulations and Rules provided that, before appealing to the Administrative Tribunal, officials of the Organization must submit an appeal to the UNESCO Appeals Board. Since the complainant had not submitted any such appeal before filing a complaint with the Administrative Tribunal, he had failed to exhaust the internal procedure available to him. Moreover, the written evidence showed that the Director-General had not authorized him to appeal directly to the Tribunal. The complaint was therefore deemed not receivable.

4. JUDGEMENT NO. 147 (26 MAY 1970):¹⁵ SCHUSTER V. WORLD METEOROLOGICAL ORGANIZATION

Non-receivability of a complaint filed directly with the Tribunal in violation of the rule that the internal appeal procedure must first be exhausted—Concept of "exceptional circumstance" justifying the waiver of rules concerning the time-limit for appealing to internal appeals bodies

The complainant, whose appointment was terminated "in the interest of the Organization" before the expiration of his contract, was informed, at his request, of the rule concerning the procedure available to him to resist the decision to terminate his appointment (United Nations Staff Rule 111.3), which provided that the staff member concerned must first request the Secretary-General to review his decision, and if the decision was confirmed, must submit an appeal to the Secretary of the Joint Appeals Board within two weeks from the date of receipt of the Secretary-General's answer.

The complainant nevertheless filed a complaint directly with the Tribunal without first appealing to the Joint Appeals Board. As the Secretary-General concluded that the appeal was not receivable because the internal appeal procedure had not been exhausted, the complainant requested the President of the Tribunal to suspend the proceedings before the Tribunal so that he might take his case before the Joint Appeals Board. The Board recommended the Secretary-General to inform the complainant that his complaint was time-barred since no exceptional circumstances seemed to justify waiving the rule. The complainant then reopened the proceedings before the Tribunal.

Referring to article VII, paragraph 1, of its Statute and the aforementioned United Nations Staff Rule 111.3, the Tribunal declared that the complaint was not receivable. Concerning the decision that the complaint was time-barred, the Tribunal noted that the complainant had been duly informed of the procedure available to him. Even if the complainant had addressed himself directly to the Tribunal as a result of a mistake committed

¹⁵ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

in good faith, the Joint Appeals Board could validly consider that that did not constitute an exceptional circumstance. The decision to declare the appeal time-barred, taken on the recommendation of the Joint Appeals Board, was accordingly in order and the Tribunal therefore dismissed the complaint.

5. JUDGEMENT NO. 148 (26 MAY 1970):¹⁶ GODINACHE V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Complaint seeking a compensation annuity for total incapacity for work—Concept of “total incapacity for work”—Even if the incapacity for work attributable to the performance of official duties is only partial, the person concerned may nevertheless be entitled to claim a compensation annuity for total incapacity for work

As a result of an accident, the complainant was suffering from incapacity for work which was regarded by the Organization as being attributable to the extent of 30 per cent to his employment. He was awarded compensation for partial service-incurred disability calculated on that basis. He maintained that his total incapacity for work was a direct result of the 30 per cent disability attributable to the accident and therefore requested that FAO should pay him until his death the compensation provided for in FAO Manual section 342.513, that is to say, two thirds of his final remuneration. The Organization, on the other hand, took the view that the disability attributable to the accident was not the direct and sole cause of the complainant's total incapacity.

The Tribunal pointed out that under FAO Manual sections 342.511 and 342.513 the award of annual compensation payments equivalent to two thirds of the final remuneration was subject to two conditions: (a) total incapacity for work and, (b) a causal relation between the performance of official duties and the incapacity.

(a) In the Tribunal's view total incapacity for work must be taken to mean the inability of a staff member to perform duties corresponding to his training and qualifications. Noting that the medical board set up by the parties, the Advisory Committee on Compensation Claims and the Organization itself all acknowledged that the complainant was wholly incapable of exercising his profession, the Tribunal felt that the complainant must be regarded as totally incapacitated for work within the meaning of the applicable provisions.

(b) The Organization maintained that the complainant's condition was due to the accident only to the extent of 30 per cent, as the medical board had assessed the post-traumatic impairment at that figure. The Tribunal felt that even if the injury would normally result in incapacity of only 30 per cent, it did not follow that the complainant's claim for compensation for total incapacity was unfounded. On the contrary, he would be entitled to such compensation if no factor other than the accident appeared to have caused the recognized disability.

On the basis of those facts the Tribunal considered that although the complainant's post-traumatic impairment was assessed at only 30 per cent by the medical board, his total incapacity for work was entirely attributable to the accident. The complainant was therefore entitled to the annual compensation payments laid down by Manual section 342.513. The Tribunal added that, as the medical board did not rule out the possibility that the complainant might be able to resume some kind of work in the future, the Organization must retain the right to review the complainant's case from time to time and to adjust the compensation due to him in the light of any changes.

¹⁶ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

6. JUDGEMENT NO. 149 (26 MAY 1970):¹⁷ LIOTTI V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Procedure laid down for the reclassification of posts—An internal appeals body is entitled to recommend the rescinding, on grounds of prejudice, of a decision to withhold a regular salary increase

The complainant having claimed that she was performing functions proper to a higher grade than her own, the Finance Division—in which she was working—asked the Establishment Section to review her post description. In April 1968, after looking into the matter, the Establishment Section recommended that the post should be reclassified G-4. The Assistant Director of the Finance Division, however, was of the opinion that submission of the recommendation to the Establishment Committee must be deferred, since he felt the complainant's upgrading was not warranted because she lacked the calm temperament required. In addition, soon afterwards the complainant's chief informed her of his decision to defer for three months her annual salary increment which fell due on 1 November 1968 because of misgivings about her approach to her work and her relations with her colleagues. At the end of the three months the increment was in fact granted on the grounds that her work had sufficiently improved.

The complainant lodged an appeal with the Appeals Committee, which recommended: (1) that complainant should receive her salary increment with effect from 1 November 1968, since there had been no valid reason for withholding it; (2) that steps should be taken to upgrade her post. The Director-General accepted the second recommendation but not the first, since, in his view, questions of efficiency fell outside the Committee's competence. The complainant was informed of the decision on 5 March 1969. Soon afterwards the Establishment Committee decided to recommend the upgrading of the complainant's post and she was promoted to a higher grade.

The complainant lodged a complaint with the Tribunal against the decision of 5 March 1969 maintaining that she should be upgraded retroactively and that the withholding of her annual increment for three months was unfair; in addition, she asked to be reimbursed the expenses paid to a lawyer whom she had consulted regarding her case.

The Tribunal, referring to article VIII, paragraphs 1 and 2, of the Constitution of FAO stating that the staff of the Organization shall, subject to the rules made by the Conference, be appointed by the Director-General and be responsible to him, and to rule XXXVI, paragraph 4, of the General Rules of the Organization stating that "... the Director-General shall act in his unfettered judgement in appointing, assigning and promoting staff personnel ...", pointed out that staff members could request reconsideration of decisions taken with respect to allocation of their post (FAO Staff Rule 302.232) but that any request for reclassification of a post had to originate from the department head or division director (Staff Rule 302.231, FAO Manual section 280.411). In the present case the Tribunal felt that the procedure laid down in the relevant texts had been duly followed and that the delay between the complainant's written request for reclassification and the actual reclassification could be explained by the misgivings that her superiors had had at one time about her suitability for the upgraded post. It found that no staff regulation or rule had been violated in form or substance.

With regard to the withholding of her regular within-grade salary increase for a period of three months the Tribunal recalled that the Appeals Committee which had heard the persons closely concerned with her appeal had found that the increase had been withheld

¹⁷ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

because of personal prejudice. Although the Committee was not competent to consider complainant's efficiency—and in fact it had not done so—it was competent to find the existence of prejudice. The Director-General therefore had committed an error of law in stating in his letter of 5 March 1969 that he could not endorse the recommendation of the Appeals Committee on that point simply on the ground that the Committee was not competent to make such a recommendation. The Tribunal therefore rescinded the decision to withhold the salary increase.

However, the Tribunal dismissed the claim for payment of the costs of engaging a lawyer recalling that under the terms of Staff Rule 303.136 a staff member appealing to the Appeals Committee could only designate another staff member to represent him before the Committee. It followed that any advice sought from some outside source must be paid for by the staff member himself.

7. JUDGEMENT NO. 150 (26 MAY 1970):¹⁸ AKINOLA DEKO V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

The resignation of an official entails the termination of his appointment unless it is established that the resignation was not given voluntarily—The rules relating to disciplinary procedure only apply in so far as such a procedure has in fact been initiated

The complainant, who was alleged to have committed errors which amounted to unsatisfactory performance, was urged to resign, in return for which the whole matter would be regarded as closed. At his request he received a memorandum setting out his alleged errors, and after an exchange of letters he sent the Director-General a letter of explanation which he said should be regarded as his resignation. The Director-General informed the complainant that he accepted his resignation and that the matter was now regarded as closed. The complainant appealed to the Appeals Committee which held that, since the complainant's employment had been terminated by his own resignation he was therefore not entitled to plead section 301.111 concerning appeals to the Appeals Committee. He then lodged a complaint with the Tribunal against the Director-General's decision taken on the basis of the Appeals Committee's report, maintaining that sections 330.321 to 330.325 of the Manual, governing the disciplinary procedure, had not been observed and rejecting all the charges against him.

The Tribunal recalled that the resignation of an official of an organization entailed the termination of his appointment unless it was established that the resignation had not been given voluntarily. It noted that, in order to prove that the resignation which he had submitted to the Director-General had not been voluntary, the complainant maintained, first, that the procedure followed by the Director-General in the days preceding the letter of resignation had been irregular in that it was not in conformity with the FAO Manual section 330 and, secondly, that pressure had been exerted upon him and his freedom of action had thereby been restricted.

The Tribunal pointed out that, in order to safeguard, if possible, the reputation both of the Organization and the official, the Director-General was always free to ask the official for explanations before initiating the disciplinary procedure. In the present case the procedure which had been started could not have caused any injury to the complainant, particularly since that procedure had been terminated by a unilateral act of the complainant. Under the circumstances the plea based on an alleged infringement of FAO Manual section 330 was unacceptable. With regard to the question of the validity of the complainant's

¹⁸ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

resignation it was evident from the facts of the case that no threat or pressure had been imposed by the Organization and that his resignation had been freely given and his appointment terminated as a result. The Tribunal therefore dismissed the complaint.

8. JUDGEMENT NO. 151 (26 MAY 1970):¹⁹ SILOW V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Complaint by an official temporarily transferred against the circumstances of his reinstatement in his original Organization

The complainant, an official of FAO at grade P-5, was appointed Deputy-Director of a Joint FAO-IAEA Division within the Agency and was later promoted to grade D-1. He was, however, informed that, since the retirement age in IAEA was 60 as against 62 in FAO, he would be retransferred to FAO at his former grade, namely P-5, between the ages of 60 and 62, should IAEA decide not to retain his services. The IAEA having decided not to retain the complainant's services after he reached the age of 60, he returned to FAO where, although he kept the personal grade of D-1, he was appointed to a P-5 post with the title of "Technical Officer". Subsequently, he was appointed as "Scientific Officer" at grade D-1. The complainant then appealed to the FAO Appeals Committee maintaining (1) that at the time of his transfer to IAEA the Administration of FAO had acted unjustly in deciding that on his return to FAO he should automatically be demoted and that that question should have been held over for review at the time of retransfer; and (2) that his professional standing and reputation had suffered through his appointment to a P-5 post on his return to FAO. Having failed to obtain satisfaction the complainant appealed to the Tribunal.

The Tribunal recalled that, at the time of his transfer to IAEA, the complainant, who was born in 1908, had been informed that the retirement age in IAEA being 60 and in FAO 62, he might be retransferred to FAO for two years if he left IAEA in 1968, but with the grade of P-5. The decision had not been contested within the prescribed time-limit and had therefore become final. Accordingly, the sole obligation resting on FAO was to reinstate the complainant at grade P-5 from 1968 to 1970. In reinstating him at grade D-1 the Organization had taken a decision in his favour which went beyond its strict obligation towards him. Furthermore, it appeared from the evidence in the file that the complainant had been assigned to duties appropriate to an official of his grade. There was accordingly no foundation for the complainant's claim that the decision to retransfer him was irregular and that the circumstances of his reinstatement had been in any way damaging.

9. JUDGEMENT NO. 152 (26 MAY 1970):²⁰ KERSAUDY V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Granting of a "permanent appointment (first-year probationary)"—A decision to terminate the appointment of an official on probation on the grounds of unsatisfactory performance may be regarded as a measure taken in the interest of the Organization—Limits of the Tribunal's authority to review such a decision

The complainant, after working for many years on a permanent contract as a translator in the United Nations and subsequently in IAEA, signed a contract of appointment with FAO, which stated under the heading "Type of Appointment" that he was granted a "perma-

¹⁹ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

²⁰ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

ment appointment (first-year probationary)". His work having been deemed unsatisfactory, his probationary period was extended by six months. At the end of the six months he was informed that his appointment was terminated in accordance with section 301.0913, which empowered the Director-General at any time to terminate the appointment of a staff member serving a probationary period if, in his opinion, such action would be in the interests of the Organization. The complainant then appealed to the Appeals Committee which found the existence of prejudice against him and recommended that he be reinstated. When the Director-General did not accept the recommendation the complainant lodged a complaint with the Tribunal, maintaining (1) that the obligation placed upon him to undergo a probationary period after 15 years' service as a translator with the United Nations and IAEA constituted an infringement of his rights; (2) that he had not had an opportunity to defend himself, since the criticisms of his work were brought to his attention only after seven months of the probationary period had elapsed; and (3) that there had been misuse of authority in that the Director-General claimed to be acting under section 301.0913 (dismissal of an official on probation in the interests of the Organization), whereas in fact he was dismissed for allegedly unsatisfactory performance. The Tribunal noted that the requirement that a newly recruited official shall serve a probationary period was a normal condition generally imposed in such cases and that, although FAO Manual section 307.41 provided that staff members recruited by FAO after serving with the United Nations or another specialized agency might be exempted from serving a probationary period, it was clear from the terms of that provision that it did not confer any right on the persons concerned, but merely gave the Chief of the Personnel Department authority to waive the requirement if he was satisfied that it was appropriate to do so. The complainant's plea, which in any case was time-barred, was therefore without foundation on that point. The decision to extend the probationary period was also regular in view of Manual section 305.431 and the fact that the complainant had been given sufficient advance notice.

As to the reason for the decision to terminate the appointment, the Tribunal emphasized that, as the purpose of the probationary period was to ascertain whether a probationer had the necessary professional qualifications, the Director-General was entitled to discharge him as soon as he had satisfied himself that that was not the case. Consequently the termination of a probationer's appointment for unsatisfactory performance might be regarded as a measure taken in the interests of the Organization. The complainant claimed, first, that the decision to terminate his appointment had been taken in violation of his right to a hearing, and secondly, that it was not justified. The Tribunal acknowledged that termination of a probationer's appointment for unsatisfactory performance could not be taken until he had been informed of the Organization's intention and had had an opportunity of submitting his observations. In the present case, although the complainant had not been informed of the Organization's intentions to terminate his appointment nor invited to state his views, he had had an opportunity to discuss them before the Appeals Committee. Consequently his right to a hearing had not been violated.

With regard to the evaluation of the quality and quantity of the complainant's work, the Tribunal stated that, while there might be some doubt as to the importance or value of the criticisms of the work, it was not sufficient to justify the Tribunal in finding that in basing his decision on the unsatisfactory quality of the complainant's work the Director-General drew conclusions that were clearly contrary to the evidence. Moreover, it was a fact that the complainant did not produce the output that could reasonably be expected of him; it was clear that unsatisfactory output was an important factor in unsatisfactory performance. It followed that the complainant's claim that the decision impugned was tainted by any irregularity which the Tribunal was competent to review, including misuse of authority, was unfounded.

10. JUDGEMENT No. 153 (26 MAY 1970):²¹ DADIVAS AND CALLANTA V. WORLD HEALTH ORGANIZATION

Limits of the Tribunal's authority to review a decision rejecting a request for a post reclassification—Such a decision cannot be considered prejudiced if it has been confirmed by the internal appeals bodies after a thorough examination

The complainants, staff members of the WHO Regional Office in Manila, requested that their posts be reclassified because, following the reclassification of the post immediately above theirs, they had been assigned nearly all the duties related to it. The Director of the Regional Office rejected their request, whereupon they appealed, first to the Regional Board of Inquiry and Appeal and then to the Headquarter's Board of Inquiry and Appeal, but to no avail. They then lodged a complaint with the Tribunal alleging (1) that the additional responsibilities assigned to them properly belonged to the two higher posts and not to their own and (2) that the Organization was prejudiced against them.

In the opinion of the Tribunal an assessment of what amounted to an increase in duties and responsibilities sufficient to justify a promotion or increase in remuneration could not be made simply by comparing one list of tasks with another. Since the assessment had been made by the Director-General acting on the advice of a board of appeal, it was not enough for a complainant to allege simply that it was erroneous. In the absence of clear evidence of a mistaken assessment the Tribunal would not substitute its own assessment for that of the Director-General; it recalled, in that connexion, the well-established principle that it did not review a decision of that sort unless it was taken without authority, was irregular in form or tainted by procedural irregularities, was tainted by illegality or based on incorrect facts, or essential facts had not been taken into consideration, or unless conclusions which were clearly false had been drawn from the documents in the dossier.

As to the alleged prejudice against the complainants, the Tribunal pointed out that prejudice on the part of the Regional Director would be material in the case only if the Headquarters Board of Inquiry and Appeal had affirmed the Regional Director's decision without examining the case for itself. It was plain from the Board's report, and indeed the contrary was not alleged, that it had not acted in that way.

11. JUDGEMENT No. 154 (26 MAY 1970):²² FRANK V. INTERNATIONAL LABOUR ORGANISATION

Termination of the appointment of an official who refuses to comply with a decision concerning his transfer—Limits of the Tribunal's authority to review such a decision—It is not necessary for an official to perform the duties of the original post for a certain period, before being required to accept reassignment—The deliberate decision to discharge an official under article 12.8, paragraph 1 of the ILO Staff Regulations may not be appealed against under article 13.1—Consequences stemming from the point of view of time-limits for appeals

The complainant, who was recruited by the ILO for a post in Chile, was refused admission into Chilean territory on arrival because of his political activities during earlier visits. The competent authorities finally gave him permission to remain in the country but the Director-General of the ILO, considering that in view of what had occurred it was unlikely

²¹ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

²² Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

that the complainant would be able to discharge his duties as successfully as might have been expected, instructed him to return to Geneva pending reassignment. The complainant then submitted an official complaint claiming that a transfer after an assignment lasting only one month was in violation of his terms of appointment and protesting against the unfair treatment to which he alleged he had been subjected. The decision was maintained. When the complainant had not left Chile by the appointed date, the Director-General informed him that he proposed to dismiss him and invited him to submit his observations. The complainant explained that the nerves of his family had been severely affected by the whole case and asked for an extension of time in which to reply. The Director-General nevertheless decided to dismiss him. The complainant then submitted two successive complaints to the Tribunal, one against the decision to transfer him and the other against the decision to discharge him.

The Tribunal, noting that the two complaints impugned two decisions, one of which was consequential to the other, ordered the joining of the two complaints.

I. With regard to the decision to transfer the complainant, the Tribunal recalled that article 1.9 (a) of the Staff Regulations provided that the Director-General assigned an official to his duties and his duty station subject to the terms of his appointment, account being taken of his qualifications, and that article 1.9 (b) provided the Director-General might second an official, with his consent, for temporary duty outside the service of the Office. It also pointed out that, while it referred to article 1.9, the offer of appointment submitted to the complainant specified that fixed-term officials were appointed initially to serve a particular programme and post and at a particular duty station, but that they might be transferred by the Director-General to other posts or duty stations. The Tribunal deemed that decisions to transfer an official lay within the discretion of the authority making them and were therefore subject to review by the Tribunal only within certain limits. In that connexion the Tribunal felt that the decision to transfer the complainant was not tainted by any of the irregularities that it was competent to review, namely:

(a) *Irregularities of procedure*

The Tribunal noted that the complainant found fault with the Director-General for not having informed him either of the reasons for his decision or of the particulars of the post to which he was to be reassigned. But it appeared from submissions in the Organization's reply, which had not been contested, that the reasons for the transfer had been given him orally and that, in any case, he could not fail to be aware of them. As for the assignment to a new post, the Organization could not decide that without consulting the complainant in Geneva.

(b) *Illegality*

The Tribunal felt that the complainant could not maintain, on the basis of article 1.9 (b), of the Staff Regulations that his own consent was necessary for his reassignment, for that article applied to ILO officials assigned to temporary duty outside the service of the ILO. Furthermore, the complainant was mistaken in his interpretation of the clause in his contract specifying that fixed-term officials were "appointed initially for service for a particular programme and post." The wording of the provision did not mean that in every case an official must perform the duties of the original post for a certain period of time before being required to accept reassignment.

(c) *Misuse of authority and false conclusions*

As the complainant's arrival in Chile had given rise to an incident reported in the Press and followed by demonstrations, there was reason to fear that the presence of such an official in South America would be prejudicial to the successful implementation of the project to

which he had been appointed. In ordering the complainant's transfer, the Director-General did not put a false interpretation on the facts brought to his attention. Moreover, it appeared that the impugned decision was motivated not by the complainant's political view as such but by a fear that the success of his mission might be compromised by those views.

II. With regard to the complainant's discharge, the Tribunal noted that the decision was taken on 6 November 1968 and confirmed on 13 December 1968. As the second complaint resisted both those decisions its receivability must be considered separately in respect of each of them. With regard to the decision of 6 November 1968 the time-limit provided for in article VII, paragraph 2 of the Statute of the Tribunal—namely 90 days—had started to run from 11 November 1968 at the latest, the date on which the complainant acknowledged the receipt of the decision, and had ended on 10 February 1969. As the complaint was dated 12 March 1969, it was therefore time-barred in so far as it sought the rescinding of that decision. As for the decision of 13 December 1968, the complainant maintained that he had submitted a complaint under article 13.1 of the Staff Regulations against the decision of 6 November 1968 and that in ruling on that complaint the Director-General had in fact taken a new decision against which the second complaint was filed within the required time-limit.

The Tribunal dismissed this argument. It recalled that the purpose of article 13.1 was to avoid a decision's being referred to the Tribunal before it had been reconsidered with the Organization itself. In so far as it allowed an official not attached to an established ILO Office, such as the complainant, to submit his observations on a proposal to discharge him, article 12.8, paragraph 1, ruled out the application of article 13.1 and that a decision based on the first of those articles could not be the subject of a complaint under the second. However, in order to prevent any possibility of avoiding the application of article 13.1, the Tribunal must satisfy itself that a decision to discharge an official under article 12.8, paragraph 1, was lawful.

The Tribunal noted in that connexion that, in the first place, the Director-General had observed the procedure laid down in article 12.8, paragraph 1, for officials not attached to an ILO office and, secondly, that the sanction of discharge could not be regarded as being out of proportion to the complainant's dereliction of duty. As the complainant had clearly shown that he did not intend to comply with the instructions concerning his transfer which it was his duty to obey, the Organization was not obliged to make use of his services in Chile, where his presence might be prejudicial to the Organization's work or in any other place since he refused to move from Chile.

In those circumstances, the decision of 6 November 1968 having been legitimately taken under article 12.8, paragraph 1, the decision of 13 December 1968 was merely a confirmatory decision which could not be the starting-point of a new time-limit for the filing of an appeal. The second complaint was not receivable in so far as it impugned the decision of 13 December 1968.

12. JUDGEMENT NO. 155 (6 OCTOBER 1970):²³ KAUSHIVA v. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

A decision placing an official on leave with pay up to the date of expiry of his contract cannot be regarded as dismissal or suspension prior to the initiation of disciplinary proceedings— It is not for the Tribunal to order any alteration of a report made on an official by the competent authorities of the Organization

The complainant was engaged for a post in Ghana on a fixed-term appointment which was to terminate on 31 August 1968. His supervisors having severely criticized his behaviour and the quality of his work, UNESCO informed him that it had decided to grant him early repatriation, that he would accordingly be placed on annual leave as from the Easter vacation and that when his annual leave entitlement was exhausted he would be placed on special leave with pay up to the date of expiry of his contract; this decision was confirmed on 25 July 1968. On 8 May 1968, the complainant, at his request, received a periodical report; this report being unfavourable, he challenged it. An *ad hoc* committee was then set up to consider the matter; on the recommendation of this committee, the Director-General informed the complainant on 11 September 1968 that he confirmed the performance evaluation made in the periodical report.

The complainant then submitted two appeals to the UNESCO Appeals Board. The first contested the decision to repatriate him dated 25 July 1968 and the second challenged the decision of 11 September 1968 confirming the terms of the periodical report. The Appeals Board found that the decision to repatriate the complainant, although justified by the thorough investigation made by headquarters, was in fact equivalent to suspension of the complainant from his functions and ought to have been taken only under Staff Rule 110.3. Considering, however, that the Organization had not terminated the complainant's appointment before its normal date of expiry and that consequently the complainant had not suffered any loss, the Appeals Board found that in so far as it sought to secure a re-evaluation of performance and a new appointment, the appeal was not receivable, and that in so far as it sought to secure the annulment of the repatriation measure, it had become purposeless. The Director-General informed the complainant that he accepted this recommendation.

In the case of the second appeal, the Appeals Board, considering that the periodical report had not been proved to be inaccurate and considering moreover that the author of the report had not been guided by motives other than the interests of the Organization, recommended that the appeal should be rejected. The Director-General accepted this recommendation.

The complainant then complained to the Administrative Tribunal attacking the decisions of 25 July 1968 and 11 September 1968 and the two confirmatory decisions taken on the recommendation of the Appeals Board. He submitted that the decision to place him on annual leave was equivalent to a measure of suspension and that the Organization had deprived him of any means of defending himself by failing to take that measure in accordance with the relevant provisions of the Staff Rules. He added that at the outset he had been given reason to hope that his appointment would be renewed and that its non-renewal had undoubtedly resulted from the formally incorrect decision to repatriate him, a fact which he considered entitled him to compensation. Lastly, he claimed that the whole of the procedure followed in his case had been tainted by serious irregularities and, in particular, that he had been kept in ignorance of all the correspondence concerning him; he attributed the charges made against him to the personal animosity of his supervisor.

²³ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

I. As to the decision of 25 July 1968, the Tribunal found that it had neither the purpose nor the effect of prematurely terminating the complainant's employment at UNESCO; it constituted neither dismissal nor suspension prior to the initiation of disciplinary proceedings. It had three purposes:

- (1) to remind the complainant of the date of expiry of his contract;
- (2) to terminate his employment in Ghana;
- (3) to settle his administrative position from the date of his repatriation until the date of expiry of his contract.

As to the first point, the Tribunal emphasized that a decision refusing to renew a contract was not a disciplinary measure and fell within the discretionary power of the Director-General. It was therefore subject to the Tribunal's control only within certain limits. The contested decision presented none of the irregularities open to criticism by the Tribunal.

As to the second point, the Tribunal considered that a decision to withdraw an official from specific functions was in no way disciplinary. The official concerned should, however, be informed of the decision beforehand, particularly when personal considerations were involved. In the case in question, the complainant had received several warnings and, moreover, the decision of 25 July 1968 had been taken after a thorough investigation, in the course of which the complainant had had an opportunity to state his case, had been carried out.

As to the third point, the Tribunal emphasized that the Director-General had fulfilled his obligation to regularize the complainant's position by granting him special leave with pay up to the date of expiry of his contract and that, in law, the decision, which was favourable to the complainant and in the interest of the Organization, was beyond reproach.

II. As to the decision of 11 September 1968, the Tribunal noted that the report of 9 May 1968 had been made at the complainant's own request and that, moreover, under Staff Rule 104.11, the Bureau of Personnel was entitled, at any time to request that such a report be made. The Tribunal added that it was not for it to order any alteration of a report made on an official by the competent authorities of the Organization or the withdrawal from the dossier of any part of such report.

III. As to the other claims, the Tribunal found that the Organization had entered into no commitment as regards possible renewal of the complainant's contract and that the latter's statement that the decision of 25 July 1968 terminated his legitimate expectations was quite false. Considering that the facts of the case did not reveal any malice towards the complainant on the part of the Organization—in fact the contrary was true—the Tribunal dismissed the complaint.

13. JUDGEMENT NO. 156 (6 OCTOBER 1970):²⁴ SCHMIDT V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Non-receivability of a complaint taken directly to the Tribunal in violation of the rule concerning exhaustion of internal appeal procedures

In his complaint to the Tribunal, the complainant impugned a decision whereby the Organization, having found that he and his family had not, during their home leave, spent in their home country the fourteen calendar days necessary for entitlement to travel expenses, refused liability for a part of such expenses.

²⁴ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

The Tribunal dismissed the complaint. It noted that a decision could not be impugned before it unless it was a final decision, that is, unless the complainant had exhausted such other means of resisting it as were open to him under the applicable Staff Regulations. In the case in question, the complainant had not impugned a final decision after exhausting the internal appeal procedure and he could not, moreover, validly plead that he was unaware of the pertinent provisions in order to justify his direct complaint to the Tribunal.

