VII. The International Court of Justice[1]

A. PROVISIONS OF THE CHARTER OF THE UNITED NATIONS

The International Court of Justice is the principal judicial organ of the United Nations. It functions in accordance with its Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the Charter.

All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.

A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendations of the Security Council.

Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems such action necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Nothing in the Charter is to prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

B. PROVISIONS OF THE STATUTE OF THE COURT

1. Organization of the Court

The Court is composed of fifteen members, no two of whom may be nationals of the same state and who are to be "elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law".

Candidates for membership of the Court are nominated by the "national groups" in the Permanent Court of Arbitration.[3] The Secretary-General of the United Nations draws up a list of candidates thus nominated. From this list the General Assembly and the Security Council, voting independently, elect the members of the Court, an absolute majority in both the Assembly and the Council being required for election.

The members of the Court are elected for nine years and may be re-elected. However, the terms of office of five of the judges elected at the first election expire at the end of three years, and the

[1] For detailed information regarding the organization, jurisdiction and activities of the Court, see International Court of Justice Yearbook, 1946-47, and Yearbook, 1947-48.

[2] This and the following section provide a summary of the provisions of the Charter relating to the International Court of Justice and of the Statute of the Court. Chapter XIV of the Charter defines the position of the Court in the United Nations, the obligations of Members of the United Nations with respect to the Court and the relationship between the Court and the other organs of the United Nations. The Statute of the Court is divided into five chapters. Chapter I deals with the organization of the Court, Chapter II defines the competence of the Court, Chapter III sets forth the procedure of the Court, Chapter IV lays down the conditions under which the Court may give advisory opinions and Chapter V contains provisions for amendments to the Statute.

[3] The Permanent Court of Arbitration, established under Conventions of 1899 and 1907, consists of a panel of arbitrators from which members are chosen to hear any one case. Each state party to the Conventions may name not more than four persons to be members of the panel. The persons thus appointed constitute "national groups" which compose the panel of the Perma-

terms of five more judges at the end of six years. The judges whose terms were to expire at the end of three and six years respectively were chosen by lot immediately after the first election had been completed.

The Court elects its own President and Vice-President for three years; they may be re-elected. It appoints its Registrar and such other officers as may be necessary. The Court frames rules for carrying out its functions, and in particular lays down rules of procedure.[4]

The seat of the Court is at The Hague, but this does not prevent the Court from exercising its functions elsewhere whenever it considers this desirable. The President and the Registrar reside at the seat of the Court.

The Court remains permanently in session except during judicial vacations. A quorum of nine judges suffices to constitute it.

From time to time the Court may establish one or more chambers of three or more judges which may deal with particular categories of cases—for example, labor cases and cases relating to transit and communications. The Court forms annually a chamber of five members which may hear and determine cases by summary procedure.

Judges of the same nationality as a party to a case retain their right to sit in the case before the Court. If the Court includes on the bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. If the Court includes upon the bench no judge of the nationality of the parties, each of the parties may choose a judge to sit in the case before the Court.

2. Competence of the Court

Only states may be parties in cases before the Court.

The Court is open to states parties to its Statute. The conditions under which the Court shall be open to other states that are not parties to the Statute are laid down by the Security Council.[5]

The jurisdiction of the Court comprises all cases which the parties refer to it and all matters especially provided for in the Charter of the United Nations or in treaties and conventions in force. To preserve continuity with the work of the Permanent Court of International Justice, the Statute further stipulates that whenever a treaty or convention in force provides for reference of a matter to the Permanent Court of International Justice, the matter shall be referred to the International Court of Justice.[6]

The states parties to the Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

"(a) the interpretation of a treaty;

"(b) any question of international law;

"(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

"(d) the nature or extent of the reparation to be made for the breach of an international obligation." (Statute, Article 36.)

These declarations may be made (1) unconditionally, (2) on condition of reciprocity on the part of several or certain states or (3) for a certain time.[7]

The Statute of the Permanent Court of International Justice had provided for similar declarations of acceptance of compulsory jurisdiction. The Statute of the International Court of Justice provides that any declarations made under the Statute of the Permanent Court of International Justice which are still in force shall be deemed to be acceptance of the compulsory jurisdiction of the International Court of Justice for the period for which they still have to run.

The Court, whose function it is to decide in accordance with international law such disputes as are submitted to it, is to apply:

"(a) international conventions, whether general

(Footnote 3, continued)
nent Court of Arbitration. These "national groups" had been designated to nominate the judges of the Permanent Court of International Justice established in 1920 in conjunction with the League of Nations. Under the Statute of the International Court of Justice they are likewise to nominate the judges of this Court, which supersedes the Permanent Court of International Justice. Members of the United Nations which are not members of the Permanent Court of Arbitration are to appoint national groups for the purpose of nominating the members of the International Court of Justice in the same manner as the national groups of the Permanent Court of Arbitration are appointed.

[4] The rules of the Court, as adopted on May 6, 1946, remain unchanged, and are not therefore reproduced in this Yearbook; for complete text of the rules, see Yearbook of the United Nations, 1946-47, pp. 596-608.

[5] These conditions are that the state deposit with the Registrar of the Court a declaration accepting the Court's jurisdiction and undertaking to comply in good faith with its decisions. Declarations may be either particular, accepting the Court's jurisdiction in one particular case, or general, accepting it generally in respect of all disputes or a particular class or classes of disputes. For full text of the conditions, see Yearbook of the United Nations, 1946-47, p. 411. See also International Court of Justice Yearbook, 1946-47, pp. 106-7.

[6] See ibid., Chapters III (pp. 105-16) and X (pp. 195-97).

[7] See Annex I, pp. 801-2.

or particular, establishing rules expressly recognized by the contesting states;

"(b) international custom, as evidence of a general practice accepted as law;

"(c) the general principles of law recognized by civilized nations;

"(d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law." (Statute, Article 38.)

The Court may decide a case ex aequo et bono, if the parties agree to this.

3. Procedure of the Court

French and English are the official languages of the International Court of Justice, but any party which so requests is to be authorized to use another language.

Cases may be brought before the Court either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject to the dispute and the parties are to be indicated.

The Court has the power to indicate any provisional measures which it considers ought to be taken to preserve the respective rights of either party.

Unless otherwise demanded by the parties, hearings in the Court are to be public. Deliberations of the Court take place in private and remain secret.

All questions before the Court are decided by a majority of judges present. In the event of an equality of votes the President has a casting vote. The judgment is to state the reasons on which it is based and contain the names of the judges who have taken part in the decision. If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to deliver a separate opinion.

Decisions of the Court have no binding force except between the parties and in respect of any particular case. The judgment of the Court is final and without appeal. Revision of a judgment may be made only when it is based "upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence" (Statute, Article 61).

In the exercise of its advisory jurisdiction the Court is to be guided by the provisions of the Court applying to contentious cases.

4. Amendment of the Statute

The Statute of the International Court of Justice can be amended by the same procedure as that used in amending the Charter of the United Nations, subject, however, to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of States which are parties to the present Statute but are not members of the United Nations. The Court may propose such amendments as it deems necessary through written communications to the Secretary-General of the United Nations.

C. MEMBERSHIP AND SITTINGS OF THE COURT

During the period under review (June 30, 1947-September 21, 1948) the following judges were members of the Court:

Elected on February 6, 1946, to serve for nine years:[8]
Alejandro Alvarez (Chile)
Jose Philadelpho de Barros e Azevedo (Brazil)
Jules Basdevant (France)
Jose Gustavo Guerrero (El Salvador)
Sir Arnold Duncan McNair (United Kingdom)

Elected on February 6, 1946, to serve for six years:
Isidro Fabela Alfaro (Mexico)
Green H. Hackworth (United States)
Helge Klaestad (Norway)
Sergei Borisovitch Krylov (U.S.S.R.)
Charles De Visscher (Belgium)

Elected on February 6, 1946, to serve for three years:[9]
Abdel Hamid Badawi Pasha (Egypt)
Hsu Mo (China)
John E. Read (Canada)
Bohdan Winiarski (Poland)
Milovan Zoricic (Yugoslavia)

Jose Gustavo Guerrero was President of the Court; Jules Basdevant, Vice-President; Edvard Hambro, Registrar; and Jean Garnier-Coignet, Deputy-Registrar.

The members of the Chamber of Summary Pro-

[8] At the first election it was decided by lot which judges should serve for nine, for six and for three years respectively. Judges subsequently elected will serve for the full nine-year term of office.

[9] These judges were re-elected on October 22, 1948, to serve for nine years, from February 6, 1949, to February 6, 1958.

STATES ACCEPTING COMPULSORY JURISDICTION OF COURT
(See opposite page)

State	Date of Signature	Date of Deposit of Ratification	Conditions
Australia[10]	August 21, 1940		Until notice of termination.
Belgium[11]	June 10, 1948	June 25, 1948	For five years.
Bolivia[11]	July 5, 1948		For five years.
Brazil[11]	February 12, 1948		For five years.
Canada[10]	September 20, 1929	July 28, 1930	Until notice of termination.
China[10]	October 26,1946		For five years, and thereafter subject to six months' notice.
Colombia[10]	October 30, 1937	October 30, 1937	Unconditional.
Denmark[10]	December 10, 1946		For ten years.
Dominican Republic[10]	September 30, 1924	February 4, 1933	Unconditional.
El Salvador[10]	August 29, 1930	August 29, 1930	Unconditional.
France[10]	March 1947	(Subject to ratification)	For five years, and thereafter until notice; reserving matters within national jurisdiction.
Guatemala[10]	January 27, 1947		For five years; reservation concerning Belize.
Haiti[10]	September 7, 1921		Unconditional.
Honduras[11]	February 2, 1948		For six years.
India[10]	February 28, 1940		Until notice of termination.
Iran[10]	October 2, 1930	September 19, 1932	Until notice of termination.
Luxembourg[10]	September 5, 1930		For five years, renewable by tacit reconduction.
Mexico[11]	October 23, 1947		For five years, from March 1, 1947, and thereafter subject to six months' notice.
Netherlands[10]	August 5, 1946		For ten years, and thereafter until notice of abrogation.
New Zealand[10]	April 8, 1940		Until notice of termination.
Nicaragua[10]	September 24, 1929		Unconditional.
Norway[10]	November 16, 1946		For ten years from October 3, 1946.
Pakistan"	June 22, 1948		For five years, and thereafter until the expiration of six months' notice; reservation for disputes which are essentially within the domestic jurisdiction.
Panama[10]	October 25, 1921	June 14, 1929	Unconditional.
Paraguay[12]	May 11, 1933		Unconditional.
Philippines[11]	July 12, 1947		For ten years, from July 4, 1946, and thereafter until notification.
Siam[10]	September 20, 1929	May 7, 1930	For ten years.
Sweden[10]	April 5, 1947		For ten years.
Switzerland[11]	July 6, 1948		Valid as from July 28, 1948, and until the expiration of one year's notice.
Turkey[13]	May 22, 1947		For five years.
Union of South Africa[10]	April 7, 1940		Until notice of termination.
United Kingdom[10]	February 28, 1940		For five years, and then until notice; with reservations.
United Kingdom[10]	February 13, 1946		Limited to questions concerning British Honduras.
United States[10]	August 14, 1946		For five years and thereafter until expiration of six months' notice.
Uruguay[10]	Before January 28, 1921	September 27, 1921	Unconditional.