14. JUDGEMENT NO. 157 (6 OCTOBER 1970):²⁵ ANTONACI V. INTERNATIONAL LABOUR ORGANISATION

Complaint seeking compensation for illness attributable to the performance of official duties—The entitlement to sick leave of a person with a fixed-term contract ends upon the expiry of the contract

The complainant had been appointed on a short-term contract after undergoing a medical examination on appointment whose results were considered satisfactory by the Medical Adviser of the ILO. A few weeks before the expiry of his contract the ILO asked him to arrange to return to Geneva in good time. At the request of the complainant, his contract was extended for approximately ten days. During the return journey he was seized with acute pains in the left leg which the doctors attributed to discal hernia with compression of the sciatic nerve; when he arrived at Geneva, the ILO Medical Service had him admitted to the Cantonal Hospital of Geneva, where it was found that the discopathy had simply disappeared. The complainant then wrote to the ILO asking it to bear his medical expenses until his full recovery. He attributed his illness to the arduous conditions of his mission. Some time later, he was informed that his contract would terminate in a few days' time. He then repeated his request and also submitted a request for compensation in accordance with section 8.3 of the Staff Regulations. The ILO Compensation Committee examined this request and dismissed it on the ground that his illness was not attributable to the performance of official duties. In the meantime, the complainant had lodged a complaint under rule 9.1 of the Rules Governing Conditions of Service of Short-Term Officials in which he maintained that he had received unfair treatment when he had been informed that his contract would terminate and requested the payment of reasonable damages in addition to the payment of medical expenses. He subsequently contested the recommendation of the Compensation Committee. His requests having been rejected, he appealed to the Administrative Tribunal. The parties agreed, however, to submit the complainant's case to a medical board consisting of three doctors, one appointed by the complainant, one by the Organisation and the third by those two. The doctor appointed by the complainant found that the illness had been provoked by the conditions of employment on missions whereas the other two found an internal pathology unconnected with the conditions of employment and could not regard the complainant's work for the ILO as an aggravating factor. On the basis of the board's report, the ILO confirmed its decision and the complainant resumed proceedings before the Tribunal. He alleged, *inter alia* (1) that he had been subjected to unwarranted and unfair treatment as a result of the decision informing him of the date of expiry of his contract; (2) that his illness was attributable to the performance of official duties and entitled him to compensation; and (3) that the ILO Medical Adviser, by carrying out only a superficial medical examination on his appointment, was guilty of negligence which made the ILO responsible.

²⁵ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

As to the first point, the Tribunal noted that the complainant having been ill on his return to Geneva, the Organisation had agreed to extend his contract for a period equivalent to the sick leave to which he was entitled. After that date, as a short-term official whose contract had expired and who was not entitled to its renewal, the complainant had no further legal connexion with the ILO; consequently, the Organisation could no longer legally grant him further sick leave or continue to bear his medical expenses.

As to the second point, the Tribunal found that it appeared from the documents in the dossier and in particular from the report of the medical board that the complainant's illness was attributable to an earlier process of degeneration extraneous to his employment with the ILO and that it could be regarded as having been aggravated by his service only by clearly defined factors: however, none of the factors mentioned by the complainant could be regarded as having aggravated a disease from which he had been suffering before his appointment.

Finally, as to the third point, the investigation had not established that a thorough medical examination would have shown the ILO that the complainant was not fit for the appointment in question.

The Tribunal therefore dismissed the complaint.

15. JUDGEMENT NO. 158 (6 OCTOBER 1970)²⁶ DEVDUTT V. WORLD HEALTH ORGANIZATION

Request for reinstatement after resignation—Limits of the Tribunal's authority to review a refusal to reclassify a post which, in default of appeal, became operative

On 20 May 1968, the complainant, who had worked with the WHO Regional Office for South East Asia for nearly 20 years, addressed a memorandum to the Regional Director setting forth his grievances in respect of an application for special leave, the reclassification of his post and the conditions of work in his section. Having received no reply, he wrote to the Regional Director on 28 October 1968 informing him that he was going to appeal to the Board of Inquiry and Appeal and that his letter could be considered as his appeal to the Board as well as his resignation. The resignation was accepted.

The Regional Board of Inquiry and Appeal, to which the case was referred, found that the complainant's submissions in respect of special leave, the reclassification of his post and his conditions of work were not receivable because they had been submitted after the prescribed time-limit and all channels of appeal had not been exhausted. In regard to the complainant's request for reinstatement, the Regional Board found that there were no grounds for recommending reinstatement since his resignation had not been made conditionally and the complainant had at no time manifested any intention of withdrawing it.

The complainant then referred the case to the headquarters Board of Inquiry and Appeal, which reached different conclusions: while recognizing that the Administration had not committed any abuse of authority in accepting the resignation, it regretted that more energetic attempts had not been made to modify the course of events. Observing that the complainant had considerably increased his academic qualifications over the years, the Board recommended that the Director-General should make every effort to offer the complainant an opportunity to resume service with the Organization if a post should become vacant. The Director-General having rejected this recommendation by a decision of

²⁶ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. J. Markose, Deputy Judge.

9 December 1969, the complainant appealed to the Tribunal requesting it, *inter alia*, to rescind the decision of 9 December 1969.

The Tribunal noted in the first place that the possible irregularities in the procedure before the Regional Board of Inquiry and Appeal were not such as to affect the validity of the decision impugned, which had been taken by the Director-General on the completion of a regular form of procedure after exercising powers of investigation as broad as those of the Regional Director on the advice of a body which, like the Regional Board, had a joint composition.

As to the claim concerning resignation, the Regional Director was fully justified in believing that the complainant genuinely intended to leave his post, particularly since he had already resigned once in 1967 and had changed his mind only after discussions with his supervisors. Furthermore, the complainant's resignation as submitted was not in any way conditional. Accordingly, the Regional Director had acted fully in accordance with the rules and the Tribunal could not censure the decision whereby the Director-General confirmed that of the Regional Director.

As to the reclassification of the complainant during the period prior to the termination of his services, the Tribunal noted that its authority to review was subject to a twofold limitation: in the first place, since a decision had been taken on the question and, in default of any appeal, had become operative, only facts subsequent to that decision could be taken into consideration; secondly, having regard to the Director-General's discretion in such matters, the decision impugned could be rescinded only if tainted by clearly determined irregularities. The point at issue, therefore, was whether, as a result of events between the decision impugned and the resignation, the refusal to regrade the complainant should be censured for any reason falling within the competence of the Tribunal. The Tribunal replied to this question in the negative.

16. JUDGEMENT NO. 159 (6 OCTOBER 1970):²⁷ BHANDARI V. WORLD HEALTH ORGANIZATION

Complaint seeking the rescinding of a decision of dismissal for serious misconduct

The Director of the WHO Regional Office for South East Asia having discovered that the Organization's diplomatic pouch was being used for illicit traffic in foreign currencies, the complainant was implicated. According to his statements, he was detained for a whole day in a senior official's office; was threatened with being denounced and even with physical brutality and was bullied into signing a document in which he confessed to having played an active role in the traffic in question. He alleged that on the following day he was again summoned and detained in a room adjoining the office of the senior official. He stated that on the same day he sent a letter—which remained unanswered—to the Regional Director withdrawing his confession of the day before. According to the Organization, the questioning took place quite normally. The complainant was suspended under Staff Rule 530 and one week later was dismissed for serious misconduct in accordance with Staff Rule 510.6.

The complainant appealed to the Regional Board of Inquiry and Appeal, which heard witnesses, examined several pieces of evidence, including some confidential documents withheld from the complainant, and recommended that the Regional Director reject the appeal. The recommendation was accepted. The headquarters Board of Inquiry and

²⁷ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

Appeal, to which the complainant then appealed, recommended confirmation of the Regional Director's decision. The Director-General accepted that recommendation.

In his complaint to the Tribunal, the complainant repeated his denials, claimed that, in default of proof, the decision to suspend him was unlawful and alleged that the decision to dismiss him was likewise tainted by serious irregularities since the charges had not been made in writing and the complainant had not been given the necessary time to prepare his defence. He further stated that the procedure before the Regional Board of Inquiry and Appeal had been irregular.

As to the charges against the complainant, the Tribunal found that the Organization's decision to dismiss him had been based on the statement signed by the complainant. The Tribunal found that the statement abounded in particulars which were too clearly detailed to have been invented by a third person and were moreover corroborated by similar statements made by five other persons charged, two of whom had not retracted their confessions; finally, the statement had been signed in the presence of witnesses. Moreover, the treatment the complainant complained of, even supposing it had in fact been meted out to him, was not of such a kind as to force him to confess to imaginary acts of misconduct, and the fact that, as he claimed, he retracted his statement the next day proved that he had not been deprived of freedom of expression.

As to the decision to suspend the claimant, the Tribunal found that the three conditions to which the suspension of a staff member is subject under Staff Rule 530 had been fulfilled: firstly, there had been serious misconduct, since any act by which a staff member uses his position as an official for his personal advantage falls within the definition in Staff Rule 510.6; secondly, the charges brought against the complainant could be presumed to be well-founded, in view of the confessions signed by him; and, lastly, the continuance in office of the complainant was liable to prejudice the service since he had lost the confidence of his supervisors.

Lastly, as to the decision to dismiss the complainant, the Tribunal noted that by virtue of Staff Rule 520, second paragraph, serious misconduct could result in summary dismissal and found that in the case in question the provision had been correctly applied. It found that since the case involved the breaking of the Organization's rules, the rules of the Organization alone were applicable, not any national legislation.

As to the procedural irregularities mentioned by the complainant, the Tribunal pointed out that the purpose of the procedures which allegedly had not been respected was to enable the person concerned to defend himself and were inapplicable once he had admitted the charges.

The Tribunal therefore dismissed the complaint.

17. JUDGEMENT NO. 160 (6 OCTOBER 1970):²⁸ SOOD V. WORLD HEALTH ORGANIZATION

This case is broadly similar to the case dealt with in Judgement No. 159.

²⁸ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

18. JUDGEMENT NO. 161 (6 OCTOBER 1970):²⁹ SETHI V. WORLD HEALTH ORGANIZATION

This case is broadly similar to the case dealt with in Judgement No. 159.

19. JUDGEMENT NO. 162 (6 OCTOBER 1970):³⁰ RAJ KUMAR V. WORLD HEALTH ORGANIZATION

This case is broadly similar to the case dealt with in Judgement No. 159.

20. JUDGEMENT NO. 163 (6 OCTOBER 1970):³¹ DHAWAN V. WORLD HEALTH ORGANIZATION

A complaint shall not be receivable unless it impugns a final decision

The complainant had applied for a vacant post. On learning that another candidate had been selected he lodged an appeal against the Selection Committee's decision with the Regional Board of Inquiry and Appeal but was informed by the Secretary to the Board that his appeal was not receivable.

The Tribunal, to which the case was submitted, noted that according to article VII of its Statute a complaint was not receivable unless a final decision was impugned, the person concerned having exhausted such other means of recourse as were open to him under the applicable Staff Rules. The complaint was not directed against any decision taken by the Director-General of WHO. It was therefore not receivable.

21. JUDGEMENT NO. 164 (17 NOVEMBER 1970):³² VERMAAT V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Commencement of the period within which an appeal against an administrative decision must be submitted

In 1968, the complainant, a technical assistance expert of FAO, had requested the United Nations Administrative Tribunal to rescind a decision by the Standing Committee of the Joint Staff Pension Board refusing to validate his period of service prior to 1958. He also maintained that he had been entitled to participate in the Pension Fund from the time when he joined FAO and that by not enrolling him FAO had failed to fulfil its contractual obligations.

In its Judgement No. 118,³³ the United Nations Administrative Tribunal had rejected the plea against the Pension Board. With regard to the plea directed against FAO, it had observed that it appeared from the FAO Staff Regulations that it was the ILO Administra-

²⁹ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

³⁰ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

³¹ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Mr. A. T. Markose, Deputy Judge.

³² Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

³³ See *Juridical Yearbook*, 1968, p. 169.

tive Tribunal which was the competent jurisdiction. The complainant then wrote to the Director-General of FAO asking him to make the necessary arrangements to enable him to validate his service with the Organization prior to 1 January 1958 for pension purposes. Having received a negative reply, he appealed to the FAO Appeals Committee which found that the appeal was directed against administrative decisions taken in 1951 and subsequently reaffirmed each time the appointment was renewed, that in 1958 the complainant had been made aware of his previous Pension Fund status, that six years had elapsed before he had had recourse to the FAO Staff Pension Committee and that his appeal must therefore be regarded as time-barred.

In his complaint to the Tribunal, the complainant pointed out that the Organization could not argue that he ought to have protested against his non-enrolment in the Fund at the outset of his appointment: according to him, there was in fact no administrative decision; the Organization had merely omitted to enrol him in the Fund. He relied on Judgement No. 118 of the United Nations Administrative Tribunal, which had stated that in the file before it there was nothing to indicate that the legal problems which had been raised by the complainant had received administrative consideration or been the subject of any decision open to appeal.

The Tribunal drew attention to the provisions of FAO Staff Rule 3C3.131:

“A staff member who wishes to lodge an appeal shall state his case in a letter to the Director-General through the department head or division director. In the case of an appeal against an administrative decision or a disciplinary action, the letter shall be despatched to the Director-General within two weeks after receipt of the notification of the decision impugned. If the staff member wishes to make an appeal against the answer received from the Director-General, or if no reply has been received from the Director-General within two weeks of the date the letter was sent to him, the staff member may, within the two following weeks, submit his appeal in writing to the Chairman of the Appeals Committee, through the Secretary to the Committee”.

It followed from this provision that the period within which an appeal against any administrative decision affecting FAO officials must be submitted started to run from the date of notification to the persons concerned. In appointing the complainant in 1951 under a contract which made no provision for his membership in the Joint Staff Pension Fund, the Director-General had thereby taken the decision not to enrol him in the Fund. Although that decision had not been brought to the notice of the complainant at the time, it had been confirmed and brought to his notice by the letter in which the Director-General had informed him that he would become a member of the Joint Staff Pension Fund only from 1958. Accordingly, that was the date at which the period laid down by the provision quoted above began to run. The Organization was therefore justified in contending that the appeal had lapsed and that the decision impugned was not tainted with illegality.

22. JUDGEMENT NO. 165 (17 NOVEMBER 1970):³⁴ WEST V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

This case is broadly similar to the case dealt with in Judgement No. 164.

³⁴ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

23. JUDGEMENT NO. 166 (17 NOVEMBER 1970):³⁵ BIDOLI V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Discretionary power of the Director-General in the matter of renewal of a fixed-term appointment and in the matter of appointments—Limits of the Tribunal's authority to review

The project for which he worked having been abolished and the complainant having accordingly been notified that his contract would not be renewed, he applied for vacant permanent posts. When other candidates were selected, he lodged an appeal with the Appeals Committee. He attributed the refusal to appoint him to the vacancies for which he had applied to the animosity of his supervisor. Two members of the Committee were of the opinion that the decision appeared to have been taken because of the complainant's personality but the majority recommended that the Director-General not reconsider his decision. That recommendation was accepted.

The complainant then lodged a complaint with the Tribunal, contending that an official who had given entire satisfaction could reasonably expect that his contract would be extended, that according to judgements of the Tribunal, such extension did not lie within the personal and sovereign discretion of the Director-General and that non-renewal of his appointment was attributable to factors other than his efficiency.

The Tribunal noted that the complainant had referred to it both the decision by which he had been informed that his contract would not be renewed and the decision appointing candidates other than himself to the posts for which he had applied. It emphasized that those decisions lay within the discretionary power of the Director-General, a fact which, firstly, excluded any right on the part of the complainant to the renewal of his appointment or to appointment to the posts for which he had applied, and, secondly, limited the Tribunal's authority to review. Within the limits of that authority to review, the complainant claimed that refusal to extend his contract was attributable solely to the animosity of his supervisor and that the selection of candidates other than himself had been based on an obvious error of judgement in regard to his merits and on unwarranted prejudice in favour of the persons so appointed.

As to the non-renewal of the contract, the Tribunal found that it was clear from the dossier and the oral proceedings that the measure was justified by the termination of the programme and that it had been of general character. It added that the alleged animosity the complainant ascribed to his superior had not been proved. As to the fact that the complainant was not appointed to the posts for which he had applied, the Tribunal considered that the proceedings had shown that the choice of other officials could not be regarded as contrary to the interests of the service or as tainted by favouritism. It added that while it might be a matter for regret that the complainant, whose efficiency was not in question, should have had to leave FAO, it could only find that the decisions impugned were legally valid. The complaint was therefore dismissed.

24. JUDGEMENT NO. 167 (17 NOVEMBER 1970):³⁶ TAYLOR UNGARO V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Loss of "non-local" status—Any official is subject to the provisions of the Staff Rules in force at the time he concludes his contract with the Organization

The complainant, who had been given a "non-local" appointment on 16 May 1966, was given an indefinite appointment, still with "non-local" status, on 16 May 1968. After

³⁵ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

³⁶ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

her marriage to an FAO staff member on 13 July 1968, she informed the Personnel Division that she did not intend to assume Italian nationality and that in accordance with section 23 of the Irish Nationality and Citizenship Act, 1956 (No. 26), she was retaining her Irish nationality and therefore—according to her—her entitlement to “non-local” status. In reply, the Personnel Division informed her that as a result of her marriage to a person with “local” status, she had lost her “non-local” status under the provisions of Staff Rule 302.4073. Her appeal to the Appeals Committee having failed, the complainant appealed to the Tribunal, contending that Staff Rule 302.4073, which was based on an administrative memorandum of 5 October 1965 which had been incorporated in the Staff Rules on 12 December 1966, and which provided for the acquisition of local status in situations such as that of the complainant, created a discrimination based on sex and prejudiced the rights she had acquired under Staff Rule 302.4073 which had been in force at the time of her original appointment (under that rule, the status of an official could not be changed during the period of his service unless he voluntarily acquired the nationality of the country of the duty station—automatic acquisition of citizenship by marriage not being construed to be voluntary). Furthermore, Staff Rule 302.4073 was contrary to the proposals of the Staff Council, which had objected to the incorporation of Memorandum AM 65/60 in the Rules.

The Tribunal emphasized that it was not disputed that if Staff Rule 302.3023 was applicable, the claim must fail. Likewise, it was not disputed that if the earlier rule 302.4073 was applicable, the claim must succeed. The Tribunal recalled that at the time of her marriage the complainant had been employed under a contract signed on 14 June 1968 which had been made subject to the Staff Rules. The edition of the Staff Rules then in force had been that of 12 December 1966, which incorporated rule 302.3023. Accordingly the claim must fail unless the complainant could show that the rule in question was either invalid or inapplicable, in which case the earlier rule would be applicable to her.

The claimant had contested the validity of the rule on four grounds, namely: discrimination based on sex, discrimination based on category, the fact that the Staff Council had not approved the rule and the fact that the Staff Council had not been consulted. As to the first three grounds, the Tribunal considered that even if the allegations were well founded, it would not affect the validity of Staff Rule 302.3023 inasmuch as the Director-General, in adopting that rule, had not exceeded the powers conferred on him under Rule XXXVI of the General Rules of the Organization. As to the fourth allegation, it failed on the facts.

The complainant had contended that Staff Rule 302.3023 was not applicable to her, claiming in the first place that she was not bound by it because it had not been brought to her knowledge at the time of her appointment. In the opinion of the Tribunal, that argument was not founded because the contract was expressly made subject to the Staff Rules and Regulations and it was not necessary that any particular provision of those texts should have been brought to the complainant’s attention.

The complainant contended further that the rule was not applicable to her because under her earlier contracts she had acquired the right to “non-local” status in accordance with Staff Rule 302.4073 and the Director-General had no power to make a new rule depriving her of that status. The Tribunal had found it unnecessary to consider whether the complainant had acquired such a right by virtue of her earlier contracts because, even if she had, it had been extinguished when the contracts had expired.

25. JUDGEMENT No. 168 (17 NOVEMBER 1970):³⁷ KIEWNING-KORNER CASTRONOVO V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

This case is broadly similar to the case dealt with in Judgement No. 167.

26. JUDGEMENT No. 169 (17 NOVEMBER 1970):³⁸ LOOMBA V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Decision terminating the appointment of an official upon expiry of his probationary period—Limits of the Tribunal's authority to review such a decision

The complainant had received, on 3 October 1967, a one-year appointment which was subject to six months' probation. From January 1968, his supervisor expressed serious reservations about him and in March 1968 recommended that his appointment should terminate on the expiry of his probationary period. Having learnt of this recommendation, the complainant wrote to the Chief of Personnel requesting, *inter alia*, that an inquiry should be made into the fraudulent practices which, according to him, were rife in the office in which he worked. Headquarters decided not to implement immediately the recommendation that the claimant's appointment should be terminated and accordingly his probationary period was twice extended by cable, first until 30 April 1968 and then until 15 May 1968. After an inquiry, the Organization reached the conclusion that the complainant's accusations were unfounded and accordingly decided not to extend his appointment. The complainant then appealed to the FAO Appeals Committee, which found that although the procedure adopted for the termination of the appointment had been somewhat lax in that two cables extending the probationary period had been handed to an official who had already been suspended from duty, it was reasonable to suppose that the complainant had received them. The Committee added that the Organization was justified in terminating the appointment although there appeared to have been an element of prejudice, the extent of which the Committee had been unable to assess. It therefore recommended the Director-General to grant the complainant some compensation. That recommendation was accepted.

The case having been referred to it, the Tribunal recalled that according to Staff Regulation 301.0913 the Director-General may at any time terminate the appointment of a staff member serving a probationary period if in his opinion such action would be in the interests of the Organization. Such a decision fell within the discretion of the Director-General and could not be rescinded by the Tribunal unless it was tainted by clear irregularities.

The Tribunal noted that according to its terms, Staff Regulation 301.0913 applied during the period of probation. That must be understood to mean not only the trial period prescribed by the contract of appointment but also any period by which the probation had been expressly or tacitly extended. The Organization claimed to have extended the complainant's period of probation twice by cable. The question arose, however, whether the complainant had been aware of those cables and it was therefore doubtful whether there had been any express extension. On the other hand, it appeared at least from the circumstances that the complainant's period of probation had been extended to the date of his dismissal in such a way that he was able to learn of it. Having learnt that there had been a proposal for his dismissal, he was not unaware of the uncertainty of his position and could not reasonably interpret the absence of a decision before the normal termination of the probationary period to mean that Staff Regulation 301.0913 would not be applied. Accord-

³⁷ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

³⁸ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

ingly, there were grounds for holding that at the date of termination of his appointment this Regulation still applied and that the decision impugned could not, therefore, be time-barred.

The complainant pleaded, in vain, violation of Staff Regulation 301.103 which provides that the official concerned should receive a written statement of the reasons for dismissal and gives him the right to supply explanations, also in writing. This provision is included in the chapter on disciplinary measures and does not apply to the termination of an official on probation, since such a decision is not of a disciplinary nature.

Lastly, the Tribunal noted that the accusations levelled against his supervisor by the complainant were not supported by any evidence in the dossier and revealed a mentality incompatible with the performance of the duties of an international official. The Director-General, therefore, had neither misinterpreted the facts nor drawn clearly mistaken conclusions from the documents in the dossier. The Tribunal therefore dismissed the complaint.

27. JUDGEMENT NO. 170 (17 NOVEMBER 1970):³⁹ NAIR V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Complaint impugning a decision of dismissal for serious misconduct

The complainant had been given several successive fixed-term contracts under a pre-investment project. In February 1967, a check of the project accounts for which he was responsible revealed several irregularities and a deficit of 1,300 rupees, which sum the complainant had used for his personal needs and subsequently refunded. No disciplinary action was taken against him but he was warned of the consequences of any future irregularities. Some months later the project manager informed the Chief of Personnel in Rome of further irregularities in an account handled by the complainant and of the irregularities which had been detected in February 1967. A detailed audit was then ordered, as a result of which the Director-General decided to suspend the complainant from duty without pay pending the results of a further investigation. This investigation was carried out by an *ad hoc* committee composed of three senior officials who questioned several members of the project staff and reached the conclusion that there was no reasonable doubt of the complainant's guilt. The latter was accordingly informed that he had been dismissed under Manual provision 330.24 for serious misconduct according to the terms of provision 330.15. The FAO Appeals Committee, to which the case was referred, recommended that that decision be maintained.

In his complaint to the Tribunal, the complainant did not contest the fact that funds had been misappropriated but maintained that the project manager had incriminated him in order to protect himself. He maintained that his dismissal had been motivated by prejudice and that the *ad hoc* committee had also been prejudiced. The Tribunal found that, by setting up an *ad hoc* committee to carry out an investigation, the Organization had made every possible effort to dispel the misgivings aroused by the contradictory allegations of the project manager and the complainant. The members of the committee were not project staff and there was no reason to doubt their impartiality. Moreover, their findings were corroborated by those of the Appeals Committee.

The Tribunal emphasized that the project manager had indeed initialed documents which were intended to conceal the misappropriations but that did not mean that he was aware of the real nature of his acts or that he had profited by them. It was understandable that, being absorbed by the management of the project, he had failed for some time to notice

³⁹ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Evelyn, Judge.

the complainant's dishonesty. Moreover, it was unlikely that an official of his rank would have engaged in improper dealings, and so risked his losing his appointment, for a few thousand rupees, and it would have been even more astonishing if he had taken as an accomplice a subordinate whose lack of discretion he had reason to fear. Accordingly, by fully exonerating the project manager, the Appeals Committee and the Director-General had correctly evaluated the facts brought to their attention. Even assuming that the project manager had been found at fault, the guilt of the complainant, who had already received a warning, was not ruled out thereby. In short, all the circumstances of the case showed that the guilt of the complainant should be regarded as established with a probability approaching certainty. The dismissal was therefore justified and the complaint must be dismissed.

28. JUDGEMENT NO. 171 (17 NOVEMBER 1970):⁴⁰ SILOW V. INTERNATIONAL LABOUR ORGANISATION

In a complaint against the "International Labour Organisation and the ILO Administrative Tribunal, for the operation of which the ILO is responsible to the member Governments of those United Nations organisations which recognize the jurisdiction of the Tribunal", the complainant requested the Tribunal to reopen proceedings in respect of two complaints he had previously brought to the Tribunal, one against IAEA and the other against FAO, which had formed the subjects of Judgements Nos. 142⁴¹ and 151.⁴²

The Tribunal emphasized that the complainant had never been an official of the International Labour Organisation and that his complaint was not therefore one the Administrative Tribunal was competent to hear under the provisions of article II of its Statute. It added that, under the terms of article VI of the Statute, "The Tribunal shall take decisions by a majority vote; judgements shall be final and without appeal"; accordingly, if the complainant was requesting the Tribunal to rescind its earlier Judgements Nos. 142 and 151, his claims were not receivable.

⁴⁰ Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

⁴¹ See *Juridical Yearbook*, 1969, p. 203.

⁴² See above p. 149.

Chapter VI

SELECTED LEGAL OPINIONS OF THE SECRETARIAT OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Legal opinions of the Secretariat of the United Nations

(Issued or prepared by the Office of Legal Affairs)

1. EXEMPTION OF UNITED NATIONS PUBLICATIONS, UNDER ARTICLE 105 OF THE CHARTER, FROM A REQUIREMENT IN THE PRESS LAW OF A MEMBER STATE THAT THEY CARRY A RECORD OF THE NAME AND SURNAME OF THE EDITOR

Memorandum to the Chief of the Policy and Programme Section, External Relations Division, Office of Public Information

1. It appears that a new press law passed in a Member State requires that "all periodical publications shall carry a record of", among other things, the "name and surname of the editor". The Director of the United Nations Information Centre in the Member State concerned has requested an "opinion concerning the use of his name on press releases, the Weekly Newsletter and other United Nations material that may be put out by the Centre from time to time".

2. I noted that all publications put out by the Centre clearly identify the Centre as the source of the information. I understand, furthermore, that the policy of the Secretary-General with regard to United Nations publications is to refrain from showing thereon the name of any staff member.

3. The purpose of the provision referred to above of the press law in question is obviously to identify the author of any periodical publication so as to hold him responsible under the law of the Member State concerned. In the distribution of United Nations publications in that State, the Director of the United Nations Information Centre would be performing a United Nations function in his capacity as a United Nations official. He cannot be held accountable to the Government concerned, or for that matter, to any other authority external to the United Nations, in virtue of Article 105 of the Charter and section 18 (a) of the Convention on the Privileges and Immunities of the United Nations. The said provision of the law in question obviously has no application with respect to United Nations publications including those issued by the Information Centre.

4. Accordingly, the Director of the Centre should take the necessary steps to request recognition of the exemption from the application of the law in question.

16 January 1970

2. USE OF A SYMBOL RESEMBLING THE UNITED NATIONS EMBLEM BY A NATIONAL ORGANIZATION ESTABLISHED IN CONNEXION WITH THE UNITED NATIONS TWENTY-FIFTH ANNIVERSARY—USE OF THE UNITED NATIONS EMBLEM ON THE STATIONERY OF SUCH AN ORGANIZATION

Memorandum to the Office of the Under-Secretaries-General for Special Political Affairs

1. You have requested legal advice concerning a proposal from a national committee, established in a Member State for the United Nations Twenty-fifth Anniversary.

2. The National Committee has forwarded an official symbol which the Committee intends to use in the Member State concerned and has suggested that the symbol “merits much wider usage”, apparently implying that it could be used in other countries, and by the United Nations itself, if approved by the competent authorities of the United Nations. The symbol consists of the initials “UN” above the number 25, within a circle and a wreath of olive leaves.