[10] For particulars concerning conditions of acceptance of these states, see Yearbook of the United Nations, 1946-47, pp. 608-12 (Annex II); see also International Court of Justice Yearbook, 1947-48, pp. 133-42. For texts of declarations of acceptance, see International Court of Justice Yearbook, 1946-47, pp. 207-20.

[11] For particulars concerning conditions of acceptance of these states, see Annex I, pp. 801-2. See also International Court of Justice Yearbook, 1947-48, pp. 133-40. For texts of declarations of acceptance, see ibid., pp. 128-32.

[12] The particulars concerning Paraguay were omitted from the Yearbook of the United Nations, 1946-47, owing to an oversight, see International Court of Justice Yearbook, 1947-48, p. 139; see also Annex I, p. 802. For text of Paraguayan declaration, see International Court of Justice Yearbook 1946-47, p. 211.

[13] For particulars concerning Turkey's conditions of acceptance, see Yearbook of the United Nations, 1946-47, p. 611 and International Court of Justice Yearbook, 1947-48, p. 140. For text of Turkish declaration of acceptance, see International Court of Justice Yearbook. 1947-48, pp. 127-28.

cedure, elected for a one-year period beginning May 3, 1948, were:

Jose Gustavo Guerrero	Sir Arnold Duncan McNair
Jules Basdevant	Sergei Borisovitch Krylov
Substitute Members:	
Green H. Hackworth	Charles De Visscher

From July 1, 1947, to September 21, 1948, the Court held the following sittings:

1948:

February 24-March 26	Corfu Channel case (Preliminary Objection)
April 21-May 28	Conditions of admission of a State to membership in the United Nations (Opinion)

D. COMPULSORY JURISDICTION OF THE COURT

Fifty-six nations had accepted the compulsory jurisdiction of the Permanent Court of International Justice in some form. Seventeen of these acceptances remained in force and, under the term of its Statute, were transferred to the International Court of Justice.

In addition, nine nations accepted the Court's compulsory jurisdiction during the period covered in the Yearbook of the United Nations, 1946-47, while a further eight nations did so during the period under review in this volume, bringing to 34 the total number of states that have accepted unconditionally, or with certain reservations, the compulsory jurisdiction of the International Court of Justice. All but one Switzerland) of these states are also Members of the United Nations.

The table on the opposite page shows the states which, as of September 21, 1948, had deposited with the Secretary-General of the United Nations the declaration recognizing the Court's jurisdiction as compulsory or had already accepted the jurisdiction of the Permanent Court of International Justice as compulsory for a period which had not then yet expired.

E. CORFU CHANNEL CASE

On May 22, 1947, the United Kingdom addressed an Application to the International Court of Justice instituting proceedings with regard to the incidents in the Corfu Channel.[14]

The claim of the United Kingdom in the Application was: (1) that the Albanian Government either caused to be laid, or had knowledge of the laying of, mines in its territorial waters in the Strait of Corfu, without notifying the existence of these mines, as required by Articles 3 and 4 of the Hague Convention No. 8 of 1907, by the principles of international law and by the ordinary dictates of humanity; (2) that two destroyers of the Royal Navy were damaged by the mines so laid, resulting in the loss of lives of 44 personnel of the Royal Navy and serious injury to the destroyers; (3) that the loss and damage was due to the failure of the Albanian Government to fulfil its international obligations and to act in accordance with the dictates of humanity; (4) that the Court should decide that the Albanian Government was internationally responsible for the said loss and injury and was under an obligation to make reparation or pay compensation to the Government of the United Kingdom; and (5) that the Court should determine the reparation or compensation.

The Government of the United Kingdom, in the Application, contended that the Court had jurisdiction under Article 36, paragraph 1, of its Statute, as being a matter which was one specially provided for in the Charter of the United Nations, on the grounds: (a) that the Security Council of the United Nations, at the conclusion of proceedings in which it dealt with the dispute under Article 36 of the Charter, by a resolution decided to recommend both the Government of the United Kingdom and the Albanian Government to refer the dispute to the International Court of Justice; (b) that the Albanian Government accepted the invitation of the Security Council under Article 32 of the Charter to participate in the discussion of the dispute and accepted the condition laid down by the Security Council, when conveying the invitation, that Albania accepted in the present case all the obligations which a Member of the United Nations would have to assume in a similar case;

[14] See Yearbook of the United Nations, 1946-47, p. 596.

and (c) that Article 25 of the Charter provided that the Members of the United Nations agree to accept and to carry out the decisions of the Security Council in accordance with the Charter.[15]

Notice of the Application was given on May 22, 1947, by the Registrar of the Court to the Albanian Government by telegram and by letter.[16] On the same day, the Application was transmitted by the Registrar to the Secretary-General of the United Nations in order that he might notify the Members of the United Nations and any other states entitled to appear before the Court.