3. You have said that the Preparatory Committee for the Twenty-fifth Anniversary of the United Nations discussed the question of the symbol for the Anniversary and did not favour the adoption of any symbol for the occasion. This fact readily disposes of the question whether the symbol might be approved as a United Nations symbol for use in all Anniversary activities. The question arises, however, whether the National Committee should be permitted to use a symbol of their own creation, which includes the initial letters of the name of the Organization within a wreath of olive leaves, similar to that of the United Nations emblem. In general as you know, under General Assembly resolution 92 (1), no authorization has been given in recent practice for the use of the emblem, or variations of it, by organizations acting in support of the United Nations (as distinguished from organizations acting as agents of the Organization), with only one exception. Nevertheless, the present case is somewhat special in that the proposed symbol has only a very slight resemblance to the United Nations emblem, and is intended for use only for the duration of the Twenty-fifth Anniversary year by a reputable organization under the direction or auspices of various prominent members of the Government and Parliament of a Member State.

4. Under resolution 92 (1) of the General Assembly, the practice in authorizing the use of the name or the emblem of the United Nations for non-commercial purposes has been to prevent their use in a manner which would be undignified, inconsistent with the spirit of General Assembly resolutions or susceptible of creating the impression of endorsement of activities by the United Nations or the impression that the user is the United Nations itself. The application of these criteria to the present case would raise no difficulty for the authorization of the use of the symbol by the National Committee, except perhaps as regards the last mentioned criterion. We are inclined therefore, to consider the present case as not falling within the type of cases in which authorization has not been granted, if in using their own symbol, the Committee does not, by implication, convey the impression that it is an integral part of the United Nations. Such implication might be avoided if the symbol is used with a legend bearing a clear identification of the Committee.

5. In expressing this view, we have taken into account the very important and independent role which Member States and non-governmental organizations are to play in the Anniversary celebrations, a role recognized in General Assembly resolution 2499 (XXIV), paragraph 16, in which such States and organizations, *inter alia*, are invited “to formulate such plans and programmes as seem to them appropriate for promoting the purposes of the observance”. We have also noted that the Preparatory Committee has recommended to Member States the issuance of postage stamps in commemoration of the Anniversary, and that the choice of the sign and color of the stamps be left to the Governments. The Prepara-

tory Committee added: "It was hoped that mention would be made in these stamps of the United Nations as well as of its Twenty-fifth Anniversary".¹ Stamps thus issued are likely to bear, in some cases, either the United Nations emblem or a modified version of it. Here, again, however, there would be no possibility of confusion since the stamps will, of course, be issued with an inscription bearing the name of each of the issuing countries.

6. In your memorandum, you also call to our attention the use of the United Nations emblem on the stationery of the National Committee. In our opinion, such use on the stationery of the Committee or on its publications is objectionable. It is true that in the early years of the Organization, we did authorize the use of the emblem in a few cases for activities in support of the United Nations of some private organizations on the condition that a disclaimer be made on the stationery or publications of the organization that the organization was not an integral unit of the United Nations. At the present time, however, the United Nations emblem is widely known throughout the world and even if a disclaimer is made, the possibility of confusion might not be avoided as instant recognition of the emblem would divert attention from any disclaimer. It will be recalled that the United Nations Flag Regulations (which, in effect, also deals with the emblem since the flag is the emblem centered on a United Nations blue background) prohibits under Section IV (b), the use of the flag or its replica "stamped, printed, engraved or otherwise affixed on any stationery, books, magazines, periodicals or other publications of any nature whatsoever, in a manner such as could imply that any such stationery, books, magazines, periodicals or other publications were published by or on behalf of the United Nations unless such is in fact the case . . .". Although the National Committee will undoubtedly be acting in support of the United Nations, it cannot be said that it will be acting "on its behalf".

20 February 1970

3. SCOPE OF CREDENTIALS IN RULE 27 OF THE RULES OF PROCEDURE OF THE GENERAL ASSEMBLY

*Statement by the Legal Counsel submitted to the President of the General Assembly at its request*²

1. The rules of procedure of the General Assembly do not contain a definition of credentials.³ Rule 27, however, provides:

"The credentials of representatives and the names of members of a delegation shall be submitted to the Secretary-General if possible not less than one week before the date fixed for the opening of the session. The credentials shall be issued either by the Head of the State or Government or by the Minister for Foreign Affairs."

¹ *Official Records of the General Assembly, Twenty-fourth Session, Annexes*, agenda item 25, document A/7690, para. 30.

² Circulated as document A/8160; see *Official Records of the General Assembly, Twenty-fifth Session, Annexes*, agenda item 3.

³ In bilateral diplomatic relations credentials may be defined as the document officially attesting that the person named is the duly appointed envoy accredited by the sending State to the receiving State. While the actual phraseology may differ, the essential part is said to be a phrase asking that credit may be given to all the agent may say in the name of his sovereign or government (Satow, *A Guide to Diplomatic Practice*, Fourth Edition, p. 79, para. 122; B. Sen, *Diplomatic Handbook of International Law and Practice* (1965), p. 40; M. Hardy, *Modern Diplomatic Law* (1968), p. 20, foot-note 3). By adaptation, credentials of a representative to an international organization may be defined as the document attesting that the person or persons named are entitled to represent their State at the seat of or at meetings of the Organization.

2. From this rule one may derive three essential elements with respect to credentials to the General Assembly:

- (a) "Credentials" designate the representatives of the Member State to the General Assembly;
- (b) They are to be submitted to the Secretary-General; and
- (c) They are to be issued by the Head of the State or Government or by the Minister for Foreign Affairs.

3. Thus credentials for the General Assembly may be defined as a document issued by the Head of State or Government or by the Minister for Foreign Affairs of a State Member of the United Nations submitted to the Secretary-General designating the persons entitled to represent that Member at a given session of the General Assembly. Unlike the acceptance of credentials in bilateral relations, the question of recognition of a Government of a Member State is not involved, and substantive issues concerning the status of Governments do not arise except as examined in the following paragraph.

4. While normally the examination of credentials, both in the Credentials Committee and in the General Assembly, is a procedural matter limited to ascertaining that the requirements of rule 27 have been satisfied, there have nevertheless been a few instances involving rival claimants where the question of which claimant represents the true government of the State has arisen as a substantive issue. This issue of representation may, as in the case of the Republic of the Congo (Leopoldville) at the fifteenth session and Yemen at the sixteenth session, be considered in connexion with the examination of credentials, or it may, as in the case of China, be dealt with both in connexion with credentials and as a separate *agenda item*.

5. Questions have also been raised in the Credentials Committee with respect to the representatives of certain Members, notably South Africa and Hungary, where there was no rival claimant. There has, however, been no case where the representatives were precluded from participation in the meetings of the General Assembly. The General Assembly, in the case of Hungary from the eleventh to the seventeenth session and in the case of South Africa at the twentieth session, decided to take no action on the credentials submitted on behalf of the representatives of Hungary and South Africa. Under rule 29 any representative to whose admission a Member has made objection is seated provisionally with the same rights as other representatives until the Credentials Committee has reported and the General Assembly has given its decision.

6. Should the General Assembly, where there is no question of rival claimants, reject credentials satisfying the requirements of rule 27 for the purpose of excluding a Member State from participation in its meetings, this would have the effect of suspending a Member State from the exercise of rights and privileges of membership in a manner not foreseen by the Charter. Article 5 of the Charter lays down the following requirements for the suspension of a Member State from the rights and privileges of membership:

- (a) Preventive or enforcement action has to be taken by the Security Council against the Member State concerned;
- (b) The Security Council has to recommend to the General Assembly that the Member State concerned be suspended from the exercise of the rights and privileges of membership;
- (c) The General Assembly has to act affirmatively on the foregoing recommendation by a two-third vote, in accordance with Article 18, paragraph 2, of the Charter, which lists "the suspension of the rights and privileges of membership" as an "important question".

The participation in meetings of the General Assembly is quite clearly one of the important rights and privileges of membership. Suspension of this right through the rejection of credentials would not satisfy the foregoing requirements and would therefore be contrary to the Charter.

11 November 1970

4. QUESTION OF VOTES BY CORRESPONDENCE—PROCEDURE APPLIED BY THE COMMISSION ON NARCOTIC DRUGS

Letter to the Deputy Secretary-General, World Meteorological Organization

1. You have enquired about the experience of the United Nations in regard to votes by correspondence. The closest parallel that we know of in the United Nations to the system of votes by correspondence of WMO which you describe is in the Commission on Narcotic Drugs. That Commission, at its twentieth session in 1965, adopted its resolution 1 (XX) to deal with the problem of placing new narcotic substances under international control, pursuant to article 3 of the Single Convention on Narcotic Drugs, 1954,⁴ during periods when the Commission was not in session.⁵ This resolution provides as follows:

"The Commission on Narcotic Drugs,

"Considering the importance of ensuring that new narcotic substances are brought under control as quickly as possible,

"Sharing the concern of the World Health Assembly (resolution V/HA 18.46) about the dangers to public health which may arise if the control of such substances is delayed,

"Taking into account the provisions of the Single Convention on Narcotic Drugs, 1954, under which decisions on the control of narcotic substances are taken by the Commission on Narcotic Drugs,

"Considering also that the Commission on Narcotic Drugs meets not more than once a year,

"Believing that steps can be taken under the present terms of the 1954 Convention to speed up the process of placing new substances under control,

"1. Resolves that if a recommendation is made by the World Health Organization for the control of a new narcotic substance, and the Commission is not, or will not within a period of three months be in session, a decision should be taken by the Commission before its next session; and

"2. Requests the Secretary-General, for that purpose, to arrange in these exceptional circumstances for a decision of the Commission to be taken by a vote of the Commission by mail or telegram, and for a report to be made to the Commission at its next session."

2. Various decisions have been taken by the foregoing procedure. In its report on the work of its twenty-first session in 1966, the Commission made the following observation:

*"The Commission noted that the procedure it had adopted at its twentieth session regarding voting by mail, on a recommendation of WHO under article 3 of the 1954 Convention, had worked satisfactorily that year. It agreed with the representative of the United Kingdom that in future cases when that procedure was applied, a request by any member of the Commission for further discussion in the Commission regarding any such recommendation of WHO would automatically place the matter on the agenda of the Commission session immediately following."*⁶

⁴ United Nations, *Treaty Series*, vol. 520, p. 151.

⁵ See *Official Records of the Economic and Social Council, Fortyeth Session, Supplement No. 2 (E/4140)*, para. 60.

⁶ *Ibid.*, *Forty-second Session, Supplement No. 2 (E/4294)*, para. 335.

Further observations concerning the procedure were made in the report of the Commission's twenty-second session. In particular, the Commission expressed the hope that Commission members would reply promptly to requests for votes by mail in accordance with its resolution 1 (XX).⁷

3. We do not believe that any other United Nations organ has adopted a similar form of procedure for taking decisions by correspondence, but it not infrequently happens that the report of a body is approved by the members by correspondence after the end of the session. Mention may also be made of the rules of procedure of the General Assembly, which provide in rule 4 that regular sessions shall be held away from Headquarters if a majority of Members concur within thirty days in a request to that effect, and in rules 8 and 9 that a special session or emergency special session shall be held if a majority of Members similarly concur; in such cases concurrence is expressed by correspondence. Moreover, the Economic Commission for Africa now meets only every second year, and in the years when it does not meet, it approves draft reports which are circulated by mail. The procedure is described in one of the Commission's reports.⁸

2 April 1970

5. QUESTION OF THE PARTICIPATION OF INTERGOVERNMENTAL ORGANIZATIONS AS OBSERVERS IN THE FOURTH CONFERENCE ON THE PEACEFUL USES OF ATOMIC ENERGY—PROCEDURE TO BE FOLLOWED FOR THE SUBMISSION TO THE GENERAL ASSEMBLY OF A RECOMMENDATION ON THE MATTER

Memorandum to the Chief of the Science Applications Section, Office for Science and Technology, Department of Economic and Social Affairs

1. The Fourth Conference on the Peaceful Uses of Atomic Energy is to be convened in accordance with General Assembly resolutions 2309 (XXII) of 13 December 1967, 2406 (XXIII) of 16 December 1968 and 2575 (XXIV) of 15 December 1969. In its resolution 2309 (XXII) the General Assembly decided to invite "the States Members of the United Nations and members of the specialized agencies or of the International Atomic Energy Agency to participate in the conference" and requested the Secretary-General, "with the assistance of the United Nations Scientific Advisory Committee, in co-operation with the International Atomic Energy Agency and in consultation with appropriate specialized agencies", to prepare for the conference. That resolution was adopted by the General Assembly after consideration was given to the recommendations of the United Nations Scientific Advisory Committee, one of the recommendations being that "there should be a fourth international Conference on the peaceful uses of atomic energy under the auspices of the United Nations with the fullest co-operation of the IAEA. The specialized agencies should be invited to participate as appropriate." In accordance with that resolution and in line with the practice established at the three previous conferences, invitations were sent to the States referred to in resolution 2309 (XXII) and to the specialized agencies to participate in the fourth conference.

2. It should be noted that there was no provision for invitation of intergovernmental organizations in the resolutions of the General Assembly convening the four conferences, nor was there any evidence in the published proceedings of the three previous conferences that an intergovernmental organization had been invited to participate in any of those conferences.

⁷ See *Official Records of the Economic and Social Council, Forty-fourth Session, Supplement No. 2 (E/4455)*, para. 40.

⁸ *Ibid.*, *Forty-fifth Session, Supplement No. 5 (E/4497)*, paras. 1 and 231-235.

3. In its resolution 2406 (XXIII) the General Assembly again requested the Secretary-General, "with the assistance of the United Nations Scientific Advisory Committee, in close co-operation with the International Atomic Energy Agency and in consultation with appropriate specialized agencies", to undertake preparations for the Fourth Conference and to provide for a conference which would fully achieve the objectives stated in General Assembly resolution 2309 (XXII). This mandate of the Secretary-General was once more confirmed in General Assembly resolution 2575 (XXIV). The United Nations Scientific Advisory Committee, while providing advice to the Secretary-General, has been performing a function similar to that of a preparatory committee for the Conference and its meetings have been attended by representatives of IAEA and of interested specialized agencies.

4. In view of the functions thus entrusted to the Secretary-General, the United Nations Scientific Advisory Committee and the IAEA by the General Assembly in the relevant resolutions, it would be appropriate that the question of invitation of intergovernmental organizations as observers at the Fourth Conference be considered at the meetings of the Scientific Advisory Committee and a recommendation thereon could then be submitted by the Secretary-General to the General Assembly for its approval.

5. Intergovernmental organizations, such as the Organisation for Economic Co-operation and Development (OECD) and the Council for Mutual Economic Assistance (CMEA), were designated by the Economic and Social Council in accordance with Council resolution 963 (XXXVI) to participate in the UNCTAD conferences.

28 August 1970

6. EXTENT OF THE PARTICIPATION OF ASSOCIATE MEMBERS OF THE ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST IN THE WORK OF THE COMMISSION AND ITS SUBSIDIARY ORGANS UNDER PARAGRAPHS 6 AND 7 OF THE COMMISSION'S TERMS OF REFERENCE—HISTORICAL SURVEY OF THE QUESTION OF MEMBERSHIP OF REGIONAL COMMISSIONS, IN PARTICULAR ECAFE AND ECE

Memorandum to the Chief of the Regional Commissions Section, Department of Economic and Social Affairs

1. I fully agree with you that in order to enable the associate members of ECAFE to vote in the Commission or its Committee of the Whole, it will be necessary to amend paragraph 6 of ECAFE's terms of reference. It would be for the Economic and Social Council to consider such an amendment, although the Commission may, should it so desire, make recommendation to the Council on this matter.

2. I also agree with you that if the associate members are more interested in being elected to certain subsidiary bodies of the Commission, the matter is provided for in paragraph 7 of ECAFE's terms of reference, according to which the representatives of associate members are eligible to be appointed as members of any subsidiary body, and to vote and hold office in such body once they become members thereof.

3. On several occasions in the past, discussion took place on the question of membership of regional economic commissions and, in particular, membership of ECAFE and ECE. In this connexion there was also discussion on the question of whether the Council had the authority under the Charter to grant full membership with voting rights in its commissions of States which are not members of the United Nations. Those discussions, in so far as they may be of interest as background information to any future consideration of the subject-matter of the present memorandum, are summarized below.

I. *Origin of paragraph 6 of ECAFE's terms of reference*

4. The Economic and Social Council in its resolution 37 (IV) of 28 March 1947 establishing ECAFE made the following provision:

“The members of the Commission shall, in the first instance, consist of Australia, China, France, India, Netherlands, Philippine Republic, Siam, Union of Soviet Socialist Republics, United Kingdom, and United States of America, provided that any State in the area which may hereafter become a Member of the United Nations shall be thereupon admitted as a member of the Commission.

“The Commission shall invite any Member of the United Nations not a member of the Commission to participate in a consultative capacity in its consideration of any matter of particular concern to that non-member”.

5. In the same resolution the Council requested ECAFE to appoint a committee of the whole to consider provisions for associating non-self-governing territories in the region with the work of the Commission.

6. The question of membership in ECAFE of non-member States of the United Nations was taken up by the ECAFE Committee of the Whole at the Commission's first session held in July 1947, in connexion with the question of membership of the non-self-governing territories.⁹ The Committee considered proposals for the non-self-governing territories ranging from full membership to consultative status on matters of particular concern to them. In a statement made to the Committee, the Assistant Secretary-General for Legal Affairs concluded that, “while there was no explicit provision in the Charter of the United Nations on the subject, the Charter, in spirit and in principle, envisaged a clear difference between Members and non-members and that this difference rested upon the fundamental principle that rights of membership should not be granted unless obligations of membership were also assumed.” Consequently, he considered that full membership should only be granted to non-member States “in very exceptional circumstances”. With regard to the non-self-governing territories, he stressed that “full membership would be contrary to the special régime prescribed for those territories in Chapters XI, XII and XIII of the Charter”. He noted, however, that the Economic and Social Council had full power to provide for the co-operation of those territories with the consent of the metropolitan power but such co-operation must fall short of full membership.

7. The Committee rejected a proposal to admit as full members of the Commission countries and territories within the geographical scope of the Commission which are not members of the United Nations. Instead, the formula of associate membership was adopted, by which such countries and territories could participate without voting rights in meetings of the Commission.

8. The report of ECAFE on the question of its membership was considered by the Economic and Social Council at its fifth session. As a result of this consideration, the Council on 31 July 1947 adopted resolution 69 (V) adding to the terms of reference of ECAFE provisions relating to the concept of associate membership for the non-self-governing territories in the region as well as for countries responsible for the conduct of their own international relations which were not members of the United Nations. The provision relating to participation, which has become paragraph 6 of ECAFE's terms of reference, reads as follows:

“Representatives of associate members shall be entitled to participate without vote in all meetings of the Commission, whether sitting as Commission or as Committee of the Whole.”

⁹ *Official Records of the Economic and Social Council, Fifth Session, Supplement No. 6*, pp. 17-23.

II. *Consideration by ECAFE and the Economic and Social Council of the question of admission to full membership of associate member of ECAFE*

9. At its ninth session in 1953, ECAFE had before it a proposal to amend its terms of reference by adding a provision to the effect that "any associate member of the Commission that has applied for membership in the United Nations Organization and has received a number of votes which the Economic and Social Council considers sufficient shall thereon be admitted as a member of the Commission".¹⁰

10. After discussion, a resolution was adopted by which ECAFE recommended that the Council admit to membership "... those associate members who are responsible for their own international relations and who apply to the Commission for such membership".¹¹

11. The Council, at its fifteenth session, considered this recommendation of ECAFE and, in this connexion, had before it a draft resolution by which it would admit the following associate members to membership of ECAFE: Cambodia, Ceylon, Japan, the Republic of Korea, Laos, Nepal and Vietnam.¹² In the course of a lengthy discussion, questions were raised whether the Council had the power under the Charter to grant voting rights or full membership in its regional economic commissions to States not members of the United Nations and whether the Council should decide the question of membership for those States by means of a general rule applicable both to ECE and ECAFE or by means of a specific decision applying to one commission in particular. The Council decided to adjourn the debate on this matter to its sixteenth session. The question was not taken up until its seventeenth session when the Council adopted resolution 517A (XV I) of 22 April 1954 by which it noted that the General Assembly had determined that the countries mentioned in the ECAFE recommendation were eligible for membership in the United Nations, and decided to amend paragraphs 3 and 4 of the terms of reference of ECAFE to permit the inclusion of these countries as members, provided that they applied for membership and agreed to comply with certain conditions. A proposal to defer consideration of the admission of Cambodia, Laos, Vietnam and the Republic of Korea on the grounds that their international status required clarification was rejected by the Council.

III. *Consideration by ECE and the Economic and Social Council of the question of according voting rights to European States not members of the United Nations which are invited to take part in the work of ECE in a consultative capacity*

12. Paragraph 8 of the original terms of reference of ECE provided that "the Commission may admit in their consultative capacity European nations not Members of the United Nations and shall determine the conditions in which they may participate in its work". (See Economic and Social resolution 36 (IV) of 28 March 1967.)

13. At the sixth session of ECE in 1951 a draft resolution was submitted under which full voting rights in the Commission would have been accorded to States not members of the United Nations which took an active part in the work of the Commission in a consultative capacity. After discussion this draft resolution was rejected by the Commission which, instead, adopted a resolution referring the matter to the Economic and Social Council on the grounds that "a change of the Commission's rules relating to voting rights involves questions of principle which have a bearing upon the work of other United Nations organs and therefore are outside the competence of the Commission".

¹⁰ *Ibid.*, *Fifteenth Session, Supplement No. 6* (E/2374), para. 175.

¹¹ *Ibid.*, para. 176.

¹² *Ibid.*, *Annexes*, agenda item 5 (document E/L.504).

14. The Economic and Social Council considered this question at its thirteenth session. Some members pointed out that the States in question took an active part in the work of the Commission and its subsidiary bodies, and that the importance of their contribution to the expansion of the European economy and to the development of trade warranted their being granted voting rights in the Commission. Other members would favour granting voting rights in the subsidiary bodies of the Commission but not in the Commission itself for the time being.¹³

15. A draft resolution submitted to the Council under which voting rights in the Commission would have been accorded to countries not members of the United Nations was rejected.¹⁴ The Council, in its resolution 414 (XIII) of 18, 19 and 20 September 1951, adopted the following provision:

“*Noting* that the Economic Commission for Europe, at its sixth session, having had brought before it the question of according voting rights to European States, not members of the United Nations, which are invited to take part in the Commission’s work in a consultative capacity, considered that a change of the Commission’s rules relating to voting rights involves questions of principle which have a bearing upon the work of other United Nations organs and therefore are outside the competence of the Commission, and referred the matter to the Council,

“*Being of the opinion* that, for the time being, no change should be made as to voting rights in so far as the Commission itself is concerned,

“*Considering*, however, that the question has a different import in relation to the subsidiary technical bodies of the Commission,

“*Decides* that point (8) of the terms of reference of the Economic Commission for Europe shall read as follows:

“(8). The Commission may admit in a consultative capacity European nations not members of the United Nations and shall determine the conditions in which they may participate in its work, including the question of voting rights in the subsidiary bodies of the Commission.” [Section C.II of resolution 414 (XIII).]

16. At its seventh session, ECE adopted a resolution by which it took note of Council resolution 414 (XIII) and requested its subsidiary bodies to grant voting rights to European nations not members of the United Nations admitted to participate in the work of the Commission in a consultative capacity. In connexion with this resolution, the following paragraph was inserted in the annual report of the Commission to the Council:

“In unanimously adopting the resolution on Voting Rights of European Nations not members of the United Nations the Commission has taken note of the fact that the decision of the Economic and Social Council concerning the granting of the right to vote in the Commission to countries not members of the United Nations was taken ‘for the time being’. The Commission concludes therefrom that the Economic and Social Council is keeping the question under constant review with regard to the importance of the problem of equal status of all countries participating in the Commission’s activities. A number of delegations to the seventh session of the Economic Commission for Europe have expressed the wish that the Council will grant voting rights to non-members of the United Nations in the Commission itself at the earliest possible moment.”¹⁵

17. The Council at its fourteenth session in connexion with the consideration of the annual report of ECE and in particular the resolution referred to above, rejected a draft resolution by which it would have accorded voting rights in the Commission to European nations not members of the United Nations.¹⁶

¹³ *Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 6 (E/2002)*, paras. 156-158.

¹⁴ *Ibid.*, Annexes, document E/L.280/Rev.1.

¹⁵ *Ibid.*, *Fourteenth Session, Supplement No. 5 (E/2187)*, para. 149.

¹⁶ *Ibid.*, Annexes, agenda item 3, document E/L.354.

18. The matter was raised again at the eighth session of ECE when a draft resolution by which voting rights would have been accorded to countries not members of the United Nations was rejected.¹⁷

19. Consideration of the question was postponed by the Council until its seventeenth session. At that session the agenda of the Council included the "Question of admission to membership in the regional economic commissions of States not members of the United Nations". The Council had also before it a legal study, prepared by the Secretariat at the Council's request, on the question whether the Council has the authority under the Charter to grant full membership with voting rights in its commissions to States which are not members of the United Nations (E/2458). After an examination of the proposals at Dumbarton Oaks, the proceedings of the Preparatory Commission in 1945, and the practice of the Council, as well as an analysis of Articles 69 and 4 of the Charter, it was concluded in this study "that the Council has authority by virtue of Article 68 of the Charter to grant full membership in the regional commissions to States which are not members of the United Nations".

20. After discussion, the Council rejected a proposal to grant membership to all countries not members of the United Nations participating in ECE in a consultative capacity. It adopted resolution 517 B (XVII) of 22 April 1954 by which it noted that the General Assembly had determined that Austria, Finland, Ireland, Italy and Portugal were eligible for membership in the United Nations, and decided to amend paragraph 7 of the terms of reference of ECE to include those countries as members of the Commission provided that they applied for membership and agreed to comply with certain conditions.

26 March 1970

7. QUESTION WHETHER A NON-MEMBER STATE CAN BE ADMITTED TO FULL MEMBERSHIP IN THE ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST—RIGHTS AND OBLIGATIONS OF FULL AND ASSOCIATE MEMBERSHIP IN THE COMMISSION AND ITS SUBSIDIARY BODIES

Memorandum to the Chief of the Regional Commissions Section, Department of Economic and Social Affairs

1. We refer to your memorandum concerning the question of possible membership in ECAFE of the Kingdom of Tonga. It is our understanding that the Kingdom of Tonga, due to become independent on 4 June 1970, does not intend to apply for membership of the United Nations but wishes to be admitted to ECAFE as a full member.

2. From the legal point of view, the first question is whether a non-Member State can be admitted to full membership in a regional economic commission. The reply to this question was given in a legal opinion of 8 June 1953 contained in document E/2458. In that opinion, after a detailed analysis of the relevant provisions of the Charter, the *travaux préparatoires* and the practice of the Economic and Social Council, the conclusion was reached that "the Council has authority by virtue of Article 68 of the Charter to grant full membership in the regional commissions to States which are not Members of the United Nations". This conclusion made two points clear, namely, that a non-Member State may become a full member of a regional economic commission and that it is for the Economic and Social Council to decide on whether or not to grant such membership.

¹⁷ *Ibid.*, Sixteenth Session, Supplement No. 9 (E/2382), paras. 195-196.

3. It is a general principle that membership entails both rights and obligations. Thus in its resolution 517 (XVII) of 22 April 1954, the Economic and Social Council, in admitting certain non-Member States (Cambodia, Ceylon, Republic of Korea, Japan, Laos, Nepal and Viet-Nam) to membership in the ECAFE, decided that those States should, *inter alia*, agree "to contribute annually such equitable amounts as the General Assembly shall assess from time to time in accordance with procedures established by the General Assembly in similar cases". The same condition concerning financial contributions was laid down in Council resolution 594 (XX) of 15 December 1955, in which the Council admitted the Federal Republic of Germany as a member of ECE. However, no condition was imposed by the Council when by resolution 946 (XXXVI) of 5 July 1963 it admitted Western Samoa as a member of ECAFE. In this connexion it may be noted that, unlike the States admitted under resolutions 517 (XVII) and 594 (XX), Western Samoa has not been required to make annual contributions to the United Nations.

4. Another provision which may be considered is paragraph 5 of the terms of reference of ECAFE. That paragraph provides for application by dependent territories, through the members responsible for the international relations of such territories, for associate membership of ECAFE and further states that if a territory has become responsible for its own international relations, it may be admitted as an associate member of the Commission on itself presenting its application to the Commission. The expression "responsible for its own international relations" has been interpreted as referring to either an independent sovereign State or a territory which has not yet become fully independent. Thus, in Economic and Social Council resolution 187A (VIII) of 11 March 1949, Nepal was admitted to associate membership of ECAFE; and before the adoption of Council resolution 517 (XVII) of 22 April 1954, the countries listed in paragraph 3 above were all associate members of ECAFE. However, since the last mentioned date no independent State has become an associate member of the Commission.

5. It may be appropriate to make a further observation on the rights and obligations of full and associate membership. In accordance with paragraph 6 of ECAFE's terms of reference, an associate member participates in the meetings of the Commission, whether sitting as Commission or Committee of the Whole, in the same manner as does a full member except the right to vote. Under paragraph 7 of the terms of reference, an associate member is eligible to be appointed as a member of any subsidiary body of the Commission with the right to vote and to hold office therein. In so far as financial obligations are concerned, a full member is, as a rule, subject to annual assessment by the General Assembly, but no associate member has been required to make contributions to the United Nations budget solely on account of its associate membership.¹⁸

28 May 1970

¹⁸ By resolution 1604 (LI) of 20 July 1971, the Economic and Social Council approved the recommendation of ECAFE that the Kingdom of Tonga be included in the geographical scope of the Commission and admitted as a member of the Commission, and decided to amend paragraphs 2 and 3 of the terms of reference of the Commission accordingly.

8. PARTICIPATION OF INTERGOVERNMENTAL ORGANIZATIONS IN THE WORK OF THE ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST UNDER PARAGRAPH 10 OF THE COMMISSION'S TERMS OF REFERENCE—PRACTICE OF THE ECONOMIC AND SOCIAL COUNCIL WITH RESPECT TO CO-OPERATION WITH NON-UNITED NATIONS INTERGOVERNMENTAL ORGANIZATIONS

Memorandum to the Chief of the Regional Commissions Section, Department of Economic and Social Affairs

1. With reference to your memorandum concerning the relations between ECAFE and the Asian Coconut Community, two questions seem to be involved, i.e., the participation by the Asian Coconut Community in ECAFE's meetings and contacts at the Secretariat level.

2. In so far as the first question is concerned, paragraph 10 of ECAFE's terms of reference is directly applicable. That paragraph reads:

"The Commission . . . may invite representatives of any inter-governmental organization to participate in a consultative capacity in its consideration of any matter of particular concern to that . . . organization following the practice of the Economic and Social Council."

There is no question that the Asian Coconut Community is an "intergovernmental organization" within the meaning of this provision. Consideration should, however, be given to "the practice of the Economic and Social Council" which the Commission is required to follow. Since the Council has, in its resolutions 412B (XIII) of 10 August 1951, 678 (XXVI) of 3 July 1958, 1031 (XXXVII) of 13 August 1964, 1053 (XXXIX) of 10 June 1965 and 1267A (XLIII) of 3 August 1967, established contact and co-operation with certain non-United Nations intergovernmental organizations, and has also, in its resolution 1267B (XLIII) of 3 August 1967, provided for contacts with such intergovernmental organizations on a more systematic basis, it is clear that a decision by ECAFE to invite the Asian Coconut Community to participate in its meetings is fully in accordance with the practice of the Council.

3. A further relevant point to be examined is the scope of application of operative paragraph 3 of Part B of Economic and Social Council resolution 1267 (XLIII) by which the Council invited "its subsidiary bodies to make recommendations to it regarding the desirability of similar relationship between themselves and specific non-United Nations intergovernmental organizations active in fields of concern to them, on the basis of proposals by the Secretary-General". The term "similar relationship" used in this paragraph can only mean relationship similar to that set out in the preceding operative paragraph, namely, representation of those organizations by observers at sessions of the Council and participation in the Council's debates. In view of the fact that ECAFE has since its inception been empowered by the Economic and Social Council to decide on the representation and participation of intergovernmental organizations in its meetings, there is no need for ECAFE to make recommendations to the Council regarding the desirability of relationship between the Commission and an intergovernmental organization such as the Asian Coconut Community. Consequently, we do not consider that the term "subsidiary bodies" in operative paragraph 3 of Council resolution 1267B (XLIII) is meant to include such bodies as ECAFE which have already been authorized by the Council to deal with the matter.

4. It would also be within the competence of ECAFE to provide for the representation of the Asian Coconut Community on a lasting rather than *ad hoc* basis. Since the Community has been established under the auspices of and endorsed by ECAFE and in the spirit of Council resolution 1267B (XLIII), there would be no legal objection to the adoption by

ECAFE of a resolution concerning the relationship between the Commission and the Community along the lines of the operative paragraphs of Council resolution 1267A (XLIII).

5. As regards the second question, namely, contact at the Secretariat level, no resolution of ECAFE is required since the Secretary-General has already been invited by the Economic and Social Council to do so under operative paragraph 1 of Council resolution 1267B (XLIII).

16 April 1970

9. REQUEST THAT THE ECONOMIC COMMISSION FOR LATIN AMERICA ACT AS A TECHNICAL ADVISER TO A COMMITTEE OF A NON-GOVERNMENTAL ORGANIZATION—SUCH REQUEST SHOULD NOT BE ACCEDED TO IN THE LIGHT OF ECONOMIC AND SOCIAL COUNCIL RESOLUTION 222 A (IX) AND OF THE TERMS OF REFERENCE OF ECLA

Memorandum to the Chief of the Regional Commissions Section, Department of Economic and Social Affairs

1. You have requested the advice of the Office of Legal Affairs on the question whether the Economic Commission for Latin America should accede to a request of a committee of a non-governmental organization that the Commission act as technical adviser to that committee on all technical assistance matters.

2. It appears from a letter of the Acting Director of the committee concerned to ECLA that the technical advisers would be responsible for providing advice and assistance on the technical aspects of all phases of the programme for which ECLA's participation is requested. The services of the technical advisers would be rendered to the committee not to the Government concerned. In other words, the role of the technical advisers in the proposed framework would be to provide technical assistance to the non-governmental organization which, in turn, would include this assistance in its contributions to recipient Governments. That the non-governmental organization concerned does not look upon the proposed relationship with the technical advisers as commercial in character is clearly evidenced by the references to "honorarium" and "travel costs" as the basis on which payment would be made for services rendered.

3. In our opinion, the provision by ECLA of technical assistance to a non-governmental organization would be in contravention of the basic principle laid down in Economic and Social Council resolution 222A (IX) of 15 August 1949 that technical assistance by the United Nations and its organs may "be given only to or through Governments". (Annex I, paragraph 2 (d) (ii).) In so far as its terms of reference are concerned, we find nothing therein which empowers ECLA to provide such assistance to a non-governmental organization. Paragraph 1 (e) states that ECLA shall "assist the Economic and Social Council and its Technical Assistance Committee in discharging their functions with respect to the United Nations technical assistance programme . . .". It is evident, however, that the technical assistance programme of the Economic and Social Council or the UNDP does not include, or indeed envisage, any technical assistance to non-governmental organizations. In view of these considerations, we think it necessary that ECLA should give a negative answer to the request referred to above.

20 January 1970

10. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT—PARTICIPATION OF THE COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY IN THE DELIBERATIONS OF THE TRADE AND DEVELOPMENT BOARD AND ITS SUBSIDIARY BODIES

Letter to the Secretary-General, United Nations Conference on Trade and Development

1. You have asked our advice with regard to the recent request made by EEC that it be represented by the Commission of EEC at certain UNCTAD meetings. We agree that this raises questions different from those relating to EEC's participation at commodity conferences, such as the 1968 Sugar Conference. In the latter regard, we confirm that the guidance which we provided in the legal opinion TD/Sugar 7/4 and Corr.1-3¹⁹ would be equally applicable at the 1970 Trade Conference.

2. With respect to the representation of EEC at meetings of UNCTAD organs, we wish to point out that the extent of EEC's participation in meetings of the Trade and Development Board or of a subsidiary organ is governed by the rules of procedure of the Board, particularly rule 78 (and the similar rules of the Committees); failing action by the Board to amend or suspend rule 78 of the rules of procedure in respect of its own proceedings or those of a subsidiary organ, EEC's participation cannot go beyond the letter and spirit of rule 78 in its present form.

3. The EEC has, of course, already been designated for the purpose of rule 78 as one of the intergovernmental bodies which may participate, without the right to vote, in the deliberations of the Board and its subsidiary organs upon the invitation of the President or Chairman, as the case may be, on questions within the scope of its activities. The desire of EEC to speak on a particular subject would be indicated to the President or Chairman either by the representative of EEC or by a member State of EEC which is also a member of the UNCTAD organ concerned. Should the representative of EEC, having been invited by the President or Chairman to speak, state that he is speaking on behalf of members of EEC, it would be open to a representative of one of these States to confirm this to be the case either before or after the EEC statement. As regards seating arrangements, I believe that EEC representatives should be seated with representatives of specialized agencies, of the IAEA and of other intergovernmental organizations.

10 March 1970

11. QUESTION WHETHER A TWO-THIRDS MAJORITY IS REQUIRED FOR THE RECONSIDERATION OF DECISIONS OF THE GOVERNING COUNCIL OF THE UNITED NATIONS DEVELOPMENT PROGRAMME

Internal memorandum

1. It is our view that under the rules of procedure of the Governing Council of the United Nations Development Programme a two-thirds majority is not required for the reconsideration of decisions of the Governing Council. On the contrary, General Assembly resolution 2029 (XX) of 22 November 1965 on the "Consolidation of the Special Fund and the Expanded Programme of Technical Assistance in a United Nations Development Programme" provides in its operative paragraph 4 that "decisions of the Governing Council shall be made by a majority of the members present and voting". This is repeated in rule 27 of the rules of procedure of the Governing Council.

¹⁹ See *Juridical Yearbook*, 1968, p. 201.

2. A two-thirds majority for the reconsideration of a proposal which has been adopted or rejected is required only in the General Assembly and in its Main Committees (rules 83 and 124 of the rules of procedure of the General Assembly) and does not apply in regard to other organs, including the Economic and Social Council and the functional commissions of the Council. In the case of the Economic and Social Council, the absence of a provision requiring a two-thirds majority is, of course, based on Article 67, paragraph 2 of the Charter. It is to be noted in that respect that the Council Committee on Procedure in drawing up a revised version of the rules of procedure of the functional commissions rejected as contrary to Article 67 of the Charter an amendment requiring a majority of one third of the members for the adoption of a proposal.²⁰

3. It is true that the Governing Council of UNDP appears to be a subsidiary organ of the General Assembly and that under rule 162 of the rules of procedure of the General Assembly "the rules relating to the procedure of committees of the General Assembly . . . shall apply to the procedure of any subsidiary organ unless the General Assembly or the subsidiary organ decides otherwise". It is our view however that rule 124 cannot apply to the Governing Council because both the General Assembly in resolution 2029 (XX) and the subsidiary organ in rule 27 of its rules of procedure have "decided otherwise".

29 June 1970

12. ELIGIBILITY OF MUSCAT AND OMAN TO RECEIVE ASSISTANCE FROM THE UNITED NATIONS DEVELOPMENT PROGRAMME

Memorandum to the Director of the Bureau of Administrative Management and Budget, United Nations Development Programme

1. With regard to the general question of the provision of UNDP assistance to Muscat and Oman, it is to be noted that Muscat and Oman is not at present a member either of the United Nations or of any of the specialized agencies or the IAEA. Under the applicable provisions²¹ and in accordance with a long established and consistent practice only Governments of States Members of the United Nations or members of the specialized agencies or the IAEA are eligible to receive assistance from UNDP. Muscat and Oman therefore does not qualify for such assistance until such time as it becomes a member of the United Nations or of any of the specialized agencies or the IAEA.

2. With respect to the possibility of direct IMCO assistance to Muscat and Oman, we believe that this question can best be judged by IMCO itself, i.e. whether technical assistance under its regular programme is—and in the affirmative should remain—subject to restrictions similar to those which apply, for example, to assistance programmes, or to United Nations OPEX assistance; under the first of these programmes, assistance is, in accordance with operative paragraph 3 of General Assembly resolution 200 (III) of 4 December 1948, restricted to "Member Governments"; under the second only Governments participating in the United Nations technical assistance programmes in the field of public administration are eligible for assistance in accordance with operative paragraph 2 (a) of General Assembly resolution 1256 (XIII) of 14 November 1958.

²⁰ See *Official Records of the Economic and Social Council, Tenth Session*, 351st meeting, paras. 73-76.

²¹ These provisions are contained in General Assembly resolution 1240 (XIII) (part B, paragraphs 7 and 31), which established the Special Fund and in Economic and Social Council resolution 222 A (IX) concerning the Expanded Programme of Technical Assistance; both resolutions continued in force within UNDP by virtue of General Assembly resolution 2099 (XX), operative paragraph 2.

3. It may be recalled in this connexion that the membership restriction was lifted on two occasions: one instance occurred when the General Assembly, by resolution 398 (V), requested the Economic and Social Council and the specialized agencies concerned to consider Libya as eligible to continue to receive technical assistance from the expanded programme of the United Nations as soon as it attained independence and before it had become a member of the United Nations or of a specialized agency participating in the expanded programme of technical assistance. A second instance was when Western Samoa was considered eligible for technical assistance under General Assembly resolution 200 (III), after the matter had been brought to the attention of the Technical Assistance Committee. It is to be noted however that the considerations which favoured waiving the restrictions in those instances (in the first case, special United Nations responsibility plus impending United Nations membership and in the second case status of former trust territory plus membership of a regional economic commission) do not apply to Muscat and Oman.

12 June 1970

13. DECLARATION ON THE CONSTRUCTION OF MAIN INTERNATIONAL TRAFFIC ARTERIES, 1950²²—QUESTION WHETHER THE STATUS OF A DECLARATION SIGNED BY SEVERAL COUNTRIES IS AFFECTED BY THE FACT THAT IT CONTAINS NO PROVISION CONCERNING RATIFICATION AND NO COMPREHENSIVE PROVISIONS RELATING TO ITS AMENDMENT OR DENUNCIATION

Memorandum to the Director of the Transport Division, Economic Commission for Europe

1. I understand that during the forty-first session (24-28 November 1969) of the Subcommittee on Road Transport, some representatives of the parties to the Declaration on the construction of main international traffic arteries, 1950 inquired into "how far the provisions of the Declaration were formally and permanently binding to the countries or governments which had signed it or had become parties thereto". The legal status of the Declaration was questioned mainly because the Declaration:

- (a) did not include any reference to ratification; and
- (b) did not contain any provision for its amendment.

You are asking for our views on the matter.

2. The first question which arises in distinguishing a treaty or international agreement from an international declaration which is not intended to be legally binding is whether the text of the instrument itself imposes legal obligations upon the States which express their consent to be bound by it. It is evident that the Declaration does impose legal obligations in its paragraphs 1 to 3. By those paragraphs the parties adopt a proposed road network as a concerted plan for construction and reconstruction; they declare that such construction or reconstruction shall be carried out in accordance with characteristics set out in chapter A of Annex II; they undertake to see that the road network shall be equipped with ancillary services provided for in chapter B of Annex II; and, finally, they undertake that the roads shall be identified by means of a special sign. Incidentally, no special significance should be attached, in so far as its status is concerned, to the fact that the Declaration refers to "countries" and not "Governments". That terminology, as in the case of several other conventions, was adopted to allow those territorial entities the international status of which could be questioned to become parties to the Declaration.

²² United Nations, *Treaty Series*, vol. 92, p. 91.

3. The Convention on the Law of Treaties, done at Vienna on 23 May 1969, is not yet in force, but the debates of the Conference and the overwhelming majorities by which most of its provisions were adopted are sufficient evidence that many such provisions are regarded as restating the customary international law of treaties. Article 11 of the Convention provides that "The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed". In other words, the States which draft an international agreement have a wide choice as to the methods by which it will be brought into force.

4. The Declaration in question provides for signature or for accession, and it further provides in paragraph 6 that "this Declaration shall enter into force on the date of its signature". It is, therefore, evident that the Declaration falls under the provision of article 12 of the Convention on the Law of Treaties, which provides in paragraph 1 that:

"The consent of a State to be bound by a treaty is expressed by the signature of its representative when:

"(a) the treaty provides that signature shall have that effect:"

It is established beyond question by international practice that, where a treaty provides for binding signature, ratification is not necessary and that the absence of ratification does not affect the legal force of the treaty.

5. Furthermore, the Declaration was registered *ex officio* by the Secretary-General, and published in the United Nations Treaty Series (vol. 92, p. 91), as a "treaty or international agreement, whatever its form and descriptive name", pursuant to articles 1, 4 and 12 of the Regulations adopted by the General Assembly to give effect to Article 102 of the Charter (General Assembly resolutions 97 (I), 374 B (IV) and 482 (V)). This action was taken in accordance with the clear legal implications of the text of the instrument, and with the understanding of its effect which was shared by delegations and by your Division at the time.

6. The Declaration refers to a procedure of amendment for its Annexes in its paragraph 8, although it does not completely specify the mode in which amendments are to become binding, nor does it make provision for amending the main text. It does not refer to denunciation. Nevertheless, the absence of a conventional type of amendment clause and of a denunciation clause does not cast any doubt upon the legal status of the Declaration as a treaty. In the absence of any provisions in the treaty, amendment and denunciation are governed by customary international law. This law is resumed in article 39 of the Vienna Convention on the Law of Treaties, which provides that "A treaty may be amended by agreement between the parties", and article 54 which provides that:

"The termination of a treaty or the withdrawal of a party may take place:

". . .(b) at any time by consent of all the parties after consultation with the other contracting States".

It is, therefore, not true that in the absence of complete provisions on amendment or denunciation the parties would necessarily be bound forever by the original text. As regards the possibility of a complete revision of the Declaration which you mentioned in your last paragraph, such a revision could be accomplished either by an amendment agreed to between parties, or by the conclusion of a new treaty dealing with the same subject-matter. In the latter case, the application of the old Declaration and the new treaty would be governed by article 30 of the Vienna Convention, which provides as follows:

"1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.

"2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.

"3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.

"4. When the parties to the later treaty do not include all the parties to the earlier one:

"(a) as between States parties to both treaties the same rule applies as in paragraph 3;

"(b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations."

2 July 1970

14. REGISTRATION WITH THE SECRETARIAT OF THE CONVENTION ESTABLISHING THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) AND CERTAIN OTHER MULTILATERAL TREATIES—QUESTION WHETHER AN INTERGOVERNMENTAL ORGANIZATION OTHER THAN THE UNITED NATIONS OR A SPECIALIZED AGENCY CAN REGISTER A TREATY TO WHICH IT IS NOT ITSELF A PARTY—PRACTICE OF THE SECRETARIAT IN THAT RESPECT

Letter to the Head of the External and Public Relations Division, United International Bureaux for the Protection of Intellectual Property

I refer to your letter concerning the registration with the Secretariat of the Convention Establishing the World Intellectual Property Organization (WIPO)²³ and certain other multilateral treaties, which were concluded at the Intellectual Property Conference held in Stockholm in 1967 and which will enter into force next April and May.

Informing me that each of these treaties contains a provision requiring the Director General of the World Intellectual Property Organization to register it with the Secretariat of the United Nations, and a further provision under which the duties of the Director General are to be performed, until the first Director General assumes office, by the Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI), you inquired about the procedure for submission of the treaties concerned for registration and asked me for any relevant documentation.

In this regard, I draw your attention to the Regulations to give effect to Article 102 of the Charter of the United Nations, adopted by General Assembly resolution 97 (I) of 14 December 1946, as modified by resolutions 364 B (IV) and 482 (V) of 1 December 1949 and 12 December 1950, respectively.

Under those Regulations, registration may be effected by any party to the treaty or international agreement (article 1, paragraph 3) and, in specified cases, by the United Nations *ex officio* or by a specialized agency (article 4). There are no provisions in the Regulations for registration by other intergovernmental organizations, except of course where such organization is itself a party to an agreement falling within the scope of application of Article 102 of the Charter of the United Nations, in which case it may effect the registration under article 1, paragraph 3.

However, a practice has developed whereby the Secretariat has accepted for registration multilateral treaties submitted by an intergovernmental organization, other than a specialized agency, in cases where such organization in its capacity as depositary of a treaty was authorized by the contracting parties, either in the treaty itself or in some other appropriate form,

²³ United Nations, *Treaty Series*.

to effect the registration. The acceptability of this procedure, within the terms of the existing Regulations, has been based on the view that such authorization allows the Secretariat to treat the submission of a treaty by an intergovernmental organization as being tantamount to registration by the States parties themselves.

Inasmuch as the required authorization has been included in the treaties in question, the Secretariat shall be glad, pursuant to the practice described above, to accept their submission for registration by the Director General of the World Intellectual Property Organization or, pending his appointment, by the Director of the United International Bureaux for the Protection of Intellectual Property.

Reference is made, in this connexion, to paragraph 2 of article 1 of the Regulations, according to which registration shall not take place until the treaty has come into force. It will be noted, however, that in adopting this rule at the first session of the General Assembly, the Sub-Committee which drew up the Regulations generally agreed that, in practice, treaties which by agreement were being applied provisionally by two or more parties were in force for the purpose of the provision of the said paragraph 2.

The documentation required for the purpose of registration is described in article 5 of the Regulations.

Finally, I should like to call your attention to article 2 of the Regulations which provides for registration with the Secretariat of any subsequent actions relating to a registered treaty, such as additional ratifications, accessions, denunciations, etc., as well as any instrument amending it. Your Organization, in its capacity of depositary of the treaties in question, will be expected of course to carry out the registration of any of such subsequent actions.

31 March 1970

15. AGREEMENTS CONCLUDED BY THE WORLD FOOD PROGRAMME—UNDER ARTICLE 102 OF THE CHARTER, ONLY TREATIES AND INTERNATIONAL AGREEMENTS ENTERED INTO BY A MEMBER OF THE UNITED NATIONS ARE SUBJECT TO REGISTRATION WITH THE SECRETARIAT

Letter to the Office of the Legal Counsel, Food and Agriculture Organization of the United Nations

In connexion with the registration of the World Food Programme agreements, you raised the following two questions:

(a) whether the agreements which are no longer in force should be transmitted for registration and whether in selecting the agreements for registration, a distinction should be made in this connexion between the agreements that have been superseded by new agreements covering the same matter and others that have not been so superseded;

(b) whether the World Food Programme agreements will be registered *ex officio* or whether they will be filed and recorded by the Secretariat.

As regards your first question, it would seem to us that, in principle, having regard to the provisions of articles 4 and 10 of the Registration Regulations (General Assembly resolutions 97 (I), 374 B (IV) and 482 (V)) and the existing precedents, the agreements concerned would have to be registered or filed and recorded. We would appreciate it, therefore, if you would include such agreements among those selected for registration, providing pertinent information regarding their entry into force and termination.

As regards your second question, you will note that Article 102 of the Charter of the United Nations limits the obligation of registration to treaties and international agreements

entered into by *any Member of the United Nations* after the coming into force of the Charter. Thus, treaties and international agreements to which no Member is a party are not subject to registration. The latter agreements are susceptible to filing and recording if they fall within the categories of treaties and international agreements specified in article 10 of the Registration Regulations and, among them, agreements entered into by the United Nations or a specialized agency with a non-member State. Accordingly, the World Food Programme agreements will be either registered or filed and recorded, depending on whether they were concluded with a Member State of the United Nations or a non-member State.

12 October 1970

16. CONSTITUTION OF THE WEST AFRICA RICE DEVELOPMENT ASSOCIATION—POLICY OF THE SECRETARY-GENERAL WITH REGARD TO THE ASSUMPTION OF DEPOSITARY FUNCTIONS

Letter to the Legal Counsel of the Food and Agriculture Organization of the United Nations

I wish to acknowledge the receipt of your letter concerning the draft Constitution of the West Africa Rice Development Association (WARDA), which, pursuant to the decision of the Conference of representatives of Governments of West African countries held at Monrovia in September 1969, has been prepared by the FAO Secretariat and which is now being dispatched for comments to the governments and agencies that participated in the said Conference. I have noted that a Conference of Plenipotentiaries to consider and adopt the proposed Constitution is expected to be held in 1970.

You mentioned that, in drafting the Constitution, the question of the authority to act as depositary had been left open, the introduction to the draft Constitution merely stating the FAO view "that it should be left to the Conference of Plenipotentiaries to decide whether these functions should be entrusted to a government or to an international organization (United Nations or FAO)", and you asked me whether the United Nations would be prepared to assume these functions in the event that the Conference should express a preference for this solution.

As you may be aware, our policy in this regard has been to restrict the assumption of depositary functions by the Secretary-General to open multilateral treaties of world-wide interest, usually adopted by the General Assembly or concluded at the plenipotentiary conferences convened by the appropriate organs of the United Nations, and, in so far as regional treaties are concerned, to those drawn up within the framework of the United Nations Economic Commissions and open for participation to their entire membership.

Accordingly, we would be reluctant to assume depositary functions in respect of the above-mentioned Constitution, unless the Conference, for some justifiable reason which I could hardly foresee, should insist on such a solution. It seems to me that both from the point of view of the subject-matter of the proposed Constitution and the extent of contribution to its conclusion, your Organization would appear to be a more appropriate choice for assuming depositary functions, should the Conference express a preference for entrusting them to an international organization rather than to the government of the country where the Conference will be held.²⁴

9 March 1970

²⁴ The Constitution of the West Africa Rice Development Association was adopted by a Conference of Plenipotentiaries which met at Dakar, Senegal, from 1 to 4 September 1970. Pursuant to its provisions, it was deposited with the Government of Liberia.

17. QUESTION WHETHER ARREARS DUE UNDER THE 1958 INTERNATIONAL SUGAR AGREEMENT²⁵ CONSTITUTE "CONTRIBUTIONS TO THE ADMINISTRATIVE BUDGET" UNDER ARTICLE 23 OF THE INTERNATIONAL SUGAR AGREEMENT 1968²⁶

Letter to the Executive Director, International Sugar Agreement

1. It is our view that arrears in contributions due under the 1958 International Sugar Agreement do not constitute "contributions to the administrative budget" under article 23 of the International Sugar Agreement, 1968, and therefore the sanction of suspension of voting rights provided in paragraph (2) of that article is not applicable in the case of such arrears.

2. As the parties to the 1958 Agreement adopted a resolution on 21 November 1969 transferring the assets and liabilities of the old Sugar Council to the new International Sugar Organization, arrears in contributions under the 1958 Agreement are undoubtedly assets of the Organization, which is entitled to assert claims for payment of them. Nevertheless, such claims do not fall within the scope of articles 22 and 23 of the 1968 Agreement, as is shown by its text. Article 22 provides for approval of the annual administrative budget by the new Council, and for the mode of calculating contributions of members to that budget. Article 23 goes on to specify how and when such contributions shall be paid by members, and the consequences which ensue if they are not so paid. These provisions, however, relate only to contributions to administrative budgets approved by the new Council under article 22 of the new Agreement, and not to sums which may be owed by members to the Organization on any other account. Contributions under the old Agreement were not assessed under article 22 of the 1968 Agreement, and hence do not fall under article 23 of the latter.

4 March 1970

B. Legal opinions of the Secretariat of intergovernmental organizations related to the United Nations

1. INTERNATIONAL LABOUR OFFICE

The following memoranda concerning the interpretation of certain international labour Conventions were prepared by the International Labour Office at the request of the Government of Norway:²⁷

- (a) Memorandum on the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and on the Medical Care and Sickness Benefits Convention, 1969 (No. 130), 18 August 1970. Document GB.183/20/1; 183rd session of the Governing Body, Geneva, May-June 1971.
- (b) Memorandum on the Holidays with Pay Convention (Revised), 1970 (No. 132), 12 February 1971. Document GB.183/20/1; 183rd session of the Governing Body, Geneva, May-June 1971.

²⁵ United Nations, *Treaty Series*, vol. 385, p. 137.

²⁶ *Ibid.*, vol. 654, p. 3.

²⁷ These memoranda will be published in the *Official Bulletin*, vol. LIV, No. 4, 1971.

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

QUESTION OF THE LAW APPLICABLE TO EMPLOYMENT RELATIONSHIP BETWEEN THE ORGANIZATION AND ITS GENERAL SERVICE STAFF

Opinion of the Legal Counsel

1. This legal opinion is submitted pursuant to a request made by the Special Committee on Management/Staff Relations²⁸ for the views of the Legal Counsel on the question whether Italian labour and social security legislation applies to the relationship between the Organization and its staff, with particular reference to the General Service staff.

I. *Views of the Staff Council Consultant*

2. In a study dated 15 April 1970, published under cover of a Staff Council "FLASH", the consultant on salary matters retained by the Staff Council deals *inter alia* with the legal status of the General Service staff of FAO. In this study it is asserted that the employment relationship between FAO and its staff is of a private law nature—similar to that of Italian publicly owned corporations with their employees—and is governed by Italian labour and social security legislation. While recognizing that special rules of international law apply to staff described as "Dirigenti", the consultant concludes that "the vast majority of the General Service staff is not subject to any special régime of international law".

3. The distinction made in the study between staff members said to be subject to rules of international law and staff members to whom it is asserted that Italian legislation should apply, does not correspond to the categories of staff indicated in the relevant provisions of the Organization's Staff Regulations, Staff Rules and Manual Sections, i.e. (i) Professionals and above and (ii) General Service, the latter being either local or non-local staff. Even if it is assumed that the expression "Dirigenti" was meant to correspond to "Professionals and above", it is not clear whether it was intended by the consultant that Italian law should apply only to local staff of the General Service category or to all General Service staff.

II. *FAO texts governing the status of the staff*

4. The Constitution of the Organization—which has become part of Italian Law by virtue of Law No. 546 of 16 May 1947—stresses the "exclusively international" character of the responsibilities of the staff (Article VIII-2) and provides that disputes relating to "conditions and terms of appointment" are to be determined by an administrative tribunal in accordance with arrangements to be made by the FAO Conference. Pursuant to this provision the Conference decided by Resolution 71/53²⁹ that the Organization would accept the jurisdiction of the ILO Administrative Tribunal with respect to "complaints of alleged non-observance of the terms and conditions of appointment of FAO staff members". In this way the Conference clearly excluded the competence of any national court to hear such disputes.