On July 23, 1947, the Albanian Government deposited with the Registry of the Court a letter dated at Tirana, July 2, 1947, which confirmed the receipt of the Application, and requested the Registrar to bring a statement to the knowledge of the Court. This statement said, inter alia, that the Government of the United Kingdom, in instituting proceedings before the Court, had not complied with the recommendation adopted by the Security Council on April 9, 1947, and the Albanian Government, therefore, considered that the Government of the United Kingdom was not entitled to refer this dispute to the Court by unilateral application.

The letter went on to state that it appeared that the United Kingdom endeavored to justify its proceeding by invoking Article 25 of the Charter of the United Nations. In the opinion of Albania, that Article did not apply to recommendations made by the Council with reference to the pacific settlement of disputes, since such recommendations were not binding. Consequently, Albania maintained that Article could not afford an indirect basis for the compulsory jurisdiction of the Court.

The letter also declared that Albania considered that the United Kingdom, before bringing the case before the Court, should have reached an understanding with Albania regarding the conditions under which the two parties should submit their dispute to the Court.

In these circumstances, the letter stated, Albania was justified in its conclusion that the United Kingdom had not proceeded in conformity with the Council's recommendation, with the Statute of the Court or with the recognized principles of international law.

The Albanian Government, for its part, the letter continued, fully accepted the recommendation of the Security Council and was prepared, notwithstanding the irregularity in action taken by the Government of the United Kingdom, to appear before the Court.

Nevertheless, the letter concluded, Albania made the most explicit reservations respecting the manner in which the United Kingdom brought the case before the Court, and emphasized that its acceptance of the Court's jurisdiction for this case could not constitute a precedent for the future.

The President of the Court—as the Court was not sitting—made on July 31, 1947, an Order in which he fixed October 1 and December 10, 1947, respectively, as the final dates for the presentation of the Memorial of the United Kingdom and the Counter-Memorial of Albania.

The Memorial of the United Kingdom, presented within the time limit fixed by the Order, contained statements and submissions with regard to the incidents which occurred on October 22, 1946, in the Corfu Channel. These statements and submissions developed the points indicated in the Application as constituting the claim of the United Kingdom.

Within the time limit fixed for the presentation of the Counter-Memorial, Albania, by a document dated December 1 and filed in the Registry on December 9, 1947, submitted a Preliminary Objection to the Application on the ground of inadmissibility.

In the Preliminary Objection, the Court was requested, in the first place, to place on record that, in accepting the Security Council's recommendation of April 9, 1947, the Albanian Government had only undertaken to submit the dispute to the Court in accordance with the provisions of the Statute and, in the second place, to give judgment that the Application of the United Kingdom was inadmissible because it contravened the provisions of Articles 40 and 36 of the Statute.

The Albanian Preliminary Objection was transmitted on December 9 to the United Kingdom and was communicated on December 11 to the Members of the United Nations.

By an Order made on December 10, 1947, the President of the Court, as the Court was not sitting, fixed January 20, 1948, as the time limit for the presentation by the United Kingdom of a written statement of its observations and submissions in regard to the Preliminary Objection.

This statement, dated January 19, 1948, and received in the Registry on the same date, contained a number of arguments and concluded by stating that the Preliminary Objection submitted by Albania should be dismissed, and that Albania

[15] International Court of Justice Yearbook, 1946-47, pp. 121-22.

[16] For details on this and succeeding paragraphs, see International Court of Justice. Reports of Judgments, Advisory Opinions and Orders. The Corfu Channel Case (Preliminary Objection), Judgment of March 25th, 1948.

should be directed to comply with the terms of the President's Order and to deliver a Counter-Memorial on the merits of the dispute without further delay.

As the Court did not have upon the bench a judge of Albanian nationality, Albania availed itself of the right provided by the Court's Statute, and designated Igor Daxner, President of a Chamber of the Supreme Court of Czechoslovakia, as judge ad hoc.

In the course of public sittings, held on February 26, 27 and 28 and on March 1, 2 and 5, 1948, the Court heard oral arguments on behalf of the respective parties: Kahreman Ylli, Agent, and Professor Vladimir Vochoc, Counsel, for Albania; and W. E. Beckett, Agent, and Sir Hartley Shawcross, Counsel, for the United Kingdom.

On March 25, 1948, the Court delivered a judgment rejecting the Albanian objection on the grounds, inter alia, that the Albanian Government's letter of July 2, in the opinion of the Court, constituted a voluntary and indisputable acceptance of the Court's jurisdiction. The Court held that there was nothing to prevent the acceptance of jurisdiction, as in the present case, from being effected by two separate and successive acts, instead of jointly and beforehand by a special agreement. The Court also held that the reservations stated in the Albanian Government's letter were intended only to maintain a principle and prevent the establishment of a precedent for the future. The Court maintained that the reservation of Albania therefore did not enable Albania to raise a preliminary objection based on an irregularity of procedure, or to dispute thereafter the Court's jurisdiction on the merits.

The Court, by 15 votes against 1, rejected the Preliminary Objection submitted by Albania on December 9, 1947, and decided that proceedings on the merits should continue. It fixed the time limits for the filing of subsequent pleadings as follows: (a) June 15, 1948, for the Counter-Memorial of Albania; (b) August 2, 1948, for the Reply of the United Kingdom; and (c) September 20, 1948, for the Rejoinder of Albania.