5. In accordance with Staff Regulation 301.1411, the letter of appointment of every staff member expressly states "that the appointment is subject to the provisions of the Staff Regulations and of the Staff Rules applicable to the category of appointment in question. . .". Under Staff Regulation 301.019 every staff member takes an oath expressly referring to his status as an "international civil servant". No distinction by category or nationality is made in this respect.

²⁸ Established by the Director-General in June 1970 and consisting of three officers nominated by himself and three nominated by the Staff Council under the chairmanship of Ambassador Brynolf Eng of Sweden. See the Report of the fifty-fifth session of the Council of FAO, Appendix D, p. 5.

²⁹ Report of the seventh session of the Conference, paragraph 341.

6. All the aspects of the relationship between the Organization and all groups of staff are determined by the Staff Regulations approved by the Council and the Staff Rules and Administrative Manual Sections promulgated by the Director-General under the authority vested in him by the governing bodies. It is true that in Staff Regulation 301.134 the Organization has decided, in accordance with the "common system" adopted by most agencies in the United Nations family, to fix the salary scales of General Service staff "normally on the basis of the best prevailing conditions" at the duty station. However the reference to the "best prevailing conditions of employment" merely indicates a criterion to be followed in establishing salary scales for this group of personnel, it does not in any way make labour law applicable to their contracts of employment. The criterion of the best prevailing conditions is not an exception to, but on the contrary a confirmation of the fundamental principle—common to the whole United Nations family—that employment relationships are governed by the employing Agency's Staff Regulations to the exclusion of any national laws and regulations.

III. *International and national precedents*

7. International tribunals as well as national courts have on several occasions stated expressly that the employment relationship entered into by international organizations with their staff is not subject to national law and is subject only to the internal law of the organization concerned.

8. An early statement of the general principle that the conditions of service of officials are not governed by the municipal law of any country is to be found in the Opinion of the Committee of Jurists appointed by the League of Nations in 1932.³⁰ League officials, the opinion stated, "form part of an international civil service and the legal relationship which exists between them and the Secretariat, the International Labour Office or the Registry, as the case may be, is not a legal relationship of private law within the meaning of the civil law of any country".

9. The principle was re-stated by the ILO Administrative Tribunal in 1957 in the *Waghorn case*.³¹ In a dispute concerning an employment contract, the Tribunal held that "the Complainant wrongly alleges that English law is applicable as his national law, whereas the Tribunal is bound exclusively by the internal law of the Organization".

10. In Italy the same principle was recognized in particularly clear terms by the Corte di Cassazione, Sezioni Unite, Judgement of 13 May 1931, *International Institute of Agriculture v. Profili*.³² In this case between the predecessor of FAO and an Italian staff member who had been terminated, the Court not only confirmed the immunity of the Institute from the jurisdiction of Italian courts but also emphasized the general autonomy of international organizations of which the immunity from jurisdiction is only one aspect:

"This Supreme Tribunal holds that the sovereign power of the Italian State, of which the power of jurisdiction is one aspect, cannot be exercised against the International Institute of Agriculture insofar as that International Agency carries out activities relating to its own organization and consequently to the establishment of a system governing the Organization's relationship with its employees

". . . its power of self-determination or autonomy, which includes that of organizing and regulating its own activities (both those performed in the ordinary course of its responsibilities and those of an exceptional character), rules out any interference by the State and any penetration by either substantive or procedural provisions of national law."

³⁰ League of Nations, *Official Journal, Special Supplement No. 107*, pp. 206-208.

³¹ Judgement No. 28, *ILO Official Bulletin*, vol. XL, No. 8, 1957, p. 416.

³² *Foro Italiano* 1931, p. 1424; *Annual Digest of Public International Law Cases, 1929-1930*, Case No. 254, p. 413.

11. An application of this principle to FAO itself is to be found in a recent decision of the Pretura di Roma, Sezione del Lavoro, Judgement of 25 June 1959, *Porru v. FAO*.³³ In dismissing the action brought against FAO by a former staff member (employed as a messenger and in other similar positions) of Italian nationality who had based his claim on certain provisions of Italian social security legislation, the Court pointed out:

“There cannot be any reasonable doubt that the internal activity concerning the organizational establishment, being immediately and directly linked to the exercise of the Organization’s institutional purposes, must be deemed to be a public law activity. . . .”

Having examined various aspects of the employment relationship between the staff member and the Organization, the Court held that this relationship belonged to the category of activities described in the above quotation and therefore fell outside the jurisdiction of the Italian courts.

12. Among the decisions of other national courts, there is a case decided on 17 July 1931 by the Conseil d’Etat, the highest French administrative tribunal (*in re Dame Adrien and others*).³⁴ On a petition by certain French employees of the Reparation Commission, the Conseil d’Etat held that the petitioners belonged to an international organization and that “their position was determinable only by international public law”.

13. Similarly, the Tribunal Civil of Versailles in a decision of 27 July 1945 *Chemidlin v. The International Bureau of Weights and Measures*³⁵ recognized the inapplicability of national labour law to the relationship between the Bureau and a French employee:

“International civil servants, it is generally admitted, exercise their functions in the public interest but under international authority and outside the legal system to which they belong. . . it would appear that the conventions and rules to which recourse is to be had. . . must lie outside the framework of French law so that they retain their purely international character.”

14. The Supreme Court of Mexico in a judgement of 28 April 1954,³⁶ recognized the immunity from legal process of the United Nations Economic Commission for Latin America which was sued by a former staff member and rejected the affirmation of a lower court that international commissions in order to operate in Mexico must be subject to Mexican law.

15. The principle has recently been re-stated in the work of the International Law Commission. The Study prepared by the Secretariat on the Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency concerning their Status, Privileges and Immunities, summarizes the situation as follows:

“Except for cases in which express reference is made to a given system of municipal law, contracts of employment are governed exclusively by international administrative law, including in particular, the terms of the contract itself and of any statutory rules adopted by the organization concerned.”³⁷

16. To these examples may be added the statement of a leading authority in the field: C. Wilfred Jenks (now Director-General of the ILO) in *The Proper Law of International Organizations*, London and New York, 1962, p. 44, speaking of the non-applicability of national law to the conditions of service of international organizations observes:

³³ Published in *Temi Romana*, 1969, pp. 531-533. For a summary see *Juridical Yearbook*, 1969, p. 238.

³⁴ Annual Digest of Public International Law Cases, 1931-1932, Case No. 1, p. 33.

³⁵ Annual Digest and Reports of Public International Law Cases, 1943-1945, Case No. 94, p. 281.

³⁶ Reported in the Annual Report of the Secretary-General of the United Nations on the work of the Organization, 1 July 1953-30 June 1954, *Official Records of the General Assembly, Ninth Session, Supplement No. 1 (A/2663)*, p. 105.

³⁷ *Yearbook of the International Law Commission*, 1967, vol. II, p. 300.

“The principle is so generally accepted that occasions for its application in specific cases have been relatively infrequent.”

IV. *Interpretation of Section 6 (b) of the Headquarters Agreement*

17. In support of his thesis that Italian labour law is applicable to the contractual relationship between the Organization and part of its staff, the Staff Council consultant relies exclusively on Article III, Section 6 of the Headquarters Agreement³⁸ the relevant parts of which read as follows:

“*Extraterritoriality of the Headquarters Seat*

“*Section 6*

“(a) The Government recognizes the extraterritoriality of the Headquarters seat which shall be under the control and authority of FAO as provided in this Agreement.

“(b) Except as otherwise provided in this agreement, the laws of the Italian Republic shall apply within the headquarters seat.”

18. The purpose of Section 6 (b) is to qualify the concept of “extraterritoriality” and to exclude any interpretation to the effect that the seat of the Organization should be considered, for all purposes, to be outside the territory of the Italian State and therefore not subject to its law. Section 6 (b) of the Headquarters Agreement recognizes that acts performed on “extraterritorial” grounds cannot by that mere fact escape the application of the appropriate laws of the host State.

19. Thus it is clear for example, that crimes committed on the FAO Headquarters site (e.g. the recent bank robbery) are covered by the provisions of Italian penal law and are subject to the jurisdiction of Italian courts. Italian law will similarly govern tort liability resulting from car accidents on the Headquarters grounds and business transactions such as sales in the various shops operated on Headquarters grounds or the relations between the Banca Commerciale Italiana and its customers.

20. The inapplicability of national labour and social security legislation to FAO, on the other hand, in no way derives from the fact that contracts of employment between the Organization and staff members may have been concluded on the headquarters grounds³⁹—they may, in fact, also have been concluded elsewhere or by correspondence—but from the fact that FAO, as an intergovernmental organization which is a subject of international law, enjoys full autonomy with respect to matters pertaining to its internal administration. All the judgements cited above in Part III recognizing the inapplicability of national labour law are based on the nature of the legal personality of an international organization; a principle which applies regardless of the place where an employment contract may be concluded or a staff member may carry out his duties.

21. Consequently, the limitation of the concept of “extraterritoriality” expressed in Section 6 (b) of the Headquarters Agreement cannot in any way detract from the well-established international law principle that the employment relationships between a United Nations agency and its staff are governed exclusively by the internal law of the organization and are not subject to the provisions of any municipal law.

³⁸ See United Nations Legislative Series, *Legislative Texts and Treaty Provisions Concerning the Legal Status, Privileges and Immunities of International Organizations*, vol. II (ST/LEG/SER.B/11), p. 187.

³⁹ In fact, should certain entities or firms other than FAO, e.g. the Photoshop, Amexco, the bookshop, the catering service, the bank, etc., conclude contracts of employment on FAO Headquarters grounds, those employment relationships would remain subject to Italian labour and social security legislation, notwithstanding the “extraterritoriality” of the Headquarters seat.

22. It may be added that it was obviously not the intent of the Parties to the Headquarters Agreement that the wording of Section 6 (b) should have the effect of subjecting FAO to Italian labour legislation. This would have been a fundamental departure both from the legal principle of autonomy of intergovernmental organizations as it had already been recognized before the conclusion of the Headquarters Agreement by courts of various countries including the Supreme Court of Italy, and from the consistent practice of the United Nations, FAO and other specialized agencies.

23. There is no indication whatsoever that FAO, when negotiating with the Italian Government the conditions of an eventual transfer of its Headquarters to Rome had any intention or reason to break with the common principles of the United Nations family and to effect a fundamental change of its own law on conditions and terms of employment. Nor is there any evidence that the Italian Government expected the Organization to abandon such principles which had in fact been recognized in Italy with respect to the Organization's predecessor, the International Institute of Agriculture (see para. 10 above). Further evidence of the Contracting Parties' understanding of Section 6 (b) is the 20-year practice of FAO since 1950, unchallenged by the Italian Government, under which the employment relations of all staff has been determined not by Italian law but exclusively by the Organization's internal legal provisions.

V. *Conclusions*

24. It has been a well established principle that the employment relationship between intergovernmental organizations and their staff is not subject to national law but rather to the organizations' own system of rules. This principle has seen a particularly wide application since the creation of the United Nations and its specialized agencies which operate in numerous countries of the world and employ large numbers of staff of almost all nationalities. For 25 years these organizations have developed and applied to all their staffs, independently of any national legal system, their own staff regulations and rules based on the common policies that they have developed over the years.

25. In the light of the above considerations it is concluded that the employment relationship between the Organization and its staff irrespective of category or nationality, is governed exclusively by the FAO Staff Regulations and Rules and Manual provisions, and is not subject to Italian labour and social security legislation.

4 September 1970

Part Three

**JUDICIAL DECISIONS
ON QUESTIONS RELATING TO THE UNITED NATIONS
AND RELATED INTERGOVERNMENTAL ORGANIZATIONS**

Chapter VII

DECISIONS OF INTERNATIONAL TRIBUNALS

[No decisions on questions relating to the United Nations and related intergovernmental organizations were rendered by international tribunals in 1970]

Chapter VIII

DECISIONS OF NATIONAL TRIBUNALS

[No decisions of national tribunals on questions relating to the United Nations and related intergovernmental organizations were communicated for 1970.]

Part Four

**LEGAL DOCUMENTS INDEX AND BIBLIOGRAPHY
OF THE UNITED NATIONS AND RELATED
INTERGOVERNMENTAL ORGANIZATIONS**

Chapter IX

LEGAL DOCUMENTS INDEX OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Legal Documents Index of the United Nations^{1, 2}

MAIN HEADINGS

I. GENERAL ASSEMBLY AND SUBSIDIARY ORGANS

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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 Principles of International Law concerning Friendly Relations and Co-operation among States
5. United Nations Council for Namibia
6. Special Committee on the Question of Defining Aggression
7. Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction
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IV. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

V. SECRETARIAT

1. Office of Technical Co-operation
2. Office of Public Information

VI. INTERNATIONAL COURT OF JUSTICE

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-fifth session)

(1) *Report of the Economic and Social Council* (agenda item 12) [Chapter IX, sections B, C, F to J, M, N and O]³

(a) Basic document: Report of the Economic and Social Council [Chapter IX, sections B, C, F to J, M, N and O]: G.A. (XXV), Supp. No. 3 and Corrigendum (A/8003 and Corr.1).

(b) Consideration by the Third Committee:

(i) *draft resolutions* (A/C.3/L.1771, L.1838, L.1840, L.1843, L.1844, L.1846, L.1847) and *report* of the Third Committee (A/8173 and Add.1): see G.A. (XXV), Annexes, a.i. 12.

(ii) *debates*: G.A. (XXV), 3rd Committee, 1816th to 1819th mtgs.

(c) Consideration in plenary:

(i) *debate*: G.A. (XXV), Plen., 1930th mtg.

(ii) *resolutions adopted*: General Assembly resolutions 2714 (XXV), 2715 (XXV), 2716 (XXV) and 2717 (XXV), of 15 December 1970.

(2) *Celebration of the twenty-fifth anniversary of the United Nations* (agenda item 21)

(a) Basic document: Organization of the commemorative session: Report of the Committee for the Twenty-fifth Anniversary of the United Nations (A/8060 and Add.1)—Preparation of the final document: First and second reports of the Committee for the Twenty-fifth Anniversary of the United Nations (A/8103 and Add.1 and 2): see G.A. (XXV), Annexes, a.i. 21.

(b) Consideration in plenary:

(i) *draft resolutions* (A/L.592, L.593, L.594, L.596, L.597, L.598): see G.A. (XXV), Annexes, a.i. 21.

(ii) *debates*: G.A. (XXV), Plen., 1860th, 1862nd to 1870th, 1872nd and 1883rd and 1927th mtgs.

(iii) *resolution adopted*: General Assembly resolution 2627 (XXV)⁴ of 24 October 1970.

(3) *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 on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples: G.A. (XXV), Supp. No. 23 (A/8023 and Add.1-8).

(b) Consideration by the Fourth Committee:

(i) *draft resolutions* (A/C.4/L.979, L.980, L.983) and *report* (A/8248) of the Fourth Committee: see G.A. (XXV), Annexes, a.i. 23.

(ii) *debates*: G.A. (XXV), 4th Committee, 1896th, 1901st to 1911th and 1913th to 1917th mtgs.

(c) Consideration in plenary:

(i) *draft resolutions* (A/L.621 and Add.1 and 2, L.622): see G.A. (XXV), Annexes, a.i. 23.

(ii) *debates*: G.A. (XXV), Plen., 1920th, 1922nd to 1929th and 1933rd mtgs.

³ See also sections III 1 (A) (1) and (2), 2 (A) (5) and 3 (A) (1) below.

⁴ Reproduced in this *Yearbook*, p. 51.

- (iii) *resolutions adopted*: General Assembly resolutions 2708 (XXV) [on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples], 2709 (XXV) [on the question of American Samoa, Antigua, Bahamas, Bermuda, British Virgin Islands, Brunei, Cayman Islands, Cocos (Keeling) Islands, Dominica, Gilbert and Ellice Islands, Grenada, Guam, 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] 2710 (XXV) [on the question of Antigua, Dominica, Grenada, St. Kitts–Nevis–Anguilla, St. Lucia and St. Vincent] and 2711 (XXV) [on the question of Spanish Sahara], of 14 December 1970. *See also* the decision taken by the General Assembly at its 1929th plenary meeting, on 14 December 1970, on the question of the Falkland Islands (Malvinas), French Somaliland and Gibraltar.
- (4) *Special programme of activities in connexion with the tenth anniversary 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 24)
- (a) Basic document: Special programme of activities in connexion with the tenth anniversary 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: G.A. (XXV), Supp. No. 23 B (A/8086 and Add.1).
- (b) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1861st, 1862nd and 1866th mtgs.
- (ii) *resolution adopted*: General Assembly resolution 2621 (XXV) of 12 October 1970.
- (5) (a) *Question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction*
- (b) *Marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction: report of the Secretary-General*
- (c) *Views of Member States on the desirability of convening at an early date a conference on the law of the sea: report of the Secretary-General*
- (d) *Question of the breadth of the territorial sea and related matters* (agenda item 25)⁵
- (a) Basic documents: Report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction: G.A. (XXV), Supp. No. 21 (A/8021)—Marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction: report of the Secretary-General (A/7924)—Request for the inclusion of a supplementary item in the agenda of the twenty-fifth session (A/8047 and Add.1, Add.2/Rev.1, Add.3 and 4): see G.A. (XXV), Annexes, a.i. 25.
- (b) Consideration by the First Committee:
- (i) *draft resolutions* (A/C.1/L.536 and Rev.1, L.539, L.543 and Rev.1 and Corr.1, L.544, L.545 and Rev.1 and 2, L.551 and Rev.1, L.553, L.554, L.555, L.556, L.557, L.561, L.562, L.563, L.564, L.565) and *report* of the First Committee (A/8097): see G.A. (XXV), Annexes, a.i. 25.
- (ii) *debates*: G.A. (XXV), 1st Committee, 1773rd to 1789th, 1794th to 1796th and 1798th to 1801st mtgs.

⁵ See also section 7 below.

- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1933rd mtg.
- (ii) *resolutions adopted*: General Assembly resolutions 2749 (XXV), ⁶ 2750 A (XXV), 2750 B (XXV) and 2750 C (XXV), of 17 December 1970.
- (6) *International co-operation in the peaceful uses of outer space: report of the Committee on the Peaceful Uses of Outer Space* (agenda item 26) ⁷
- (a) Basic document: Report of the Committee on the Peaceful Uses of Outer Space: G.A. (XXV), Supp. No. 20 (A/8020).
- (b) Consideration by the First Committee:
- (i) *draft resolutions* (A/C.1/L.546, L.547, L.548 and Corr.1, L.549, L.550, L.552) and *report* of the First Committee (A/8250): see G.A. (XXV), Annexes, a.i. 26.
- (ii) *debates*: G.A. (XXV), 1st Committee, 1790th to 1793rd mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1932nd mtg.
- (ii) *resolutions adopted*: General Assembly resolutions 2733 A (XXV), 2733 B (XXV), 2733 C (XXV) ⁸ and 2733 D (XXV), of 16 December 1970.
- (7) *General and complete disarmament: report of the Conference of the Committee on Disarmament* (agenda item 27)
- (a) Basic document: Report of the Conference of the Committee on Disarmament: Official Records of the Disarmament Commission, Supplement for 1970, document DC/233.
- (b) Consideration by the First Committee:
- (i) *draft resolutions* (A/C.1/L.523, L.528, L.532, L.534 and Rev.1 and 2, L.537) and *report* of the First Committee (A/8198): see G.A. (XXV), Annexes, a.i. 27, 28, 29, 30, 31, 93 and 94.
- (ii) *debates*: G.A. (XXV), 1st Committee, 1748th to 1764th, 1767th, 1772nd, 1776th and 1783rd mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1919th mtg.
- (ii) *resolutions adopted*: General Assembly resolutions 2660 (XXV), 2661 A (XXV), 2661 B (XXV) and 2661 C (XXV), of 7 December 1970.
- (8) *Question of chemical and bacteriological (biological) weapons: report of the Conference of the Committee on Disarmament* (agenda item 28)
- (a) Basic document: Report of the Conference of the Committee on Disarmament: Official Records of the Disarmament Commission, Supplement for 1970, document DC/233.
- (b) Consideration by the First Committee:
- (i) *draft resolutions* (A/C.1/L.526, L.527, L.533) and *report* of the First Committee (A/8179): see G.A. (XXV), Annexes, a.i. 27, 28, 29, 30, 31, 93 and 94.
- (ii) *debates*: G.A. (XXV), 1st Committee, 1748th to 1762nd and 1765th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1919th mtg.
- (ii) *resolution adopted*: General Assembly resolution 2662 (XXV) ⁹ of 7 December 1970.

⁶ Reproduced in this *Yearbook*, p. 55.

⁷ See also section 3 below.

⁸ Reproduced in this *Yearbook*, p. 57.

⁹ *Ibid.*, p. 59.

- (9) *Urgent need for suspension of nuclear and thermonuclear tests: report of the Conference of the Committee on Disarmament* (agenda item 29)
- (a) Basic document: Report of the Conference of the Committee on Disarmament: Official Records of the Disarmament Commission Supplement for 1970, document DC/233.
- (b) Consideration by the First Committee:
- (i) *draft resolutions* (A/C.1/L.529, L.530) and *report* of the First Committee (A/8180): see G.A. (XXV), Annexes, a.i. 27, 28, 29, 30, 31, 93 and 94.
- (ii) *debates*: G.A. (XXV), 1st Committee, 1748th to 1762nd and 1764th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1919th mtg.
- (ii) *resolutions adopted*: General Assembly resolutions 2663 A (XXV) and 2663 B (XXV),¹⁰ of 7 December 1970.
- (10) *Consideration of measures for the strengthening of international security: report of the Secretary-General* (agenda item 32)
- (a) Basic document: Report of the Secretary-General (A/7922 and Add.1-6).
- (b) Consideration by the First Committee:
- (i) *draft resolutions* (A/C.1/L.513, L.514, L.515, L.516, L.517, L.518, L.519) and *report* of the First Committee (A/8096): see G.A. (XXV), Annexes, a.i. 32.
- (ii) *debates*: G.A. (XXV), 1st Committee, 1725th to 1739th, 1755th and 1797th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1932nd mtg.
- (ii) *resolution adopted*: General Assembly resolution 2734 (XXV)¹¹ of 16 December 1970.
- (11) *The policies of apartheid of the Government 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)¹²
- (a) Basic document: Report of the Special Committee on Policies of *Apartheid* of the Government of the Republic of South Africa: G.A. (XXV), Sipp. No. 22 (A/8022 and Add.1)—United Nations Trust Fund for South Africa: report of the Secretary-General (A/8109): see G.A. (XXV), Annexes, a.i. 34.
- (b) Consideration by the Special Political Committee:
- (i) *draft resolutions* (A/SPC/L.182 and Rev.1, L.183 and Rev.1, L.184 and Rev.1, L.185 and Rev.1 and 2, L.186 and Rev.1-3, L.187, L.188 and Rev.1, L.190 and Rev.1) and *report* of the Special Political Committee (A/8106 and Add.1): see G.A. (XXV), Annexes, a.i. 34.
- (ii) *debates*: G.A. (XXV), Special Political Committee, 697th to 714th, 724th, 725th, 730th and 731st mtgs.
- (c) Consideration in plenary:
- (i) *debates*: G.A. (XXV), Plen., 1864th and 1921st mtgs.
- (ii) *resolutions adopted*: General Assembly resolutions 2624 (XXV) of 13 October 1970 and 2761 A (XXV) to 2761 F (XXV), of 8 December 1970.
- See also* the decision taken by the General Assembly at its 1921st plenary meeting, on 8 December 1970.

¹⁰ *Ibid.*, p. 61.

¹¹ *Ibid.*, p. 62.

¹² See also section III 1 (A) (1) below.

- (12) *Permanent sovereignty over natural resources: report of the Secretary-General* (agenda item 45)
- (a) Basic document: Permanent sovereignty over natural resources: report of the Secretary-General (A/8058).
 - (b) Consideration by the Second Committee:
 - (i) *draft resolutions* (A/C.2/L.1136 and Rev.1, L.1137, L.1138) and *report* of the Second Committee (A/8221): see G.A. (XXV), Annexes, a.i. 45.
 - (ii) *debates*: G.A. (XXV), 2nd Committee, 1354th to 1356th, 1360th and 1361st mtgs.
 - (c) Consideration in plenary:
 - (i) *draft resolution* (A/L.620 and Add.1): see G.A. (XXV), Annexes, a.i. 45.
 - (ii) *debate*: G.A. (XXV), Plen., 1926th mtg.
 - (iii) *resolution adopted*: General Assembly resolution 2692 (XXV) of 11 December 1970.
- (13) *Respect for human rights in armed conflicts: report of the Secretary-General* (agenda item 47)¹³
- (a) Basic documents: Reports of the Secretary-General (A/7720 and A/8052).
 - (b) Consideration by the Third Committee:
 - (i) *draft resolutions* (A/C.3/L.1797 and Rev.1-3, L.1798 and Rev.2, 3 and 5, L.1806 and Rev.1 and 2, L.1807, L.1808 and Rev.1 and 2 and Corr.1, L.1809 and Rev.1 and 2, L.1814 and Rev.1, L.1815, L.1816, L.1817) and *report* of the Third Committee (A/8178): see G.A. (XXV), Annexes, a.i. 47.
 - (ii) *debates*: G.A. (XXV), 3rd Committee, 1780th to 1788th and 1792nd to 1804th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1992nd mtg.
 - (ii) *resolutions adopted*: General Assembly resolutions 2673 (XXV),¹⁴ 2674 (XXV),¹⁵ 2675 (XXV),¹⁶ 2676 (XXV)¹⁷ and 2677 (XXV),¹⁸ of 9 December 1970.
- (14) *Measures to be taken against nazism and racial intolerance: report of the Secretary-General* (agenda item 49)¹⁹
- (a) Basic document: Report of the Secretary-General (A/8056 and Add.1 and 2).
 - (b) Consideration by the Third Committee:
 - (i) *draft resolutions* (A/C.3/L.1818, L.1837) and *report* of the Third Committee (A/8252): see G.A. (XXV), Annexes, a.i. 49.
 - (ii) *debates*: G.A. (XXV), 3rd Committee, 1814th and 1815th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1930th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2713 (XXV) of 15 December 1970.
- (15) *Question of the punishment of war criminals and of persons who have committed crimes against humanity: report of the Secretary-General* (agenda item 50)²⁰
- (a) Basic document: Report of the Secretary-General (A/8038 and Add.1 and 2).

¹³ See also section III 1 (A) (1) below.

¹⁴ Reproduced in this *Yearbook*, p. 66.

¹⁵ *Ibid.*, p. 67.

¹⁶ *Ibid.*, p. 68.

¹⁷ *Ibid.*, p. 69.

¹⁸ *Ibid.*, p. 71.

¹⁹ See also sections III 1 (A) (1) and 2 (A) (4) below.

²⁰ See also section III 2 (A) (3) below.

- (b) Consideration by the Third Committee:
- (i) *draft resolutions* (A/C.3/L.1812, L.1831, L.1833) and *report* of the Third Committee (A/8233): see G.A. (XXV), Annexes, a.i. 50.
 - (ii) *debates*: G.A. (XXV), 3rd Committee, 1813th and 1814th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1930th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2712 (XXV)²¹ of 15 December 1970.
- (16) *Elimination of all forms of racial discrimination* (a) *International Year for Action to Combat Racism and Racial Discrimination: report of the Secretary-General* (b) *Measures for effectively combating racial discrimination and the policies of apartheid and segregation in southern Africa: report of the Secretary-General* (c) *Report of the Committee on the Elimination of Racial Discrimination, submitted under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination* (d) *Status of the International Convention on the Elimination of All Forms of Racial Discrimination: report of the Secretary-General* (agenda item 53)²²
- The importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights* (agenda item 60)
- (a) *Basic documents: Measures for effectively combating racial discrimination and the policies of apartheid and segregation in southern Africa: report of the Secretary-General* (A/8057): see G.A. (XXV), Annexes, a.i. 53 and 60—*International Year for Action to Combat Racism and Racial Discrimination: report of the Secretary-General* (A/8061): see G.A. (XXV), Annexes, a.i. 53 and 60—*Report of the Committee on the Elimination of Racial Discrimination*: G.A. (XXV), Supp. No. 27 (A/8027)—*Status of the International Convention on the Elimination of All Forms of Racial Discrimination: note by the Secretary-General* (A/8062 and Add.1 and 2)—*Note by the Secretary-General* (A/7998).
- (b) Consideration by the Third Committee:
- (i) *draft resolutions* (A/C.3/L.1799 and Rev.1, L.1800 and Rev.1, L.1801, L.1802 and Rev.1, L.1804, L.1805) and *report* of the Third Committee (A/8163): see G.A. (XXV), Annexes, a.i. 53 and 60.
 - (ii) *debates*: G.A. (XXV), 3rd Committee, 1760th to 1780th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXV), Plen., 1915th mtg.
 - (ii) *resolution adopted*: General Assembly resolutions 2646 (XXV), 2647 (XXV),²³ 2648 (XXV) and 2649 (XXV), of 30 November 1970.
- (17) *Report of the International Law Commission on the work of its twenty-second session* (agenda item 84)²⁴
- (a) *Basic document: Report of the International Law Commission on the work of its twenty-second session*: G.A. (XXV), Supp. No. 10 (A/8010/Rev.).
- (b) Consideration by the Sixth Committee:
- (i) *draft resolutions* (A/C.6/L.795, L.797) and *report* of the Sixth Committee (A/8147):²⁵ see G.A. (XXV), Annexes, a.i. 84.