Judge Basdevant, Vice-President, and Judges Alvarez, Winiarski, Zoricic, De Visscher, Badawi Pasha and Krylov, while agreeing with the judgment of the Court, stated in a separate opinion appended to the judgment that they wished that the Court had also passed upon the merits of the United Kingdom claims that the case be treated as one falling within the compulsory jurisdiction of the Court on the grounds that the Security Council's recommendation was a decision binding upon the parties. The arguments presented on behalf of the United Kingdom had not convinced these judges that this was a new case of compulsory jurisdiction.

Igor Daxner, judge ad hoc, declared that he was unable to concur in the judgment of the Court and appended to the judgment a statement of his separate opinion.

Immediately after the delivery of judgment, the Agents for the Albanian and United Kingdom Governments announced to the Court the conclusion between their respective Governments of a Special Agreement, drawn up as a result of the resolution of the Security Council of April 9, 1947, for the purpose of submitting to the Court for decision the following questions:

"1. Is Albania responsible under international law for the explosions which occurred on the 22nd October 1946 in Albanian waters and for the damage and loss of human life which resulted from them and is there any duty to pay compensation?

"2. Has the United Kingdom under international law violated the sovereignty of the Albanian People's Republic by reason of the acts of the Royal Navy in Albanian waters on the 22nd October and on the 12th and 13th November 1946 and is there any duty to give satisfaction?"

The Court, in an Order of March 26, 1948,[17] stated:

". . . Whereas this Special Agreement now forms the basis of further proceedings before the Court in this case, and states the questions which the Parties have agreed to submit to the Court for decision;

"Whereas the United Kingdom Government, on October 1st, 1947, that is within the time-limit fixed by the Court, filed a Memorial with statements and submissions relating to the incident that occurred on October 22nd, 1946;

"Whereas the Agents for the Parties, having in view the filing of the Memorial and having been consulted by the President, declared in his presence that they agreed in requesting that the order and time-limits for the filing of the subsequent pleadings as fixed by the Judgment of March 25th, 1948, be maintained;

"The Court

"confirms the time-limits for the filing of the subsequent pleadings as follows:

"(a) for the Counter-Memorial of the Albanian Government, Tuesday, June 15th, 1948;

"(b) for the Reply of the United Kingdom Government, Monday, August 2nd, 1948;

"(c) for the Rejoinder of the Albanian Government, Monday, September 20th, 1948. . . ."

The parties filed their documents within the time limits prescribed by the Court.[18]

[17] See International Court of Justice. Reports of Judgments, Advisory Opinions and Orders. The Corfu Channel Case, Order of March 26th, 1948.

[18] The oral hearings in the Corfu Channel Case (Merits) opened in the Peace Palace on November 9, 1948.

F. ADVISORY OPINIONS

1. Organs and Agencies Authorized to Request Advisory Opinions

The General Assembly and the Security Council are explicitly authorized in the Charter to request advisory opinions from the International Court of Justice on any legal question. Other organs of the United Nations, as well as the specialized agencies may, if authorized to do so by the General Assembly, request advisory opinions from the Court on legal questions arising within the scope of their activities.

The following organs of the United Nations and specialized agencies had by September 21, 1948, been authorized by the General Assembly to request such advisory opinions:

Economic and Social Council
Trusteeship Council
International Labour Organisation (ILO)
Food and Agriculture Organization of the United Nations (FAO)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
International Civil Aviation Organization (ICAO)
International Bank for Reconstruction and Development
International Monetary Fund
International Telecommunication Union (ITU)
World Health Organization (WHO)

2. Advisory Opinion on Admission to Membership in the United Nations

a. REQUEST FROM THE GENERAL ASSEMBLY FOR AN ADVISORY OPINION

In a resolution adopted on November 17, 1948 (113(II)B), the General Assembly addressed to the International Court of Justice a request for an advisory opinion concerning the conditions of admission of a state to membership in the United Nations.[19] It was the first request for an advisory opinion to be addressed to the Court.

Certified true copies of the resolution, dispatched by the Secretary-General, reached the Registry of the Court on December 12, 1947, and the request of the Assembly was entered on the same date in the Court's General List under No. 3.[20]

On the same day, the Registrar gave notice of the request for an advisory opinion to all states entitled to appear before the Court and notified the Governments of Members of the United Nations that the Court was prepared to receive from them written statements on the issue in question, before February 9, 1948. By the date thus fixed, written statements had been received by the Court from the following states: China, El Salvador, Guatemala, Honduras, India, Canada, United States, Greece, Yugoslavia, Belgium, Iraq, Ukrainian S.S.R., U.S.S.R. and Australia. These statements were communicated to all Members of the United Nations, who were informed that the President of the Court had fixed April 15, 1948, as the opening date of the oral proceedings. A statement from the Government of Siam, dated January 30, 1948, which was received in the Court's Registry on February 14 (i.e., after the expiration of the time limit) was accepted by decision of the President and was also transmitted to the other Members of the United Nations.

The Government of the Philippines also deposited a declaration, which, however, arrived too late to be taken into consideration.

b. ORAL PROCEEDINGS

The opening of the oral proceedings was eventually postponed for a week, the hearings actually taking place on April 22, 23, and 24, 1948.

In the course of these hearings, oral statements were presented to the Court by the representative of the Secretary-General of the United Nations and by representatives of the Governments of France, Yugoslavia, Belgium, Czechoslovakia and Poland.

The two questions put to the Court by the Assembly's resolution of November 17, 1947 (113 (II)B), read as follows:

"Is a Member of the United Nations which is called upon, in virtue of Article 4 of the Charter, to pronounce itself by its vote, either in the Security Council or in the General Assembly, on the admission of a State to membership in the United Nations, juridically entitled to make its consent to the admission dependent on conditions not expressly provided by paragraph 1 of the said Article? In particular, can such a Member, while it recognizes the conditions set forth in that provision to be fulfilled by the State concerned, subject its affirmative vote to the additional condition that other States be admitted to membership in the United Nations together with that State?"