²¹ Reproduced in this *Yearbook*, p. 72.

²² See also sections III 1 (A) (1) and 2 (A) (1) below.

²³ Reproduced in this *Yearbook*, p. 74.

²⁴ See also section 8 below.

²⁵ Reproduced in this *Yearbook*, p. 75.

- (ii) *debates*: G.A. (XXV), 6th Committee, 1186th to 1193rd, 1196th, 1197th and 1200th mtgs.
 - (c) Consideration in plenary:
 - (i) *draft resolution* (A/L.612): see G.A. (XXV), Annexes, a.i. 84.
 - (ii) *debate*: G.A. (XXV), Plen., 1903rd mtg.
 - (iii) *resolution adopted*: General Assembly resolution 2634 (XXV)²⁶ of 12 November 1970.
- (18) *Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States* (agenda item 85)²⁷
- (a) Basic document: Report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States: G.A. (XXV), Supp. No. 18 (A/8018).
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolution* (A/C.6/L.793 and Corr.1 and Add.1) and *report* of the Sixth Committee (A/8082): see G.A. (XXV), Annexes, a.i. 85.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1178th to 1184th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1833rd mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2625 (XXV)²⁸ of 24 October 1970.
- (19) *Report of the United Nations Commission on International Trade Law on the work of its third session* (agenda item 86)²⁹
- (a) Basic document: Report of the United Nations Commission on International Trade Law on the work of its third session: G.A. (XXV), Supp. No. 17 (A/8017).
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolution* (A/C.6/L.798) and *report* of the Sixth Committee (A/8146): see G.A. (XXV), Annexes, a.i. 86.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1194th to 1199th and 1201st to 1205th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1903rd mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2635 (XXV)³⁰ of 12 November 1970.
- (20) *Report of the Special Committee on the Question of Defining Aggression* (agenda item 87)³¹
- (a) Basic document: Report of the Special Committee on the Question of Defining Aggression: G.A. (XXV), Supp. No. 19 (A/8019).
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolution* (A/C.6/L.799 and Rev.1) and *report* of the Sixth Committee (A/8171): see G.A. (XXV), Annexes, a.i. 87.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1202nd to 1209th and 1211th to 1213th mtgs.

²⁶ Reproduced in this *Yearbook*, p. 103.

²⁷ See also section 4 below.

²⁸ Reproduced in this *Yearbook*, p. 104.

²⁹ See also section 9 below.

³⁰ Reproduced in this *Yearbook*, p. 111.

³¹ See also section 6 below.

- (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1914th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2644 (XXV) of 25 November 1970.
- (21) *Need to consider suggestions regarding the review of the Charter of the United Nations* (agenda item 88)
- (a) Basic document: Note by the Secretary-General (A/8053): see G.A. (XXV), Annexes, a.i. 88.
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolutions* (A/C.6/L.817 and Rev.1 and 2, L.818) and *report* of the Sixth Committee (A/8219): see G.A. (XXV), Annexes, a.i. 88.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1238th to 1244th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1926th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2697 (XXV) of 11 December 1970.
- (22) *Amendment to Article 22 of the Statute of the International Court of Justice (Seat of the Court) and consequential amendments to Articles 23 and 28* (agenda item 89)
- (a) Basic document: Note by the Secretary-General (A/8054): see G.A. (XXV), Annexes, a.i. 89.
 - (b) Consideration by the Sixth Committee:
 - (i) *report* of the Sixth Committee (A/8201): see G.A. (XXV), Annexes, a.i. 89.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1237th and 1238th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1920th mtg.
 - (ii) *decision adopted*: decision taken by the General Assembly at its 1920th plenary meeting, on 8 December 1970.
- (23) *United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law: report of the Secretary-General* (agenda item 90)
- (a) Basic document: Report of the Secretary-General (A/8130 and Corr.1).
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolution* (A/C.6/L.811 and Rev.1) and *report* of the Sixth Committee (A/8213): see G.A. (XXV), Annexes, a.i. 90.
 - (ii) *debate*: G.A. (XXV), 6th Committee, 1229th, 1231st and 1235th to 1238th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1926th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2698 (XXV) of 11 December 1970.
- (24) *Progressive development and codification of the rules of international law relating to international watercourses* (agenda item 91)
- (a) Basic document: Request for the inclusion of an item in the provisional agenda of the twenty-fifth session of the General Assembly (A/7991): see G.A. (XXV), Annexes, a.i. 91.
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolutions* (A/C.6/L.810 and Rev.1 and 2, L.814, L.816) and *report* of the Sixth Committee (A/8202): see G.A. (XXV), Annexes, a.i. 91.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1225th, 1228th and 1230th to 1236th mtgs.

- (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1920th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2669 (XXV) of 8 December 1970.

See also the decision taken by the General Assembly at its 1920th plenary meeting, on 8 December 1970.
- (25) *Status of the implementation of General Assembly resolution 2456 B (XXIII) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)* (agenda item 93)
 - (a) Basic document: Request for the inclusion of an item in the provisional agenda of the twenty-fifth session (A/7993 and Add.1 and 2): see G.A. (XXV), Annexes, a.i. 27, 28, 29, 30, 31, 93 and 94.
 - (b) Consideration by the First Committee:
 - (i) *draft resolution* (A/C.1/L.522 and Rev.1) and *report* of the First Committee (A/8181): see G.A. (XXV), Annexes, a.i. 27, 28, 29, 30, 31, 93 and 94.
 - (ii) *debates*: G.A. (XXV), 1st Committee, 1748th to 1762nd and 1764th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1919th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2666 (XXV)³² of 7 December 1970.
- (26) *Review of the role of the International Court of Justice* (agenda item 96)
 - (a) Basic document: Request for the inclusion of a supplementary item in the agenda of the twenty-fifth session (A/8042 and Add.1 and 2): see G.A. (XXV), Annexes, a.i. 96.
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolutions* (A/C.6/L.800 and Rev.1, L.801, L.802, L.806 and Rev.1, L.808 and Rev.1 and 2) and *report* of the Sixth Committee (A/8238): see G.A. (XXV), Annexes, a.i. 96.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1210th to 1218th and 1224th to 1230th mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1931st mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2723 (XXV) of 15 December 1970.
- (27) *Aerial hijacking or interference with civil air travel* (agenda item 99)
 - (a) Basic document: Request for the inclusion of an additional item in the agenda of the twenty-fifth session (A/8091): see G.A. (XXV), Annexes, a.i. 99.
 - (b) Consideration by the Sixth Committee:
 - (i) *draft resolutions* (A/C.6/L.803 and Rev.1 and 2, L.804, L.805 and Rev.1, L.807, L.809 and Rev.1), and *report* of the Sixth Committee (A/8176): see G.A. (XXV), Annexes, a.i. 99.
 - (ii) *debates*: G.A. (XXV), 6th Committee, 1198th, 1219th to 1223rd, 1225th, 1226th, 1228th, 1230th and 1231st mtgs.
 - (c) Consideration in plenary:
 - (i) *debate*: G.A. (XXV), Plen., 1914th mtg.
 - (ii) *resolution adopted*: General Assembly resolution 2645 (XXV)³³ of 25 November 1970.

³² Reproduced in this *Yearbook*, p. 112.

³³ *Ibid.*, p. 114.

(B) *Other documents of legal interest*

Rules of procedure for the General Assembly

Scope of credentials in rule 27 of the rules of procedure of the General Assembly. Statement by the Legal Counsel submitted to the President of the General Assembly at his request (A/8160):³⁴ see G.A. (XXV), Annexes, a.i. 3.

International Court of Justice

Report of the Court: G.A. (XXV), Supp. No. 5 (A/8005).

United Nations Relief and Works Agency for Palestine Refugees in the Near East

Report of the Commissioner-General of UNRWA: G.A. (XXV), Supp. No. 13 (A/8013) (Chapter I, Section E: Legal Matters)

United Nations Council for Namibia

Report of the United Nations Council for Namibia: G.A. (XXV), Supp. No. 24 (A/8024).³⁵

*United Nations Conference on Trade and Development*³⁶

Report of the Trade and Development Board: G.A. (XXV), Supp. No. 15 (A/8015/Rev.1) (Part two, Chapter VI, Section C: Progressive development of the law of trade).

*Political rights of women*³⁷

Report of the Secretary-General (A/8132 and Add.1).

*United Nations High Commissioner for Refugees*³⁸

Report of the High Commissioner: G.A. (XXV), Supp. Nos. 12 (A/8012) (Chapter I: International protection) and 12A (A/8012/Add.1) (Chapter III: International protection).

Administrative Tribunal

Note by the Secretary-General (A/INF/141) (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. Note by the Secretary-General (A/7935).

Report of the Fifth Committee (A/8115): see G.A. (XXV), Annexes, a.i. 76.
See also General Assembly resolution 2631 (XXV) of 9 November 1970.

Question of methods of fact-finding

Register of experts in legal and other fields, prepared in accordance with General Assembly resolution 2329 (XXII). Note by the Secretary-General (A/8108).

2. EXECUTIVE COMMITTEE OF THE PROGRAMME OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES³⁹

Document of legal interest

Note on international protection. Submitted by the High Commissioner (A/AC.96/433).

³⁴ *Ibid.*, p. 169.

³⁵ See also section I 5 below.

³⁶ See also section IV below.

³⁷ See also section III 3 (A) (1) below.

³⁸ See also section I 2 below.

³⁹ See also section 1 (B) above.

3. COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE⁴⁰

(A) Documents relating to an agenda item of legal interest (thirteenth session)

Consideration of the reports of . . . (b) The Legal Sub-Committee (A/AC.105/85); (c) The Working Group on Direct Broadcast Satellites (A/AC.105/83) (agenda item 3)

- (a) Basic documents: Report of the Legal Sub-Committee (containing the texts, as approved by the Sub-Committee, of the title, the preamble and thirteen articles of a draft convention on International Liability for Damage Caused by Space Objects) (A/AC.105/85)—Report of the Working Group on Direct Broadcast Satellites (A/AC.105/83).
- (b) Consideration by the Committee:
 - (i) report of the Committee: G.A. (XXV), Supp. No. 20 (A/8020), Chapter II, Sections B and C.
 - (ii) debates: A/AC.105/PV.61 to 69.

(B) Other documents of legal interest

Legal Sub-Committee

The question of the definition and/or the delimitation of outer space. Background paper prepared by the Secretariat (A/AC.105/C.2/7).

Summary records of the one hundred and thirty-second to the one hundred and fifty-first meetings (A/AC.105/C.2/SR.132-151).

4. SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES (1970)⁴¹

Documents relating to an agenda item of legal interest

Completion of the Special Committee's work, in the light of the debate which took place in the Sixth Committee during the twenty-fourth and previous sessions of the General Assembly and in the 1964, 1966, 1967, 1968 and 1969 sessions of the Special Committee, by endeavouring to resolve in the light of General Assembly resolution 2327 (XXII), the remaining questions relating to the formulation of the seven principles. (General Assembly resolution 2533 (XXIV), para. 4) (agenda item 6)

- (a) Basic document: General Assembly resolution 2533 (XXIV)—Report of the 1969 Special Committee: G.A. (XXIV), Supp. No. 19 (A/7619).
- (b) Consideration by the Special Committee:
 - (i) draft proposals (A/AC.125/L.82, L.85 [concerning the preamble of a draft declaration on all of the seven principles], draft proposals (A/AC.105/L.80, L.81) [on the principle of equal rights and self-determination of peoples], working paper (A/AC.125/L.83) [on the final stage of drafting of the Declaration], report of the Drafting Committee (A/AC.125/L.86) and report of the Special Committee: G.A. (XXV), Supp. No. 18 (A/8018).
 - (ii) debates: A/AC.125/SR.110 to 114.

5. UNITED NATIONS COUNCIL FOR NAMIBIA⁴²

Document of legal interest

Question of travel documents. Report of the Secretary-General (A/AC.131/10/Add.3 and 4).

⁴⁰ See also section 1 (A) (6) above.

⁴¹ See also section 1 (A) (18) above.

⁴² See also section 1 (B) above.

6. SPECIAL COMMITTEE ON THE QUESTION OF DEFINING AGGRESSION ⁴³

Documents relating to an agenda item of legal interest

Consideration of the question of defining aggression (General Assembly resolutions 2330 (XXII), 2420 (XXIII) and 2459 (XXIV)) (agenda item 5)

- (a) Basic documents: General Assembly resolutions 2330 (XXII), 2420 (XXIII) and 2459 (XXIV).
- (b) Consideration by the Special Committee:
 - (i) *draft proposal* (A/AC.134/L.17/Add.2), *draft resolution* (A/AC.134/L.26), *report* of the Working Group established by the Committee (A/AC.134/L.25/Rev.1), and *report* of the Committee: G.A. (XXV), Supp. No. 19 (A/8019).
 - (ii) *debates*: A/AC.134/SR.53 to 78.

7. COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION ⁴⁴

Documents of legal interest

Summary records of the thirtieth to thirty-eighth meetings of the Legal Subcommittee (A/AC.138/SC.1/SR.30-35 and 36-38).

8. INTERNATIONAL LAW COMMISSION ⁴⁵

(A) *Documents relating to agenda items of legal interest (twenty-second session)*

- (1) *Relations between States and international organizations (agenda item 2)*
 - (a) Basic document: Fifth report on relations between States and international organizations by Mr. Abdullah El-Erian, Special Rapporteur (A/CN.4/227 and Add.1 and 2).
 - (b) Consideration by the Commission:
 - (i) *report* of the Commission: G.A. (XXV), Supp. No. 10 (A/8010/Rev.1), Chapter II.
 - (ii) *debates*: International Law Commission, 1043rd to 1045th, 1047th to 1065th, 1067th, 1073rd, 1077th and 1084th mtgs.
- (2) *Succession of States (a) Succession in respect of treaties... (agenda item 3)*
 - (a) Basic document: Third report on succession in respect of treaties by Sir Humphrey Waldock, Special Rapporteur (A/CN.4/224 and Add.1).
 - (b) Consideration by the Commission:
 - (i) *report* of the Commission: G.A. (XXV), Supp. No. 10 (A/8010/Rev.1), Chapter III.
 - (ii) *debates*: International Law Commission, 1067th, 1068th and 1070th to 1072nd mtgs.
- (3) *State responsibility (agenda item 4)*
 - (a) Basic document: Second report on State responsibility by Mr. Roberto Ago, Special Rapporteur (A/CN.4/233).
 - (b) Consideration by the Commission:
 - (i) *report* of the Commission: G.A. (XXV), Supp. No. 10 (A/8010/Rev.1), Chapter IV.
 - (ii) *debates*: International Law Commission, 1011th to 1013th and 1036th mtgs.

⁴³ See also section 1 (A) (20) above.

⁴⁴ See also section 1 (A) (5) above.

⁴⁵ See also section 1 (A) (17) above. For detailed information, see *Yearbook of the International Law Commission, 1970* (United Nations publication—Sales Nos.: E.70.V.8 and E.71.V.6.).

(B) *Other documents of legal interest*

Succession of States

Third report on succession in respect of matters other than treaties by Mr. Mohammed Bedjaoui, Special Rapporteur (A/CN.4/226).

Seventh study by the Secretariat in the Series "Succession of States to multilateral treaties" (A/CN.4/225).

First study by the Secretariat in the Series "Succession of States in respect of bilateral treaties" (A/CN.4/229).

Supplement prepared by the Secretariat (A/CN.4/232) to the "Digest of the decisions of international tribunals relating to State succession" (*Yearbook of the International Law Commission, 1962*, vol. II, document A/CN.4/151).

Most-favoured-nation clause

Second report on the most-favoured-nation clause by Mr. Endre Ustor, Special Rapporteur (A/CN.4/228 and Add.1).

Review of the Commission's programme of work

Preparatory working paper by the Secretariat (A/CN.4/230 and Corr.1).

9. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ⁴⁶

(A) *Documents relating to agenda items of legal interest* (third session)

(1) *International sale of goods* (agenda item 4)

(a) Basic documents: Report of the Working Group on the International Sale of Goods (A/CN.9/35)—Analysis of the studies and comments by Governments on the Hague Convention of 1964: report of the Secretary-General (A/CN.9/31)—Analysis of the replies and comments by Governments on the Hague Convention of 1955: report of the Secretary-General (A/CN.9/33)—Report of the Working Group on Time-limits and Limitations (Prescription) in the International Sale of Goods (A/CN.9/30)—General conditions of sale and standard contracts: report of the Secretary-General (A/CN.9/34).

(b) Consideration by the Commission:

(i) *report* of the Commission: G.A. (XXV), Supp. No. 17 (A/8017), Chapter II.

(ii) *debates*: A/CN.9/SR.54, 59 and 60.

(2) *International payments* (agenda item 5)

(a) Basic documents: Analysis of the replies received from Governments and banking and trade institutions to the questionnaire on negotiable instruments used for making international payments: report of the Secretary-General (A/CN.9/38)—Bankers' commercial credits: report of the Secretary-General (A/CN.9/44)—Guarantees and securities: note by the Secretary-General (A/CN.9/45 and Add.1).

(b) Consideration by the Commission:

(i) *report* of the Commission: G.A. (XXV), Supp. No. 17 (A/8017), Chapter III.

(ii) *debates*: A/CN.9/SR.57 and 58.

(3) *International commercial arbitration* (agenda item 6)

(a) Basic document: Preliminary report on international commercial arbitration by Mr. Ion Nestor, Special Rapporteur (A/CN.9/42).

⁴⁶ See also section 1 (A) (19) above.

- (b) Consideration by the Commission:
 - (i) *report* of the Commission: G.A. (XXV), Supp. No. 17 (A/8017), Chapter IV.
 - (ii) *debates*: A/CN.9/SR.52, 53 and 60.
- (4) *International legislation on shipping* (agenda item 7)
 - (a) **Basic document**: Report of the Secretary-General (A/CN.9/41).
 - (b) Consideration by the Commission:
 - (i) *report* of the Commission: G.A. (XXV), Supp. No. 17 (A/8017), Chapter V.
 - (ii) *debate*: A/CN.9/SR.59.

(B) *Other document of legal interest*

Training and assistance in the field of international trade law
 Report of the Secretary-General (A/CN.9/39).

II. SECURITY COUNCIL AND SUBSIDIARY ORGANS

SECURITY COUNCIL

Document of legal interest

Interim report to the Security Council of the Committee of Experts established by the Security Council at its 1506th meeting (S/9836).

III. ECONOMIC AND SOCIAL COUNCIL AND SUBSIDIARY ORGANS

1. ECONOMIC AND SOCIAL COUNCIL AND SESSIONAL COMMITTEES

- (A) *Documents relating to agenda items of legal interest* (resumed forty-eighth session)
 - (1) *Human rights*: (a) *Report of the Commission on Human Rights* (b) *Co-ordination of United Nations activities with regard to policies of apartheid and racial discrimination in southern Africa* (c) *Respect for human rights in armed conflicts* (agenda item 2)⁴⁷
 - (a) **Basic documents**: Report of the Commission on Human Rights on its twenty-sixth session: E.S.C. (XLVIII), Supp. No. 5 (E/4816)—Report of the Secretary-General on sub-item (b) (E/4817 and Corr.1).
 - (b) Consideration by the Social Committee:
 - (i) *draft resolutions* (E/AC.7/L.570, L.571, L.572, L.573 and Rev.1, L.574, L.575, L.576) and *report* of the Social Committee (A/4868): see E.S.C. (XLVIII), Annexes, a.i. 3.
 - (ii) *debates*: E/AC.7/SA.635 to 645.
 - (c) Consideration by the Council:
 - (i) *debate*: E.S.C. (XLVIII), 1693rd mtg.
 - (ii) *resolutions adopted*: Economic and Social Council resolutions 1500 (XLVIII), 1501 (XLVIII), 1503 (XLVIII) and 1504 (XLVIII), of 27 May 1970.
 - (2) *Report of the Commission on the Status of Women* (agenda item 3)⁴⁸
 - (a) **Basic document**: Report of the Commission on the Status of Women on its twenty-third session: E.S.C. (XLVIII), Supp. No. 6 (E/4831).

⁴⁷ See also sections I 1 (A) (1), (11), (13) and (14) above and 2 below.

⁴⁸ See also sections I 1 (A) (1) above and 3 below.

- (b) Consideration by the Social Committee:
 - (i) *report* of the Social Committee (E/4870): see E.S.C. (XLVIII), Supp. No. 6 (E/4831).
 - (ii) *debates*: E/AC.7/SR.644 to 647.
 - (c) Consideration by the Council:
 - (i) *debate*: E.S.C. (XLVIII), 1694th mtg.
 - (ii) *resolutions adopted*: Economic and Social Council resolutions 1511 (XLVIII), 1515 (XLVIII) and 1517 (XLVIII), of 28 May 1970.
 - (3) *Allegations regarding infringements of trade-union rights* (agenda item 4)
 - (a) Basic documents: Report of the *Ad Hoc* Working Group of Experts (E/4791)—Report of the ILO (E/4819).
 - (b) Consideration by the Council:
 - (i) *draft resolution* (E/L.1324).
 - (ii) *debates*: E.S.C. (XLVIII), 1693rd and 1964th mtgs.
 - (iii) *resolution adopted*: Economic and Social Council resolution 1509 (XLVIII) of 28 May 1970.
- (B) *Other documents of legal interest*
- Land reform*
- Progress in land reform. Fifth report (E/4769—Sales No.: E.70.IV.5) (Annex IV: Some legal aspects: land reform).
- Relations with the World Intellectual Property Organization*
- Note by the Secretary-General (E/4891).
- Narcotic drugs*
- Report of the first special session of the Commission on Narcotic Drugs: E.S.C. (XLVIII), Supp. No. 8 (E/4785) (contains in Chapter III the text of a revised Draft Protocol on Psychotropic Substances).

2. COMMISSION ON HUMAN RIGHTS⁴⁹

- (A) *Documents relating to agenda items of legal interest* (twenty-sixth session)
- (1) *Programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination* (agenda item 11)
- Measures for the speedy implementation of the United Nations Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination* (agenda item 12)⁵⁰
- (a) Basic document: General Assembly resolution 2544 (XXIV)—Note by the Secretary-General (E/CN.4/1022).
 - (b) Consideration by the Commission:
 - (i) *draft resolutions* (E/CN.4/L.1118, L.1119) and *report* of the Commission: E.S.C. (XLVIII), Supp. No. 5 (E/4816), Chapters III and XXIII.
 - (ii) *debates*: E/CN.4/SR.1048 to 1052.
- (2) *Report of the twenty-second session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities* (agenda item 19)

⁴⁹ See also section III 1 (A) (1) above.

⁵⁰ See also section I 1 (A) (16) above.

- (a) Basic document: Report of the twenty-second session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1008).
- (b) Consideration by the Commission:
- (i) *report* of the Commission: E.S.C. (XLVIII), Supp. No. 5 (E/4816), Chapters III and XXIII.
- (ii) *debates*: E/CN.4/SR.1049 and 1050.
- (3) *Question of the punishment of war criminals and of persons who have committed crimes against humanity* (agenda item 6)⁵¹
- (a) Basic document: Study prepared by the Secretary-General (E/CN.4/983 and Add.1 and 2).
- (b) Consideration by the Commission:
- (i) *draft resolutions* (E/CN.4/L.1121, L.1127) and *report* of the Commission: E.S.C. (XLVIII), Supp. No. 5 (E/4816), Chapters IV and XXIV.
- (ii) *debates*: E/CN.4/SR. 1052 to 1059.
- (4) *Measures to be taken against nazism and racial intolerance (Commission resolution 10 (XXV))* (agenda item 13)⁵²
- (a) Basic document: Note by the Secretary-General (E/CN.4/1031).
- (b) Consideration by the Commission:
- (i) *draft resolutions* (E/CN.4/L.1120 and Rev.1, L.1122, L.1124, L.1125, L.1126) and *report* of the Commission: E.S.C. (XLVIII), Supp. No. 5 (E/4816), Chapters V and XXIII.
- (ii) *debates*: E/CN.4/SR.1052 to 1058.
- (5) *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 10)⁵³
- (a) Basic document: Note by the Secretary-General (E/CN.4/1019 and Add.1)—Report of the *Ad Hoc* Working Group of Experts to the twenty-sixth session of the Commission (E/CN.4/1020 and Add.1-3)—Preliminary draft of model rules of procedure for United Nations bodies dealing with violations of human rights (E/CN.4/1021).
- (b) Consideration by the Commission:
- (i) *draft resolutions* (E/CN.4/L.1138 and Rev.1, L.1139, L.1140) and *report* of the Commission: E.S.C. (XLVIII), Supp. No. 5 (E/4816), Chapters X, XXIII and XXIV.
- (ii) *debates*: E/CN.4/SR.1072 to 1078.
- (6) *Question of human rights in the territories occupied as a result of hostilities in the Middle East, including the report of the Special Working Group of Experts (Commission resolution 6 (XXV))* (agenda item 5)
- (a) Basic document: Report of the Special Working Group of Experts (E/CN.4/1016 and Add.1-5).
- (b) Consideration by the Commission:
- (i) *draft resolution* (E/CN.4/L.1142) and *report* of the Commission (E.S.C. (XLVIII), Supp. No. 5 (E/4816), Chapters XI and XXIII).
- (ii) *debates*: E/CN.4/SR.1078 to 1082.

⁵¹ See also section I 1 (A) (15) above.

⁵² See also section I 1 (A) (14) above.

⁵³ See also section I 1 (A) (1) above and (B) below.

(B) *Other documents of legal interest*

*Question of the violation of human rights and fundamental freedoms*⁵⁴

Texts of (or extracts from) decisions taken by United Nations bodies 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 (A/CN.4/923/Add.3).

Question of slavery

Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of *apartheid* and discrimination—Progress report submitted by the Special Rapporteur, Mr. Awad (E/CN.4/Sub.2/312).

Prevention of discrimination

Review of further developments in fields with which the Sub-Commission [on Prevention of Discrimination and Protection of Minorities] has been concerned

—Memorandum submitted by the International Labour Office (E/CN.4/Sub.2/309)

—Memorandum submitted by the United Nations Educational, Scientific and Cultural Organization (E/CN.4/Sub.2/315 and Add.1).

3. COMMISSION ON THE STATUS OF WOMEN⁵⁵

(A) *Documents relating to agenda items of legal interest* (twenty-third session)

(1) *Implementation of international instruments and national standards for the rights of women* (agenda item 3)⁵⁶

(a) Basic documents: Implementation of the Declaration on the Elimination of Discrimination against Women: reports of the Secretary-General (E/CN.6/530 and E/CN.6/531 and Add.1)—Political rights of women: report of the Secretary-General (A/7920).

(b) Consideration by the Commission:

(i) *draft resolutions* (E/CN.6/L.573, L.574) and *report* of the Commission: E.S.C. (XLVII), Supp. No. 6 (E/4831), Chapters II and XII.

(ii) *debates*: E/CN.6/SR.548, 549, 551, 552, 553 and 562.

(2) *Protection of women and children in emergency or war-time, fighting for peace, national liberation and independence* (agenda item 6)

(a) Basic document: Report by the Secretary-General (E/CN.6/536).

(b) Consideration by the Commission:

(i) *draft resolution* (E/CN.6/L.591) and *report* of the Commission: E.S.C. (XLVIII), Supp. No. 6 (E/4831), Chapters V and XIII).

(ii) *debates*: E/CN.6/SR.564, 565 and 569.

(B) *Other document of legal interest*

Status of the unmarried mother

The status of the unmarried mother—law and practice: report of the Secretary-General (E/CN.6/540).

⁵⁴ See also section III 2 (A) (5) above.

⁵⁵ See also section III 1 A (2) above.

⁵⁶ See also section I 1 (A) (1) above.

4. ECONOMIC COMMISSION FOR EUROPE

Document of legal interest

Arbitration rules of the United Nations Economic Commission for Europe (E/CN.4/625/Rev.1—Sales No.: E.70.II.E/Mim. 14).

IV. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Documents of legal interest

Trade and Development Board

Committee on Shipping—Working Group on International Shipping Legislation
Bills of lading. Report by the UNCTAD Secretariat (TD/B/C.4/SL 6).

United Nations Tin Conference, 1970

Summary of proceedings (TD/TIN.4/7/Rev.1—Sales No.: E.70.II.D.10) (contains the text of the Fourth International Tin Agreement).

V. SECRETARIAT⁵⁷

1. OFFICE OF TECHNICAL CO-OPERATION

Human rights series

Seminar on special problems relating to human rights in developing countries. Nicosia, Cyprus, 26 June-9 July 1969. Organized by the United Nations Division of Human Rights in co-operation with the Government of Cyprus (ST/TAO/HR/36).

Seminar on the realization of economic and social rights with particular reference to developing countries. Lusaka, Zambia, 23 June-4 July 1970. Organized by the United Nations Division of Human Rights in co-operation with the Government of Zambia (ST/TAO/HR/40).

2. OFFICE OF PUBLIC INFORMATION

The United Nations and the Development of International Law 1945-1970, by Constantin A. Stavropoulos, The Legal Counsel of the United Nations (OPI/411).