Of the fifteen Governments which had submitted

[19] See General Assembly, p. 44. For discussions by the General Assembly on the need for greater use by the United Nations and its organs of the International Court of Justice, see pp. 185-87.

[20] No. 1 concerned the Corfu Channel Case (Merits) and No. 2 the Corfu Channel Case (Preliminary Objection).

written statements in connection with these questions, twelve declared that the answer to the first question should be in the negative. These twelve were: Australia, Belgium, Canada, China, El Salvador, Greece, Guatemala, Honduras, India, Iraq, Siam and United States. The other three Governments—the Ukrainian S.S.R., the U.S.S.R., Yugoslavia—held that the questions addressed to the Court by the Assembly were essentially political rather than juridical, and were therefore beyond the Court's competence.

In the oral proceedings, the competence of the Court, on the same basis, was again challenged by the representatives of Czechoslovakia, Poland and Yugoslavia, while the representatives of France and Belgium upheld the Court's competence to deal with the two questions, declaring that the problem involved was legal, not political, in its essence.

The French representative argued that the answer to the first question should be in the affirmative, i.e., that a state was entitled to exercise its own discretion in voting on the application of another state for membership in the United Nations. The French representative, however, held that the answer to the second question should be in the negative, since in his opinion it would be an arbitrary action for a Member State to make its affirmative vote for the admission of a state dependent upon the admission of other states, and since such an arbitrary action would go beyond the discretion reasonably allowed a Member State.

The Belgian representative was of the opinion that the answer to both questions should be in the negative.

c. ADVISORY OPINION

Having heard the oral statements, the Court considered the problem in private sittings and delivered its advisory opinion (A/597)[21] on May 28, 1948. It read as follows:

"The Court,

"by nine votes to six,

"is of the opinion that a Member of the United Nations which is called upon, in virtue of Article 4 of the Charter, to pronounce itself by its vote, either in the Security Council or in the General Assembly, on the admission of a State to membership in the United Nations is not juridically entitled to make its consent to the admission dependent on conditions not expressly provided by paragraph 1 of the said Article;

"and that, in particular, a Member of the Organization cannot, while it recognizes the conditions set forth in that provision to be fulfilled by the State concerned, subject its affirmative vote to the additional condition that other States be admitted to membership in the United Nations together with that State."

The majority consisted of the following judges: Jose Gustavo Guerrero (President), Alejandro Alvarez, Isidro Fabela Alfaro, Green H. Hackworth, Charles De Visscher, Helge Klaestad, Abdel Hamid Badawi Pasha, Hsu Mo and Jose Philadelpho de Barros e Azevedo. Judges Alvarez and Azevedo, while concurring in the advisory opinion, availed themselves of the right conferred upon judges by Article 57 of the Statute and appended statements of their individual opinions.

The dissenting opinions were those of Judges Jules Basdevant (Vice-President), Bohdan Winiarski, Sir Arnold Duncan McNair and John E. Read, who issued a joint statement of their dissenting opinion, and of Judges Milovan Zoricic and Sergei Borisovitch Krylov, who each issued individual statements of their respective dissenting opinions.

In its opinion,[22] the Court began by defining the question in the following words:

"The request for an opinion does not refer to the actual vote. Although the Members are bound to conform to the requirements of Article 4 in giving their votes, the General Assembly can hardly be supposed to have intended to ask the Court's opinion as to the reasons which, in the mind of a Member, may prompt its vote. Such reasons, which enter into a mental process, are obviously subject to no control. Nor does the request concern a Member's freedom of expressing its opinion. Since it concerns a condition or conditions on which a Member 'makes its consent dependent', the question can only relate to the statements made by a Member concerning the vote it proposes to give."

The Court also observed that it was clear that it was not called upon either to define the meaning and scope of the conditions on which admission is made dependent, or to specify the elements which may serve in a concrete case to verify the existence of the requisite conditions.

The Court then dealt with the question of its own jurisdiction. It stated that the question was a purely legal one, and further that it had competence to deal with questions couched in abstract terms.

It rejected the claim that it was not competent to deal with an interpretation of the Charter, in the following words:

"Nowhere is any provision to be found forbidding the Court, 'the principal judicial organ of the United Nations', to exercise in regard to Article 4 of the Charter, a multilateral treaty, an interpretative function which falls within the normal exercise of its judicial powers."

[21] Admission of a State to the United Nations (Charter, Article 4), Advisory Opinion: I.C.J. Reports 1948, pp. 57-65.

[22] The following summary of the Advisory Opinion is taken from International Court of Justice Yearbook, 1947-48, pp. 62-64.

The Court then considered paragraph 1 of Article 4, which reads as follows:

"Membership in the United Nations is open to all other peace-loving States which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations."

The Court was of opinion that the English and French texts have the same meaning and that it was impossible to find any conflict between them. The meaning also was quite clear, so that it was not necessary to resort to a study of the preparatory work on the Charter.

"The terms 'Membership in the United Nations is open to all other peace-loving States which . . .' and 'Peuvent devenir Membres des Nations Unies tous autres Etats pacifiques', indicate that States which fulfil the conditions stated have the qualifications requisite for admission. The natural meaning of the words used leads to the conclusion that these conditions constitute an exhaustive enumeration and are not merely stated by way of guidance or example. The provision would lose its significance and weight, if other conditions, unconnected with those laid down, could be demanded. The conditions stated in paragraph 1 of Article 4 must therefore be regarded not merely as the necessary conditions, but also as the conditions which suffice.

"Nor can it be argued that the conditions enumerated represent only an indispensable minimum, in the sense that political considerations could be superimposed upon them, and prevent the admission of an applicant which fulfils them. Such an interpretation would be inconsistent with the terms of paragraph 2 of Article 4, which provide for the admission of 'tout Etat remplissant ces conditions'—'any such State'. It would lead to conferring upon Members an indefinite and practically unlimited power of discretion in the imposition of new conditions. Such a power would be inconsistent with the very character of paragraph 1 of Article 4 which, by reason of the close connexion which it establishes between membership and the observance of the principles and obligations of the Charter, clearly constitutes a legal regulation of the question of the admission of new States. To warrant an interpretation other than that which ensues from the natural meaning of the words, a decisive reason would be required which has not been established.

"Moreover, the spirit as well as the terms of the paragraph preclude the idea that considerations extraneous to these principles and obligations can prevent the admission of a State which complies with them. If the authors of the Charter had meant to leave Members free to import into the application of this provision considerations extraneous to the conditions laid down therein, they would undoubtedly have adopted a different wording."

The Court added that this opinion was confirmed by Rule 60, paragraph 1, of the provisional Rules of the Security Council, which reads as follows:

"The Security Council shall decide whether in its judgment the applicant is a peace-loving State and is able and willing to carry out the obligations contained in the Charter, and accordingly whether to recommend the applicant State for membership."

The Court went on to state that the exhaustive character of paragraph 1 of Article 4

"does not forbid the taking into account of any factor which it is possible reasonably and in good faith to connect with the conditions laid down in that Article. The taking into account of such factors is implied in the very wide and very elastic nature of the prescribed conditions; no relevant political factor—that is to say, none connected with the conditions of admission—is excluded."

Later in the Opinion, the Court stated that paragraph 2 of Article 4 is of a purely procedural character and cannot in any way be adduced to prove that the terms laid down in Article 4, paragraph 1, are not exhaustive. Further, the political character of the Security Council does not in any way release it from the observance of the treaty provisions of the Charter, when such provisions constitute limitations on the Council's powers, or criteria for its judgment. Nor can the political responsibilities assumed by the Security Council in virtue of Article 24—in the absence of any provision—affect the special rules for admission which emerge from Article 4.

In dealing with the second part of the question, which it also answered in the negative, the Court referred to the demand on the part of a Member that its consent to the admission of an applicant should be dependent on the admission of other applicants, and observed that:

"Judged on the basis of the rule which the Court adopts in its interpretation of Article 4, such a demand clearly constitutes a new condition, since it is entirely unconnected with those prescribed in Article 4. It is also in an entirely different category from those conditions, since it makes admission dependent, not on the conditions required of applicants, qualifications which are supposed to be fulfilled, but on an extraneous consideration concerning States other than the applicant State.

"The provisions of Article 4 necessarily imply that every application for admission should be examined and voted on separately and on its own merits; otherwise it would be impossible to determine whether a particular applicant fulfils the necessary conditions. To subject an affirmative vote for the admission of an applicant State to the condition that other States be admitted with that State would prevent Members from exercising their judgment in each case with complete liberty, within the scope of the prescribed conditions. Such a demand is incompatible with the letter and spirit of Article 4 of the Charter."

d. DISSENTING OPINIONS[23]

(1) Opinion of Judge Alvarez

While concurring with the opinion of the Court, Judge Alejandro Alvarez, of Chile, included his

[23] This résumé of opinions is taken from an article by Assistant Secretary General Ivan Kerno (representative

individual opinion because he did not agree with the method adopted by the Court He was of the opinion that in answering the questions asked by the General Assembly it was not sufficient to clarify the text of the Charter; recourse must be had "to the great principles of the new international law".

The Court had decided that the question on which its advisory opinion was asked was a legal one because it concerned the interpretation of the Charter of the United Nations, but Judge Alvarez believed that the question was both legal and political, not so much because it involved an interpretation of the Charter but because it was concerned "with the problem whether States have a right to membership in the United Nations Organization if they fulfil the conditions required by the Statute of the Organization". The United Nations has a mission of universality, Judge Alvarez pronounced; and, therefore, once states have fulfilled the conditions required by Article 4 they have a right to membership. Nevertheless, Judge Alvarez pointed out that there may be some exceptions. Cases may arise in which the admission of a state is liable to disrupt the international situation. In such cases the question is no longer juridical and therefore not within the competence of the Court.

Further, while agreeing that when the conditions of Article 4 are fulfilled by an applicant, a Member cannot subject its affirmative vote to the condition that other states may be admitted together with the applicant, Judge Alvarez believed that in exceptional circumstances, for example when two or more states are created by the division of one state, applications of the new states should be considered at the same time.

(2) Opinion of Judge Azevedo

Judge Jose Philadelpho de Barros e Azevedo, of Brazil, also agreed with the findings of the Court, and the purpose of his remarks was to explain further the nature and function of an advisory opinion. He was of the opinion that in the exercise of its advisory function it might be preferable that the Court should ignore disputes that have given rise to any particular question, and thus make a purely theoretical study of the question and give an opinion of which "the effects would be applicable to all Members of the Organization".