The Contribution of the Principal Judicial Organ of the United Nations to the Achievement of the Objectives of the Organization, by Sir Muhammad Zafrulla Khan, President of the International Court of Justice (OPI/414).

VI. INTERNATIONAL COURT OF JUSTICE⁵⁸

1. GENERAL

Annuaire, 1969-1970. No. 24. 1970. XI, 145 pp. Printed. Sales No. 339.

Yearbook, 1969-1970. No. 24. 1970. XI, 145 pp. Printed. Sales No. 340.

Bibliography of the International Court of Justice. Prepared by the Library of the Court. No. 23, 1969. [42] XXXVI pp. Printed. Sales No. 338.

⁵⁷ The recurrent publications of the Office of Legal Affairs are not listed in this section: see the *United Nations Document Index*, published by the Dag Hammarskjöld Library, United Nations.

⁵⁸ For detailed information see *Yearbook of the International Court of Justice, 1969-1970 and 1970-1971*.

2. REPORTS OF JUDGEMENTS, ADVISORY OPINIONS AND ORDERS

Reports of Judgments, Advisory Opinions and Orders, 1969 [1970]. 257, 257 pp. + 17 pp. Printed. Sales Nos. 327 and 335. Bound volume containing the Reports published in 1969, with index.

—Index. 17 pp. Printed. Sales No. 335.

Reports of Judgements, Advisory Opinions and Orders, 1970. Case concerning the Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain) Second Phase. Judgment of 5 February 1970. 1970 [3-360], 358, 358 pp. Printed. Sales No. 337.

—Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970). Order of 5 August 1970. 1970. [359-360], 2, 2 pp. Printed. Sales No. 341.

—Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970). Order of 28 August 1970. 1970 [362-363], 2, 2 pp. Printed. Sales No. 342.

3. PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

Pleadings, Oral arguments, Documents, [1960] 1966.

South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa), vol. XII [1970], XXVII, 605 pp. Printed. Sales No. 336.

Pleadings, Oral arguments, Documents. Case concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain) [Application of 1958, discontinued 1961] [1970], XII, 452 pp. Printed. Sales No. 343.

—Case concerning the Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain), vol. I [1970], VIII, [835] pp. Printed. Sales No. 344.

—Case concerning the Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain), vol. II [1970], XXXIV, 544 pp. Printed. Sales No. 346.

—Case concerning the Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain), vol. III [1970], XII, [398] pp. Printed. Sales No. 347.

B. Legal Documents Index of Intergovernmental Organizations related to the United Nations

I. INTERNATIONAL LABOUR ORGANISATION

A. Representative Organs

*Conventions and Recommendations adopted in 1970*⁵⁹

1. *Fifty-fourth session of the International Labour Conference (3-25 June 1970)*

(a) Minimum Wage Fixing Convention

Minimum Wage Fixing Recommendation

- (i) Agenda of the Fifty-third session (1969) of the International Labour Conference. Minimum wage-fixing machinery and related problems, with special reference to developing countries. Minutes of the 170th session of the Governing Body, Geneva 14-17 November 1967, p. 61. English, French, Spanish.

⁵⁹ For convenience of reference all the preparatory work of such instruments, which normally cover a period of two years, will be given in the year in which the instrument was adopted.

- (ii) Minimum wage-fixing machinery and related problems, with special reference to developing countries. International Labour Conference, Fifty-third session (1969), Report VII (1)⁶⁰ and Report VII (2), 91 and 123 pages respectively. English, French, Spanish, German, Russian.
 - (iii) Minimum wage-fixing machinery and related problems, with special reference to developing countries. International Labour Conference, Fifty-third session, Geneva, 1969. Record of proceedings, pp. 678-687; 467-473. English, French, Spanish.
 - (iv) Agenda of the Fifty-fourth session (1970) of the International Labour Conference, Fifty-third session (1969) of the Conference. Record of proceedings, pp. 687, 473, 720. English, French, Spanish.
 - (v) Minimum wage-fixing machinery and related problems, with special reference to developing countries. International Labour Conference, Fifty-fourth session, Geneva, 1970. Report V(1) and Report V(2); 43 and 47 pages respectively. English, French, Spanish, German, Russian.
 - (vi) Minimum wage-fixing machinery and related problems, with special reference to developing countries. International Labour Conference, Fifty-fourth session, Geneva, 1970. Record of proceedings, pp. 440-446, 599, 600. English, French, Spanish.
 - (vii) Minimum Wage Fixing Convention. *Official Bulletin*, Vol. LIII, No. 3, 1970, pp. 260-263. English, French, Spanish.
 - (viii) Minimum Wage Fixing Recommendation. *Official Bulletin*, Vol. LIII, No. 3, 1970, pp. 269-272. English, French, Spanish.
- (b) Holidays with Pay Convention (Revised)
- (i) Committee of Experts on the Application of Conventions and Recommendations. Proposed Revision of the Holidays with Pay Convention, 1936. Report to the Forty-eighth session (1964) of the International Labour Conference. Report III (Part IV), 1964, pp. 213-309. English, French, Spanish, German, Russian.
 - (ii) Agenda of the Fifty-third session (1969) of the International Labour Conference, Question of holidays with pay. Record of proceedings of the 169th session of the Governing Body, Geneva, 2-3 and 30 June 1967, pp. 36-47. English, French, Spanish.
 - (iii) Holidays with pay. International Labour Conference, Fifty-third session (1969), Report VI(1)⁶¹ and Report VI(2), 93 and 116 pages respectively. English, French, Spanish, German, Russian.
 - (iv) Holidays with pay. International Labour Conference, Fifty-third session, Geneva, 1969. Record of proceedings, pp. 663-677, 467. English, French, Spanish.
 - (v) Agenda of the Fifty-fourth session (1970) of the International Labour Conference; Fifty-third session (1969) of the Conference. Record of proceedings, pp. 677, 467, 719. English, French, Spanish.
 - (vi) Holidays with pay. International Labour Conference, Fifty-fourth session (1970), Report IV(1) and Report IV(2); 52 and 68 pages respectively. English, French, Spanish, German, Russian.
 - (vii) Holidays with pay. International Labour Conference, Fifty-fourth session, Geneva, 1970. Record of proceedings, pp. 611-614, 625-633, 652. English, French, Spanish.

⁶⁰ This document contains a brief indication of the background of the ILO action leading to the placing of the question of minimum wage-fixing machinery and related problems, with special reference to developing countries, on the agenda of the fifty-third session of the Conference (1969).

⁶¹ The introduction to this report contains a brief indication of the background of the ILO action leading to the placing of the question of holidays with pay on the agenda of the fifty-third session of the Conference (1969).

- (viii) Holidays with Pay Convention (Revised). *Official Bulletin*, Vol. LIII, No. 3, 1970, pp. 264-269. English, French, Spanish.
- (c) Special Youth Schemes Recommendation
- (i) Agenda of the Fifty-third session (1969) of the International Labour Conference. Special youth employment and training schemes for development purposes. Minutes of the 170th session of the Governing Body, Geneva, 14-17 November 1967, pp. 61-62. English, French, Spanish.
- (ii) Special youth employment and training schemes for development purposes. International Labour Conference, Fifty-third session (1969). Report VIII(1)⁶² and Report VIII(2), 59 and 173 pages respectively. English, French, Spanish, German, Russian.
- (iii) Special youth employment and training schemes for development purposes. International Labour Conference, Fifty-third session, Geneva, 1969. Record of proceedings, pp. 688-700; 446-456. English, French, Spanish.
- (iv) Agenda of the Fifty-fourth session (1970) of the International Labour Conference; Fifty-third session (1969) of the Conference. Record of proceedings, pp. 699, 456, 720. English, French, Spanish.
- (v) Special youth employment and training schemes for development purposes. International Labour Conference, Fifty-fourth session (1970). Report VI(1) and Report VI(2), 46 and 55 pages respectively. English, French, Spanish, German, Russian.
- (vi) Special youth employment and training schemes for development purposes. International Labour Conference, Fifty-fourth session, Geneva, 1970. Record of proceedings, pp. 595-599, 615. English, French, Spanish.
- (vii) Special Youth Schemes Recommendation. *Official Bulletin*, Vol. LIII, No. 3, 1970, pp. 273-281. English, French, Spanish.
2. *Fifty-fifth (Maritime) session of the International Labour Conference (14-30 October 1970)*
Accommodation of Crews (Supplementary Provisions) Convention. Crew Accommodation (Air Conditioning) Recommendation. Crew Accommodation (Noise Control) Recommendation. Prevention of Accidents (Seafarers) Convention. Prevention of Accidents (Seafarers) Recommendation. Vocational Training (Seafarers) Recommendation. Seafarers' Welfare Recommendation. Employment of Seafarers (Technical Developments) Recommendation.
- (a) Joint Maritime Commission, Twentieth session, Geneva, 25 September-6 October 1967. Document JMC/20/6, 47 pages. English, French, Spanish.
- (b) Agenda of the Preparatory Technical Maritime Conference. Re-examination of certain older maritime instruments with a view to bringing them up to date. Minutes of the 170th session of the Governing Body, Geneva, 14-17 November 1967, pp. 69-71. English, French, Spanish.
- (c) Reports (ronoed)⁶³ to the Preparatory Technical Maritime Conference, Genoa, September 1969:
- (i) Crew accommodation. Report I, 71 pages.
- (ii) Employment problems arising from technical developments and modernisation on board ship. Report III, 106 pages.
- (iii) Accident prevention on board ship at sea and in port. Report IV, 79 pages.
- (iv) Vocational training of seafarers. Report V, 102 pages.
- (v) Seafarers' welfare at sea and in port. Report VI, 48 pages.

⁶² The introduction to this report contains a brief indication of the background of the ILO action leading to the placing of the question of special youth employment and training schemes for development purposes on the agenda of the fifty-third session of the Conference (1969).

⁶³ These reports are published in English, French, Spanish.

- (d) Preparatory Technical Maritime Conference, Genoa, 15-26 September 1969. Record, document GB.177/6/6, 113 pages. English, French, Spanish.
- (e) Agenda of the Fifty-fifth (Maritime) session (1970) of the International Labour Conference. Minutes of the 177th session of the Governing Body Geneva, 18-21 November 1969, pp. 67-69. English, French, Spanish.
- (f) Reports⁶⁴ to the Fifty-fifth (Maritime) session (1970) of the International Labour Conference:
- (i) Crew accommodation. Report II(1)⁶⁵ and Report II(2), 16 and 45 pages respectively.
 - (ii) Accident prevention on board ship at sea and in port. Report V(1)⁶⁵ and Report V(2), 27 pages each.
 - (iii) Vocational training of seafarers. Report VI,⁶⁵ 41 pages.
 - (iv) Seafarers' welfare at sea and in port. Report VII,⁶⁵ 34 pages.
 - (v) Problems arising from technical developments and modernisation on board ship in connection with: (a) recruitment measures designed to match the seagoing employment likely to be available; (b) training and retraining for employment at sea; (c) the effects on the level of employment of seafarers, including measures to alleviate any resulting redundancy. Report IV(1)⁶⁵ and Report IV(2), 28 and 27 pages respectively.
- (g) Record of proceedings of the Fifty-fifth (Maritime) session, Geneva, 1970, of the International Labour Conference:⁶⁶
- (i) Crew accommodation, pp. 169-178, 189-192, 219.
 - (ii) Problems arising from technical developments and modernisation on board ship in connection with: (a) recruitment measures designed to match the seagoing employment likely to be available; (b) training and retraining for employment at sea; (c) the effects on the level of employment of seafarers, including measures to alleviate any resulting redundancy, pp. 135-141, 181-184, 213.
 - (iii) Accident prevention on board ship at sea and in port, pp. 143-149, 192-195, 219.
 - (iv) Vocational training of seafarers, pp. 105-110, 151-153, 193-195.
 - (v) Seafarers' welfare at sea and in port, pp. 129-134, 179-181, 213.
- (h) *Official Bulletin* of the International Labour Office, Vol. LIV, No. 1, 1971 (English, French, Spanish):
- (i) Accommodation of Crews (Supplementary Provisions) Convention, pp. 6-14.
 - (ii) Crew Accommodation (Air Conditioning) Recommendation pp. 32-33.
 - (iii) Crew Accommodation (Noise Control) Recommendation, pp. 34-35.
 - (iv) Prevention of Accidents (Seafarers) Convention, pp. 15-19.
 - (v) Prevention of Accidents (Seafarers) Recommendation, pp. 15-38.
 - (vi) Vocational Training (Seafarers) Recommendation, pp. 19-25.
 - (vii) Seafarers' Welfare Recommendation, pp. 26-29.
 - (viii) Employment of Seafarers (Technical Developments) Recommendation, pp. 29-32.

B. Quasi-judicial bodies and committees of experts

1. Report of the Commission appointed under Article 26 of the Constitution of the International Labour Organisation to Examine the Complaints concerning Observance by Greece of the Freedom of Association and Protection of the Right to Organise Convention,

⁶⁴ These reports are published in English, French, Spanish, German, Russian.

⁶⁵ The introduction to this report contains a brief indication of the background of the ILO action leading to the placing of this question on the agenda of the fifty-fifth (Maritime) session of the Conference (1970).

⁶⁶ The record of proceedings is published in English, French, Spanish.

1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), made by a number of delegates to the Fifty-second session of the International Labour Conference, 14 October 1970. *Official Bulletin*, Vol. LIV, No. 2, 1971, Special Supplement, 94 pages. See also: Supplementary note, 8 February 1971. Document GB. 182:5:8, 182nd session of the Governing Body, Geneva, 2-5 March 1971, 5 pages. English, French, Spanish.

2. Reports of the Governing Body Committee on Freedom of Association:
 - (a) 113th, 114th, 115th and 116th reports, 25 February 1970, 13 November 1969, 13 November 1969, 25 February 1970. *Official Bulletin*, Vol. LIII, No. 2, 1970. Supplement 163 pages. English, French, Spanish.
 - (b) 117th, 118th and 119th reports, 25 February 1970, 27 May 1970, 27 May 1970. *Official Bulletin*, Vol. LIII, No. 4, 1970. Supplement, 68 pages. English, French, Spanish.
3. Report of the Committee of Experts on the Application of Conventions and Recommendations. International Labour Conference, Fifty-fourth session, Geneva, 1970. Report III (Part 4), 368 pages. English, French, Spanish.

C. *Agreements with the United Nations and other organizations*

1. Memorandum of Understanding concerning the Need for an Increased Collaboration between the Food and Agriculture Organization, the International Labour Organisation, the International Co-operative Alliance, the International Federation of Agricultural Producers and the International Federation of Plantation, Agricultural and Allied Workers for Co-operative Promotion in Developing Countries, adopted by the participating organizations on 13 June 1969. *Official Bulletin*, Vol. LIII, No. 1, 1970, pp. 139-141. English, French Spanish.
2. Exchange of letters between the Director-General of the International Labour Office and the Director-General of the Industrial Development Centre for Arab States, 1 December 1969. *Official Bulletin*, Vol. LIII, No. 2, 1970, p. 253. English, French, Spanish.

II. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

A. CONSTITUTIONAL QUESTIONS

<i>Question</i>	<i>Documents</i>
1. Duration of the term of office of the Director-General	CL 55/REP ⁶⁷
2. Functions of the Committee on Constitutional and Legal Matters	CL 55/REP, paras. 247-250
3. Action to implement UN General Assembly resolutions on decolonization and racial discrimination	CL 55/REP, paras. 184-191; CL 55/18; CL 55/18 Add.1
4. Review of FAO statutory bodies	CL 55/REP, paras. 201-209; CL 55/27

⁶⁷ The symbol CL 55/REP refers to the Report of the fifty-fifth session of the Council.

B. STANDING COMMITTEES OF THE COUNCIL

<i>Body</i>	<i>Documents</i>
1. Conversion of the Committee on Fisheries into a Committee open to all interested Member Nations	CL 55/REP, paras. 210-219; CL 55/3, paras. 65-69; CL 55/8, paras. 1-22; CL 55/19, paras. 78-81; PC 17/6
2. Establishment of a Standing Committee on Forestry	CL 55/REP, paras. 220-225; CL 55/3, paras. 73-74; CL 55/8, paras. 4-11
3. Additional Committee of the Council (Committee on Agriculture)	CL 55/REP, paras. 165-166

C. BODIES ESTABLISHED UNDER ARTICLE VI OF THE CONSTITUTION

<i>Body</i>	<i>Documents</i>
1. Establishment of the FAO Olive Production Committee	CL 55/REP, paras. 226-227; CL 55/30
2. FAO/WHO Codex Alimentarius Commission (Rules of Procedure)	CL 55/REP, paras. 229-231; CL 55/31; ALI-NORM 70/43, paras. 16-36 and Appendix IV; ALI-NORM 70/8—Part I and Add.1
3. Amendments to Rules of Procedure of the European Commission on Agriculture	CL 55/REP, paras. 232-233; CL 55/55

D. CONVENTIONS AND AGREEMENTS

<i>Agreement</i>	<i>Documents</i>
1. Agreement for the Establishment of an Article XIV Body: Commission for Controlling the Desert Locust in North-West Africa	CL 55/REP, paras. 234-233 and Appendix G; CL/Res. ⁶⁸ 4/55; CL 55/31, Annex I; CL 55/5, paras. 78-79; CL 55/6, paras. 111-114; CL 55/8
2. Conference of Plenipotentiaries for the Establishment of a West-Africa Rice Development Association (WARDA): Final Act with Constitution (Annex I) signed at Dakar on 4 September 1970 ⁶⁹	AGS-AFR/REG-220; AGS:WARDA/70/14

E. SUBSTANTIVE LEGAL QUESTIONS⁷⁰

(1) AGRARIAN AND WATER LEGISLATION

<i>Question</i>	<i>Documents</i>
(a) Some legal aspects: land reform	Annex IV to "Progress in Land Reform—Fifth Report", prepared jointly by the United Nations, FAO and ILO, 1 p. 312 to 325, 1970. Multilithed
(b) Masrévery, J.: Legal methods for the improvement of agricultural planning	Working Paper O of the Seminar on Land-Use and Cultivation Planning in Agriculture, held in Berlin by the German Foundation for Developing Countries, 11 April to 14 May 1970. 25 p. Mimeographed

⁶⁸ The symbol CL/Res. refers to the resolutions of the Council.

⁶⁹ The draft of the Constitution had been drawn up by the Secretariat of FAO.

⁷⁰ Unless indicated otherwise, the documents listed have been prepared by, or in co-operation with, the Legislation Branch of FAO.

- | <i>Question</i> | <i>Documents</i> |
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| (c) Masrévery, J. and Sand, P.: Recent trends in legislation on agrarian structure in Europe | ECA:AS/70/1, ii + 14 p., 27 April 1970. Multilithed |
| (d) Caponera, D. A.: Water policy as an instrument of land reform | Contribution to United Nations Panel of Experts on Water Resources Development Policies, Buenos Aires, 8-13 June 1970. 4 p. Mimeographed |
| (e) Sand, P. H.: Atmospheric water resources for agriculture—Law and policy of weather control operations | Contribution to United Nations Panel of Experts on Water Resources Development Policies, Buenos Aires, 8-13 June 1970 i + 10 p. Mimeographed |
| (f) Caponera, D. A.: Water policy, administration and legislation in Africa | WRD/CONF/4, 26 p., 14 May 1970. Mimeographed |
| (g) Masrévery, J.: Legislation and regulation of forest and range grazing in the Mediterranean area | FO:SCM 70/2, 13 p., June 1970. Multilithed |
| (h) Masrévery, J.: Agrarian law and legal institutions designed to apply it within the framework of land reform | Contribution to the First International Congress on Agrarian Law, Caracas (Venezuela) 26-31 July 1970, ii + 20 p. Typed |
| (i) Herrero-Ayllón, E.: Aspectos institucionales de los proyectos de regadío y colonización | Contribución al Seminario Internacional sobre Planificación de los Proyectos de Regadío en América Latina, organizado por la Fundación Alemana para los Países en Vías de Desarrollo, Berlín, 28 de julio-20 de agosto de 1970. 17 págs. Multilithed |
| (j) Caponera, D. A.: Institutional and organizational requirements for water development and management | AGL:TWDF/70/5 (a), 11 p. September 1970. Multilithed |
| (k) Caponera, D. A.: The law of international water resources—Some declarations and resolutions adopted by international legal institutions forming customary law, general principles and doctrine on the use of international water resources | Legislation Branch Background Paper No. 1 i + 33 p., November 1970. Multilithed |

(2) FORESTRY, WILDLIFE AND FISHERIES LEGISLATION

- | <i>Question</i> | <i>Documents</i> |
|--|--|
| (a) Moore, G.: The role of administrative action as a tool in water pollution control (Le rôle instrumental des mesures administratives dans la lutte contre la pollution des eaux) | EIFAC 70SC 111-8, 15 p., 28 April 1970. Multilithed |
| (b) Moore, G.: The role of international bodies in the control of water pollution—Legal and institutional aspects | Presented at the 5th International Water Pollution Research Conference, July-August 1970. 10 p. Mimeographed |
| (c) Moore G.: The control of marine pollution and the protection of living resources of the sea. A comparative study of international controls and national legislation and administration | FIR : MP/70/R-15, 25 p., 23 October 1970. Multilithed |

- | <i>Question</i> | <i>Documents</i> |
|--|-------------------------------|
| (d) Exploitation and conservation of living marine resources ⁷¹ | COFI/70/7, 18 p., April 1970 |
| (e) Suggestions for management measures (submitted to the Committee on Management of Indian Ocean Tuna, Indian Ocean Fishery Commission) ⁷¹ | 10 FC:TM/70/7, September 1970 |

(3) FOOD STANDARDS AND LEGISLATION

- | <i>Question</i> | <i>Documents</i> |
|--|--|
| (a) Report on edible ices, Part V: National regulations and standards | ALINORM 70/34—Section B, 45 p. + 5 p. Appendix (MDS 70/15) January 1970. Multilithed |
| (b) Ricard, R.: Insuffisances et possibilités d'améliorations dans le cadre juridique et institutionnel du développement laitier au Burundi | Service de législation de la FAO: Rapport d'assistance technique n° 1 i + 19 p., décembre 1970. Multilithed |
| (c) Ricard, R.: Vers la réforme du cadre juridique et institutionnel du développement laitier au Rwanda | Service de législation de la FAO: Rapport d'assistance technique n° 2. i + 16 p., décembre 1970. Multilithed |
| (d) Food standards and food legislation in Africa, Asia and Latin America ⁷² | ALINORM 70/43, paras. 37-50; ALINORM 70/30; ALINORM 70/1; ALINORM 70/32 |
| (e) Information on the activities of other international organizations working on the standardization of foods and related matters ⁷² | ALINORM 70/43, paras. 51-62; ALINORM 70/28 |
| (f) The idea of a general standard ⁷² | ALINORM 70/43, paras. 132-135; ALINORM 70/37; SP 10/3-45 |
| (g) Definition of "Food Additive", "Contaminant" and "Process" ⁷² | ALINORM 70/43, paras. 136-137; ALINORM 70/38 |
| (h) General principles for the use of food additives ⁷² | ALINORM 70/43, paras. 138-141 and Appendix VI; ALINORM 70/39 |

(4) CHAD BASIN COMMISSION ⁷³

- | <i>Question</i> | <i>Documents</i> |
|--|--|
| a) Zenny, F. B.: Amendment to the Commission Rules of Procedure | AGL/SF/REG/79, i + 3 p., 1 June 1970. Mimeographed |
| (b) Zenny, F. B.: Ratification of the African Convention on the Conservation of Nature and Natural Resources, 1968 | AGL/SF/REG/79, i + 3 p., 3 June 1970. Mimeographed |
| (c) Zenny, F. B.: Inland fisheries and wildlife regulations | AGL/SF:REG/79, ii + 20 p., 8 June 1970. Mimeographed |
| (d) Zenny, F. B.: Addendum to "Inland Fisheries and Wildlife Regulations": Comparative list of wildlife species protected under the African Convention 1968 and the legislation of Member Countries of the Chad Basin Commission | AGL/SF/REG/79, 11 p., 17 June 1970. Multilithed |

⁷¹ Prepared by the Department of Fisheries.

⁷² Prepared by the Secretariat of the Codex Alimentarius Commission.

⁷³ The documents listed are working papers on legal aspects of the work of the Chad Basin Commission, prepared for the Commission by the Legislation Branch of FAO.

<i>Question</i>	<i>Documents</i>
(e) Sand, P. H.: International legal aspects	AGL/SF/REG/79, i + 13 p., 17 June 1970. Mimeographed
(f) Sand, P. H.: International water boundaries in the Lake Chad Basin	AGL/SF/70/32, ii + 62 p., September 1970. Mimeographed

(5) INVESTMENT

<i>Question</i>	<i>Documents</i>
(a) Henderson, J.: Foreign investment laws and agriculture. A study of the legislative and other measures taken by developing countries to attract and regulate foreign private investment, with special reference to agriculture, including forestry, fisheries and related industries	FAO Legislative Series No. 9, ix + 224 p., 1970. Printed
(b) Legislative and administrative measures taken in Mexico to attract and regulate foreign private investment in agriculture, forestry, fisheries and related industries	DDI:G/70/33, i + 18 p., November 1970. Multilithed

(6) COMMODITIES AND TRADE

<i>Question</i>	<i>Documents</i>
(a) Safeguards for usual commercial trade in agricultural commodities	CL 55/REP, paras. 52-59; CL/Res. 2/55
(b) Informal understanding on sisal and henequen	CCP:HF/SC 71/15, paras. 14-20

F. PERIODICALS

- “Food and Agricultural Legislation”—Printed—Published twice yearly.
- “Legislative Report”—Multilithed—6 issues per year. (English + titles in French and Spanish.)
- “Current Food Additives Legislation”—Multilithed—10 issues per year.

III. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

A. CONSTITUTIONAL AND PROCEDURAL QUESTIONS

(a) *Executive Board*

- (1) Method of election and duration of term of office of members of the Executive Board: Report by the Executive Board. *Document 16C/27*, 10 July 1970, 3 p., *16C/91*, 19 October 1970, Legal Committee, First Report, 3 p. and annexes. English, French, Russian, Spanish.
- (2) Duration of term of office of members of the Executive Board: Draft amendments to Article V of the Constitution and Rules 95A and 97 of the Rules of Procedure of the General Conference, submitted by Ceylon. *Document 16C/28*, 13 July 1970, 2 p. and annex, *16C/91*, 19 October 1970 (Legal Committee, First Report), 3 p. and annexes. English, French, Russian, Spanish.
- (3) Method of election and duration of term of office of members of the Executive Board. *16C/Resolutions 13*, October-November 1970, Arabic, English, French, Russian, Spanish.

(b) *Functions of the Legal Committee*

- (1) Legal Committee, Eighth Report. *Document 16C/104, 11*, 5 p. and annexes. English, French, Russian, Spanish.
- (2) Functions of the Legal Committee. *16C/Resolutions 46*, October-November 1971.

(c) *Rules of Procedure of the General Conference*

- (1) Draft amendments to the Rules of Procedure of the General Conference *Document 16C/29*, 7 August 1970, 2 p. and annexes, *16C/92*, 19 October 1970 (Legal Committee, Third Report), 3 p. and annexes. English, French, Russian, Spanish.
- (2) Amendments to the Rules of Procedure of the General Conference. *16C/Resolutions 14*, October-November 1970. Arabic, English, French, Russian, Spanish.

(d) *Financial Regulations*

- (1) Financial Regulations: Draft amendments to Regulations 4.3 and 4.4. *Document 16C/42*, 10 July 1970, 3 p. English, French, Russian, Spanish.
- (2) Amendments to Financial Regulations (Regulations 4.3 and 4.4). *16C/Resolutions 19*, October-November 1970. Arabic, English, French, Russian, Spanish.

(e) *Other*

Acceptance of gifts, requests and subventions and report on the creation of trust funds, reserve and special accounts. *Document 84EX/27*, 20 March 1970, 4 p., *84EX/27 Add.*, 1 June 1970, 2 p., *84EX/Decisions 8.1*, May-June 1970, *85EX/22*, 20 August 1970, 4 p., *85EX/Decisions 8.6*, September-November 1970. English, French, Russian, Spanish.

B. MEMBER STATES

- (1) Communications from the Government of the Czechoslovak Socialist Republic concerning the application of the German Democratic Republic for membership of UNESCO. *Document 85EX/30*, 17 September 1970, 1 p., *85EX/Decisions 9.1*, September-November 1970. English, French, Russian, Spanish.
- (2) Frequency and form of general reports to be presented by Member States in accordance with Article VIII of the Constitution, and treatment of these reports. *Document 16C/26*, 14 August 1970, 1 p., *16C/26 Add.*, 1 p. and annex, *16C/97*, 29 October 1970 (Legal Committee, Fourth Report), 4 p. and annex. English, French, Russian, Spanish. *16C/Resolutions 37*, October-November 1970. Arabic, English, French, Russian, Spanish.

C. RELATIONS WITH OTHER ORGANIZATIONS

(a) *United Nations Relief and Works Agency*

Co-operation with the United Nations Relief and Works Agency (UNRWA). *Document 84EX/5*, 29 April 1970, 11 p. and annex, *84EX/5 Add.*, 12 June 1970, 1 p., *84EX/5, Add.2*, 15 June 1970, 1 p., and annex, *84EX/Decisions 4.2.1*, May-June 1970, *85EX/4*, 28 September 1970, 6 p., *85EX/Decisions 4.1.2*, September-November 1970. English, French, Russian, Spanish.

(b) *International Bank for Reconstruction and Development
and International Development Association*

Co-operation with the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). *Document 84EX/33*, 11 May 1970, 2 p. and annex, *84EX/Decisions 7.7*, May-June 1970. English, French, Russian, Spanish.

(c) *International non-governmental organizations*

- (1) Classification on international non-governmental organizations. *Document 84EX/23*, 26 March 1970, 5 p. and annex, *84EX/24*, 10 June 1970, 4 p., *84EX/Decisions 7.5*, May-June 1970. English, French, Russian, Spanish.
- (2) Changes in classification of international non-governmental organizations admitted to the various categories of relationship with UNESCO. *Document 16C/23*, 7 August 1970, 1 p. and annex. English, French, Russian, Spanish.

**D. INTERNATIONAL REGULATION:
CONVENTIONS AND RECOMMENDATIONS**

(a) *Convention and Recommendation against Discrimination in Education*

- (1) Invitation to Swaziland to accede to the Convention against Discrimination in Education. *Document 84EX/34*, 12 May 1970, 2 p., *84EX/Decisions 4.2.4*, May-June 1970. English, French, Russian, Spanish.
- (2) Recommendations from the Executive Board to the General Conference concerning the procedure for the presentation and examination of new reports by Member States on the implementation of the Convention and Recommendation against Discrimination in Education. *Document 84EX/6*, 2 April 1970, 7 p. and annexes, *84EX/Decisions 4.2.2*, May-June 1970. English, French, Russian, Spanish.
- (3) Proposals concerning the procedure to be followed during the next consultation with Member States. *Document 16C/14*, 31 August 1970, 2 p. and annex, *16C/94*, 26 October 1970 (Legal Committee, Fifth Report), 3 p. and annex. English, French, Russian, Spanish. *16C/Resolutions 38*, October-November 1970. Arabic, English, French, Russian, Spanish.
- (b) *Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking the Settlement of any Disputes which may arise between States Parties to the Convention against Discrimination in Education*
- (1) Transmission to the General Conference of the list of persons nominated for the purpose of the election of the members of the Commission. *Document 84EX/10*, 27 March 1970, 1 p. and annexes and *Corr.1, 2 and 3*, *84EX/10 Add.*, 14 May 1970, 1 p. and annexes, *84EX/Decisions 4.4.2*, May-June 1970. English, French, Russian, Spanish.
- (2) Transmission to the General Conference of the list of persons nominated for the purpose of the election of the members of the Commission (submission of further candidatures received since the 84th session)—Travel expenses and *per diem* of its members. *Document 85EX/11*, 17 September 1970, 11 p., *85EX/Decisions 4.4.11*, September-November 1970. English, French, Russian, Spanish.
- (3) Election of members of the Commission. *Document 16C/64*, 31 August 1970, 2 p. and annexes, *16C/64, Annex I Rev.*, 2 November 1970, 2 p. English, French, Russian, Spanish. *16C/Resolutions 5.122*, October-November 1970. Arabic, English, French, Russian, Spanish.

(c) *Convention on the Protection of Cultural Property in the Event of Armed Conflict*

- (1) Report by the Director-General on the implementation of Decision 4.3.1 adopted by the Executive Board at its 83rd session (Implementation of resolutions 3.342 and 3.343 adopted by the General Conference at its fifteenth session and on the application in the occupied territories, of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. *Document 84EX/8*, 16 June 1970, 1 p. and annexes, *84EX/8 Add.*, 17 April 1970, 1 p. and annex, *84EX/8 Add.2*, 14 May 1970, 1 p. and annex, *84EX/8 Add.3*, 28 May 1970, 1 p. and annex, *84EX/8 Add.4*, 29 May 1970, 1 p. and annex, *84EX/8 Add.5*, 4 June 1970, 1 p. and annex, *84EX/8 Add.6*, 15 June 1970, 1 p. and annex, *84EX/8 Add.7*, 16 June 1970, 1 p. and annex. English, French, Russian and Spanish.

- (2) Report of the Director-General on the application to Cambodia of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. *Document 85EX/9*, 10 September 1970, 3 p., *85EX/Decisions 4.3.1*, September-November 1970. English, French, Russian, Spanish.

(d) *Recommendation concerning the status of teachers*

- (1) Report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the status of teachers. *Document CEART/II/1970/4, and Corr.* English only, 30 June 1970, 130 p., *Document 16C/15*, 13 July 1970, 131 p. English, French, Russian, Spanish.
- (2) Report of the Committee on Conventions and Recommendations in Education. *Document 85EX/3*, 13 August 1970, 6 p., *16C/15 Add.1*, 13 August 1970, *85EX/Decisions 4.1.1*, September, November 1970, *16C/15 Add.2*, 19 October 1970. English, French, Russian, Spanish.
- (3) Periodic reports by Member States on the implementation of the Recommendation concerning the status of teachers. *16C/Resolutions 39*, October-November 1970. Arabic, English, French, Russian, Spanish.

(e) *Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works*⁷⁴

- (1) Initial special reports submitted by Member States on the action taken by them on the Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works. *Document 16C/16*, 9 October 1970, 23 p., *16C/16 Add.*, 19 October 1970, 4 p., *16C/16 Add.2*, 19 October 1970, 4 p., *16C/16 Add.3*, 19 October 1970, 4 p., *16C/98* (Legal Committee, Sixth Report), 29 October 1970, 3 p. and annexes. English, French, Russian, Spanish. *16C/Resolutions 40*, October-November 1970. Arabic, English, French, Russian, Spanish.
- (2) General report on the initial reports by Member States on action taken by them upon the Recommendation adopted by the General Conference at its fifteenth session, *Document 16C/Resolutions Part C*, 4 p. Arabic, English, French, Russian, Spanish.

(f) *Recommendation concerning the international standardization of library statistics*

- (1) Recommendation concerning the international standardization of library statistics. Adopted by the General Conference of UNESCO at its sixteenth session, Paris, 13 November 1970 (no symbol). Arabic, English, French, Russian, Spanish.
- (2) Draft recommendation concerning the international standardization of library statistics. *Document 16C/18*, 10 July 1970, 1 p. and annex. English, French, Russian, Spanish.

(g) *Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property*⁷⁵

- (1) Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. Adopted by the General Conference of UNESCO at its sixteenth session, Paris, 14 November 1970 (no symbol). Arabic, English, French, Russian, Spanish.
- (2) Draft Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. *Document 16C/17, and Corr.*, 13 July 1970, 2 p. and annexes. English, French, Russian, Spanish.

(h) *Convention and Recommendation adopted by the General Conference at its sixteenth session*

Initial special reports to be submitted to the General Conference at its seventeenth session on the action taken by Member States on the Convention and Recommendation adopted at the sixteenth session. *Document 16C/98*, 29 October 1970 (Legal Committee, Sixth Report), 3 p., and annexes.

⁷⁴ See *Juridical Yearbook*, 1968, p. 146.

⁷⁵ Reproduced in this *Yearbook*, p. 124.

English, French, Russian, Spanish. *16C/Resolutions 41*, October-November 1970. Arabic, English, French, Spanish, Russian.

(i) *Proposals for international regulation*

- (1) Possible international instruments for the protection of monuments and sites of universal value. *Document 84EX/14*, 22 April 1970, 3 p. and annex. *84EX/Decisions 5.3*, May-June 1970. English, French, Russian, Spanish.
- (2) Desirability of adopting an international instrument for the protection of monuments and sites of universal value. *Document 16C/19*, 31 July 1970, 2 p. and annex. English, French, Russian, Spanish. *16C/Resolutions 3.412*, October-November 1970. Arabic, English, French, Russian, Spanish.
- (3) Possible international regulation of the photographic reproduction of copyrighted works, *Document 84EX/15*, 20 March 1970, 1 p. and annex. *84EX/Decisions 5.4*, May-June 1970. English, French, Russian, Spanish.
- (4) Advisability of adopting an international instrument concerning the photographic reproduction of copyright works. *Document 16C/20*, 31 August 1970, 2 p. and annexes. English, French, Russian, Spanish. *16C/Resolutions 5.132*, October-November 1970. Arabic, English, French, Spanish.
- (5) Desirability of modifying existing conventions or preparing a new international instrument on the protection of television signals transmitted by communication satellites. *Document 16C/21*, 15 September 1970, 4 p. and annex. English, French, Russian, Spanish. *16C/Resolutions 5.134*, October-November 1970. Arabic, English, French, Russian, Spanish.

E. CONFERENCES AND OTHER MEETINGS

- (1) Invitations to the committee of governmental experts on problems in the field of copyright and the protection of performers, producers of phonograms and broadcasting organizations raised by transmission via space satellites. *Document 84EX/9*, 27 March 1970, 8 p., *84EX/Decisions 4.4.1*, May-June 1970. English, French, Russian, Spanish.
- (2) International Conference of States on the protection of phonograms. *16C/Resolutions 5.133*, October-November 1970. Arabic, English, French, Russian, Spanish. *Document 86EX/5 and Corr.*, 5 p. and annex, *86EX/Decisions 6.1.2*, December 1970. English, French, Russian, Spanish.
- (3) Invitations to the Conference of Ministers of the European Member States Responsible for Science Policy. *Document 84EX/32*, 12 May 1970, 2 p., *84EX/Decisions 4.5.1*, May-June 1970. English, French, Russian, Spanish.
- (4) Invitations to conferences and governmental meetings in the programme for 1971. *Document 86EX/2*, 16 November 1970, 27 p., *86EX/Decisions 6.1.1*, December 1970. English, French, Russian, Spanish.

F. INSTITUTES AND OTHER BODIES

- (1) International Commission of Experts on Strategies for the Development of Education throughout the World. *Document 84EX/7*, 8 April 1970, 4 p. and Corr., *84EX/Decisions 4.2.3*, May-June 1970. English, French, Russian, Spanish.
- (2) Statutes of the International Scientific Committee for the Drafting and Publication of a General History of Africa. *Document 85EX/10 Rev.*, 6 October 1970, 5 p. and annex, *85EX/Decisions 4.3.2*, September-November 1970. English, French, Russian, Spanish.
- (3) Amendments of the Statutes of the International Advisory Committee on Documentation, Libraries and Archives. *Document 86EX/3*, 12 November 1970, 2 p. and annex, *86EX/Decisions 6.2*, December 1970. English, French, Russian, Spanish.

- (4) Draft amendments to the Statutes of the Co-ordinating Council of the International Hydrological Decade. *Document 16C/30*, 10 July 1970, 1 p. and annexes, *16C 99*, 31 October 1970 (Legal Committee, Seventh Report), 1 p. and annex. English, French, Russian, Spanish. *16C/Resolutions 2.333*, October-November 1970. Arabic, English, French, Russian, Spanish.
- (5) Draft amendments to the Statutes of the Intergovernmental Oceanographic Commission. *Document 16C/31*, 10 July 1970, 5 p., *16C/104*, 9 November 1970 (Legal Committee, Eighth Report), 7 p. English, French, Russian, Spanish. *16C/Resolutions 2.345*, October-November 1970. Arabic, English, French, Russian, Spanish.

G. PERSONNEL QUESTIONS

- (1) Staff Regulations and Rules: Report by the Director-General concerning amendments to the Staff Rules since the fifteenth session. *Document 16C/44*, 14 August 1970, 5 p., *16C/44 Add.*, 23 October 1970, 3 p. and annex, *16C/44 Add.2*, 23 October 1970, 1 p., *16C/44 Add.3*, 31 October 1970, 1 p. English, French, Russian, Spanish. *16C/Resolutions 21.1 and 21.2*, October-November 1970. Arabic, English, French, Russian, Spanish.
- (2) Staff policy with particular reference to the granting of indeterminate appointments. *Document 16C/50*, 31 August 1970, 5 p., *16C/50 Add.*, 23 October 1970, 3 p., *16C/50 Add.2*, 20 October 1970, 2 p. English, French, Russian, Spanish.
- (3) Administrative Tribunal: Action upon expiry of the period of jurisdiction. *Document 16C/45*, 14 August 1970, 2 p., *16C/45 Add.*, 2 p. English, French, Russian, Spanish. *16C/Resolutions 22*, October-November 1970. Arabic, English, French, Russian, Spanish.
- (4) Draft amendments to paragraph 2 of the Statutes of the Appeals Board. *Document 16C/69*, 16 September 1970, 2 p. English, French, Russian, Spanish. *16C/Resolutions 23*, October-November 1970. Arabic, English, French, Russian, Spanish.

H. COPYRIGHT

- (1) Information meeting of the international non-governmental organizations whose activities concern copyright, Paris, 16 March 1970. Report of the meeting, *Document INLA/INFMET.1/3*, 4 May 1970, 3 p. and annexes, English, French, Spanish, and *Corr.1*, *Document IGC/PREPCOM/6* and *Corr.*, 8 May 1970. English.
- (2) Intergovernmental Copyright Committee. Ad Hoc Preparatory Committee to prepare a Draft Text of the Proposals for Revision of the Universal Copyright Convention, Paris, 11-16 May 1970
 - Draft texts or comments relating to the revision of the Universal Copyright Convention submitted by States Parties to that instrument. *Document IGC/PREPCOM/3*, 1 May 1970, 1 p. and annexes, and *Add.1*, 4 May 1970, *Add.2 and 3*, 8 May 1970, and *Add.4*, 21 May 1970. English, French, Spanish.
 - Draft texts or comments relating to the revision of the Universal Copyright Convention submitted by international non-governmental organizations. *Document IGC/PREPCOM/4*, 1 May 1970, 1 p. and annexes, and *Add.1*, 30 April 1970, *Add.2*, 1 May 1970. English, French, Spanish.
 - A comparative study concerning "Author's Basic Rights" of reproduction, broadcasting and public performance, as defined and regulated by national laws and international conventions on copyright. *Document IGC/PREPCOM/5*, 4 May 1970, 36 p. and annexes. English, French, Spanish.
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- (3) Intergovernmental Copyright Committee, Extraordinary Session, Paris, September 1970
 - Comments by States Parties to the Universal Copyright Convention on the proposals for revision of the Convention. *Document IGC/XR.2/3*, 20 August 1970, 1 p. and annexes, and *Add.1*, 28 August 1970, *Add.2,3,4*, 31 August 1970, *Add.5*, 3 September 1970, *Add.6*, 8 September 1970, and *Add.7*, 9 October 1970. English, French, Spanish.
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- (4) Report by the Director-General on the examination by competent bodies of the international copyright problems raised by the various multilateral conventions. *Document 16C/85*, 14 October 1970, 9 p. and annexes. English, French, Spanish.
- (5) UNESCO Copyright Bulletin, Quarterly Review, Vol. IV, Nos. 1, 2, 3, 4 (1970). *Document INLA.70/III.51-4*, 1970. English, French, Spanish.

I. HUMAN RIGHTS

- (1) Execution of resolution 2555 (XXIV) of the United Nations General Assembly on the implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples by the Specialized Agencies and the International Institutions associated with the United Nations. *Document 84EX/35*, 12 May 1970, 6 p. and annex, *84EX/35 Add.*, 2 June 1970, 2 p. and annex, *84EX/Decisions 7.8*, May-June 1970, *85EX/16*, 3 p. and annex, 25 September 1970, *85EX/Decisions 7.3*, September-November 1970. English, French, Russian, Spanish.
- (2) Meeting of Experts on "The Right to Privacy", UNESCO, Paris, 19-23 January 1970, Final Report, *Document SHC/CONF/12/11*, 4 February 1970, 3 p. and annex. English, French.
- (3) Meeting of Experts on the role of mass media in a multi-racial society, UNESCO, Paris, 8-12 December 1969, Final Report. *Document SHC/CONF.11/21*, 31 March 1970, 7 p. and annex. English, French.
- (4) Cultural Rights as Human Rights. Cultural Policy: studies and documents. *Document SHC/69/XXIX.3/A.F.* 129 p. English, French.
- (5) Equality of access of women to literacy: comparative study. *Document ED/MD/14*, 31 August 1970, 39 p. and annexes. English, French, Spanish.
- (6) Comparative study of co-education. *Document ED/MD/15*, 30 October 1970, 120 p. and annexes. English, French, Spanish.

J. PEACE

- (1) UNESCO's contribution to peace and its task with respect to elimination of colonialism. *Document 16C/74*, 9 October 1970, 4 p. and annex, *16C/74 Add.*, 3 p. English, French, Russian, Spanish.
- (2) UNESCO's contribution to peace and its task with respect to the elimination of racialism and colonialism: Report by the Director-General and proposals for long-term plan of integrated action. *Document 16C/12*, 11 September 1970, 12 p., *16C/Resolution 8*, ⁷⁶ October-November 1970. English, French, Russian, Spanish.

K. OCEANOGRAPHY

- (1) Intergovernmental Oceanographic Commission: Summary report of the second session of the Working Group on Legal Questions Related to Scientific Investigations of the Ocean, United Nations, New York, 16 February 1970. *Document SC/IOC/WG.-4/2*, 13 May 1970, 8 p. and annexes. English, French, Russian, Spanish.

⁷⁶ Reproduced in this *Yearbook*, p. 115.

- (2) Intergovernmental Oceanographic Commission: Summary report of the fourth session of the IOC Group of Experts on the Legal Status of Ocean Data Acquisition Systems (ODAS), IMCO, London, 15-26 June 1970, *Document SC/IOC.EG-1(IV)/12*, 17 September 1970, 4 p. and annexes. English, French, Russian, Spanish.

IV. INTERNATIONAL CIVIL AVIATION ORGANIZATION

- (1) REVISION OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION WITH A VIEW TO INCLUDING THEREIN SPECIFIC PROVISIONS COVERING ACTS OF UNLAWFUL INTERFERENCE WITH INTERNATIONAL CIVIL AVIATION

[On 9 December, the Council decided to postpone a decision on both the body to undertake the study of this subject and the time-table of the study until the results of certain meetings concerning unlawful interference with international civil aviation were known.]

Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 140. English, French, Spanish.

- (2) REQUEST FROM ALGERIA FOR COUNCIL ACTION UNDER ARTICLE 54 (n) OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

[On 5 October, the Council took into consideration a request from Algeria under Article 54 (n) of the Convention for ICAO action to obtain the release of two passengers of Algerian nationality who had been taken off an aircraft when it had landed at Lod Airport (Israel) on 14 August. The Council having been informed, on 15 October, that the two passengers had been enabled to continue their journey, discussion on the matter was not further pursued.]

Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 140. English, French, Spanish.

- (3) REVISION OF THE WARSAW CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR (12 OCTOBER 1929) AS AMENDED BY THE HAGUE PROTOCOL (28 SEPTEMBER 1955)

[At its seventeenth session (February-March), the Legal Committee drafted texts of certain articles for the purpose of revising the Warsaw Convention as amended by the Hague Protocol in so far as concerns the international carriage of passengers. The Council later decided to convene a diplomatic conference on this subject to be held at Guatemala City from 9 February 1971].

Doc 8878-LC/162 Legal Committee, seventeenth session (Montreal, 9 February-11 March 1970) Minutes and documents relating to the question of revision of the Warsaw Convention of 1929 as amended by the Hague Protocol of 1955. Pp. (x), 406. English, French, Spanish.

Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 141. English, French, Spanish.

(4) SEVENTEENTH SESSION (EXTRAORDINARY) OF THE ASSEMBLY—LEGAL ASPECTS

[The legal aspects of the Assembly's work were concerned with providing arrangements under which those responsible for criminal actions endangering civil air transport could be brought to justice. The Assembly adopted a number of resolutions in the legal field.]

Doc 8890 A17-Committee A	Report of Committee A. English, French, Spanish
Doc 8891 A17-Committee B	Report of Committee B. English, French, Spanish
Doc 8892 A17-EX	Report of the Executive Committee. English, French, Spanish
Doc 8893 A17-Min.P/1-7	Minutes of the Plenary Meeting. English, French, Spanish

- Doc 8895 A17-RES Resolutions adopted by the Assembly—Seventeenth session (Extraordinary). English, French, Spanish
- Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 141. English, French, Spanish

(5) CONVENTION ON UNLAWFUL SEIZURE OF AIRCRAFT

[The Legal Committee, at its seventeenth session, having prepared a final draft Convention on Unlawful Seizure of Aircraft, the Council convened a diplomatic conference which met at The Hague from 1 to 16 December 1970 and adopted a Convention for the Suppression of Unlawful Seizure of Aircraft. ⁷⁷]

- Doc 8838-LC/157 Subcommittee of the Legal Committee on the Subject of Unlawful Seizure. Pp. (ii), 166. English, French, Spanish
- Doc 8877-LC/161 Legal Committee, seventeenth session (Montreal, 9 February-11 March 1970). Minutes and documents relating to the subject of unlawful seizure of aircraft. Pp. (xv), 190. English, French, Spanish
- Doc 8920 Convention for the Suppression of Unlawful Seizure of Aircraft
- Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, pp. 142-143. English, French, Spanish.

(6) DRAFT CONVENTION ON ACTS OF UNLAWFUL INTERFERENCE AGAINST INTERNATIONAL CIVIL AVIATION

[In resolution A17-20, the Assembly directed the Legal Committee to prepare a draft Convention on Acts of Unlawful Interference against International Civil Aviation (other than those covered by the then draft Convention on Unlawful Seizure of Aircraft). The Legal Committee, at its eighteenth session (London, 29 September-22 October) prepared a text of a draft Convention on Acts of Unlawful Interference and the Council decided, on 18 November, to convene a diplomatic conference to consider this draft Convention during the period 8-23 September 1971.]

- Doc 8910 LC/163 Summary of the work of the Legal Committee during its eighteenth session, pp. 19-31. English, French, Spanish
- Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 142. English, French, Spanish

(7) COUNCIL RESOLUTIONS OF 1 OCTOBER 1970

[On 1 October, the Council adopted a resolution concerning, *inter alia*, the question of consultation between Contracting States with a view to deciding what joint action should be taken, in accordance with international law, in the case where, for international blackmail purposes, a State detains an aircraft after its unlawful seizure or its passengers or crew or fails to extradite or prosecute persons who have committed acts of unlawful seizure for international blackmail purposes. Another resolution adopted on the same date was concerned with the possibility of the elaboration of a special clause for incorporation in existing or future bilateral air agreements with the object of providing for the "enforcement of international legal obligations" relating to "unlawful interference with international civil aviation". The Legal Committee at its eighteenth session discussed, but reached no conclusions on, certain legal questions relating to the subject. On 16 November, the Council convened a Subcommittee of the Legal Committee to meet for a two-week period from 14 April 1971.]

⁷⁷ Reproduced in this *Yearbook*, p. 131.

Doc 8910 LC/163

Summary of the work of the Legal Committee during its eighteenth session, pp. 33-63. English, French, Spanish

Doc 8918 A18-P/3

Annual report of the Council to the Assembly for 1970, p. 142. English, French, Spanish

(8) COMMITTEE ON UNLAWFUL INTERFERENCE WITH INTERNATIONAL CIVIL AVIATION AND ITS FACILITIES

[This Committee held two meetings during which it considered certain reports received from States on incidents of unlawful interference with international civil aviation and directed the Secretary to present a factual paper to the seventeenth session (extraordinary) of the Assembly containing an analysis of the salient aspects of such incidents that had occurred since the establishment of the Committee and had been reported to ICAO by the States concerned. On 29 September, the Council agreed to continue the Committee and elected its eleven members for a period of one year.]

Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, pp. 143 and 185-186. English, French, Spanish.

(9) WORK PROGRAMME OF THE LEGAL COMMITTEE

[The work programme of the Legal Committee underwent, in 1970, further changes from the programme as established in 1968.]

Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 143. English, French, Spanish.

(10) RULES OF PROCEDURE

[On 22 May, the Council accepted a Council working group's recommendation that no attempt should be made to standardize the Rules of Procedure for all ICAO meetings. At the same time, the Council adopted certain amendments to the Rules of Procedure for Regional Air Navigation Meetings.]

Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 143. English, French, Spanish.

(11) STANDING RULES OF PROCEDURE OF THE ASSEMBLY

[On 9 December, the Council decided to present to the Assembly a suggestion for amending rule 48 (Secret Ballot) of the Standing Rules of Procedure of the Assembly so as to provide for a secret ballot to determine the wishes of the Assembly in the event of opposition to a request for a secret ballot.]

Doc 8918 A18-P/3 Annual report of the Council to the Assembly for 1970, p. 144. English, French, Spanish.

(12) ANNEXES TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, PROCEDURES FOR AIR NAVIGATION SERVICES (PANS), REGIONAL SUPPLEMENTARY PROCEDURES (SUPPS)

[See "ICAO Technical Publications, Current Edition".]

V. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Board of Governors Resolution No. 258: Special Increases in Subscriptions to Capital Stock of Bank (Adopted July 31, 1970)

Board of Governors Resolution No. 264: Increase of \$3,000 million in Authorized Capital Stock (Adopted December 31, 1970)

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

- ICSID/3/Rev.9 List of Contracting States and Other Signatories of the Convention [on the Settlement of Investment Disputes between States and Nationals of Other States] (As of September 21, 1970)
- ICSID/4/Add.1 ICSID Regulations and Rules: Amendment of the Administrative and Financial Regulations (ICSID/4, Part A)
- AC/70/5 Proceedings: fourth annual meeting—September 23, 1970
- Fourth annual report 1969/1970
- History of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, Vol. I, Analysis of documents concerning the origin and formulation of the Convention.
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VI. INTERNATIONAL MONETARY FUND

- The Role of Exchange Rates in the Adjustment of International Payments: A Report by the Executive Directors. Washington, D.C., International Monetary Fund, 1970. 78 p.
- Selected Decisions of the Executive Directors and Selected Documents, Fourth Issue. Washington, D.C., International Monetary Fund, April 1, 1970. 190 p.
- By-Laws and Rules and Regulations of the Fund, twenty-ninth issue, November 30, 1970.
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VII. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

- Report of the first session of the Working Group on the Establishment of an International Compensation Fund for Oil Pollution Damage (LEG/WG(FUND)I/4).
- Report of the second session of the Working Group on the Establishment of an International Compensation Fund for Oil Pollution Damage (LEG/WG(FUND)II/4).
- Report of the Legal Committee on the work of its ninth session (including consideration of the question of the establishment of an international compensation fund for oil pollution damage) (LEG IX/7).
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VIII. INTERNATIONAL ATOMIC ENERGY AGENCY

1. STATUTE AND MEMBERSHIP OF THE AGENCY

Action taken by States in connection with the Statute

- (a) Ireland has become a member of the International Atomic Energy Agency by depositing an instrument of acceptance of the Agency's Statute with the depositary Government on 6 January 1970.
- (b) Nicaragua ceased to be a member of the Agency upon notification to the depositary Government to that effect on 14 December 1970. The Agency's membership at the end of 1970 stood at 102.
- (c) The official designation of "Cambodia" was changed to "Khmer Republic" with effect from 9 October 1970.

2. AGREEMENTS

- (i) Agreement between the International Atomic Energy Agency and the United Nations Educational, Scientific and Cultural Organization concerning the joint operation of the International Centre for Theoretical Physics at Trieste (INFCIRC/132); entered into force on 1 January 1970.
- (ii) Agreement between the International Atomic Energy Agency and the Government of Sweden relating to co-operation in the provision of assistance to developing countries (INFCIRC/138); entered into force on 18 January 1970.
- (iii) Master Agreement between the International Atomic Energy Agency and the Government of the Islamic Republic of Pakistan for assistance by the Agency in furthering projects by the supply of materials (INFCIRC/150); entered into force on 27 February 1970.
- (iv) Agreement between the International Atomic Energy Agency and the Government of Norway, Poland and Yugoslavia concerning co-operative research in reactor science (INFCIRC/145); entered into force on 10 April 1970.
- (v) Five-year Contract for the transfer of enriched uranium for a research reactor in Yugoslavia (INFCIRC/32/Add.3); entered into force on 30 December 1970.
- (vi) Supplementary Contract for the transfer to the Democratic Republic of the Congo of enriched uranium contained in a fission chamber (INFCIRC/37/Add.3); entered into force on 9 December 1970.

See also the agreements listed under (i) to (vii), p. 48 of this *Yearbook*.

Chapter X

LEGAL BIBLIOGRAPHY OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

MAIN HEADINGS

- A. INTERNATIONAL ORGANIZATIONS IN GENERAL
 - 1. General
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 - 1. General
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 - C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS
 - 1. General
 - 2. Particular organizations
-

A. INTERNATIONAL ORGANIZATIONS IN GENERAL

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C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

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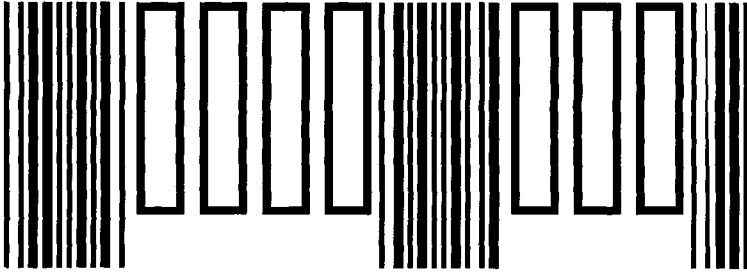
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