(3) Joint Dissenting Opinion

Judge Jules Basdevant, of France, Judge Bohdan Winiarski, of Poland, Judge Sir Arnold D. McNair, of the United Kingdom, and Judge John M. Read, of Canada, concurred with the opinion of the majority of the Court as to the legal character of the first question and as to the competence of the Court to give an interpretation of the Charter. But they were unable to concur in the answer given by the majority to both questions asked by the General Assembly. Their first conclusion from reading Article 4 was that the Charter does not follow the model of multilateral treaties which created international unions and provided clauses for subsequent accession. On the contrary, the Charter specifies that a state must be admitted by the General Assembly upon the recommendation of the Security Council. In the working of this system the Charter requires the intervention of two principal political organs of the United Nations, one for the purpose of making recommendations and the other for the purpose of effecting the admission. The consent of the organization is expressed by a vote. The dissenting judges pointed out that the provisions of paragraph 2 of Article 4 would be meaningless if they had been restricted to mere procedural form.

A decision in regard to membership involves an examination of political factors in order to ascertain if the state fulfils the conditions prescribed by Article 4. Upon the Security Council, whose duty is to make the recommendation, rests the responsibility for the maintenance of international peace and security. The dissenting judges felt that the admission of a new Member was preeminently a political act and that the political organs making the decisions must consider questions of all sorts, political as well as juridical. Therefore, these organs are juridically entitled to base their vote upon political considerations even though not specifically prescribed by Article 4.

The judges pointed out that the conditions enumerated in paragraph 1 of Article 4 of the Charter are essential, but there is no specific statement that they are sufficient. If the Charter had considered them as sufficient, it would not have failed to say so. They felt that Members are not legally bound to admit the applicant state if the conditions are fulfilled. They based this argument on a detailed examination of the travaux préparatoires of the San Francisco Conference. In examining these records, they found no indication of intention to impose upon the organization a legal obligation to admit states which possess the qualifications mentioned in Article 4. On the contrary,

(Footnote 23, continued)
of the Secretary-General at the public hearing of the Court), in the United Nations Bulletin, Vol. 4, No. 12 (June 15, 1948), pp. 492-94. See also Admission of a State to the United Nations (Charter, Article 4). Advisory Opinion. I.C.J. Reports 1948. (Quoted material is from the I.C.J. Report.)

the Conference reports showed that wide discretionary powers were conferred upon the political organs of the United Nations with respect to the admission of Members.

The dissenting judges concluded, however, that the Members of the organization do not enjoy unlimited freedom in the choice of political considerations, but since no "concrete case has been submitted to the Court which calls into question the fulfilment of the duty to keep within these limits; so the Court need not consider what it would have to do if a concrete case of this kind were submitted to it".

Having thus concluded that a Member of the United Nations is legally entitled to put forth considerations "foreign to the qualifications specified in paragraph 1 of Article 4, and, assuming these qualifications to be fulfilled, to base its vote upon such considerations", the dissenting judges declared that a Member in participating in a political discussion is also legally entitled to make its consent to the admission of a state dependent on the admission of other states.

(4) Dissenting Opinion of Judge Zoricic

Judge Milovan Zoricic, of Yugoslavia, agreed with the Court's opinion as regards its competence to interpret the Charter, but could not support the opinion because he considered that the Court should have refrained from answering the questions put, and, secondly, because he could not accept the conclusions of its reply. In substance, he agreed with the joint opinion expressed by the Dissenting Opinion.

The Assembly's resolution and the documents submitted to the Court by the Secretary-General showed that the request for an advisory opinion originated in a divergence of views as to the admission of certain states. The views expressed were of a political nature and, moreover, the circumstances under which the request was made to the Court were put forth for a definite "political purpose". In the first place, it was quite clear to him that the conditions of Article 4 were minimum conditions that must be fulfilled by new Members, but it was undeniable that there were other conditions to be considered. He did not think "that the powers and duties of the Council under Article 24 ... can be limited merely by a restrictive interpretation of Article 4". He queried how the Security Council could be limited from declaring against the admission of a state even where it would be quite obvious that such admission "would have serious consequences for general international stability and consequently the maintenance of peace". He thus concluded that in the supreme interest of the organization, the members of the Council must "have a wide discretion", and consequently the discretionary right of vote implies the right to vote without giving reasons for it.

In connection with the second question asked by the Assembly, he pointed out that although stated in the abstract, the evidence referred to a concrete case, namely, the discussion of the admission of the ex-enemy states. The arguments used by a permanent member of the Security Council that it would vote for the admission of two ex-enemy states on condition that the other three ex-enemy states be admitted was founded on a legal basis. The permanent member "maintained its interpretation of the Declaration of Potsdam and of the peace treaties". He concluded that what was fundamental was not the correctness of the interpretation made by that state but "the right of that State to rely on it. ... This right is guaranteed by the principle of sovereign equality of States which underlies the organization of the United Nations."

(5) Dissenting Opinion of Judge Krylov

Judge Sergei Borisovitch Krylov, of the U.S.S.R., was unable to concur in the opinion of the Court. He held that it was impossible to eliminate the political element from the question put to the Court and to consider it in abstract form for, in fact, it was a question "designed to censure the reasons given by a permanent member of the Security Council".

He pointed out that the Permanent Court of International Justice was never asked to give an interpretation of the Covenant of the League of Nations in the abstract. The questions asked of the Permanent Court regarding the interpretation of the Covenant dealt with concrete situations because, in his view, it was not desired to involve the Court in political disputes. He was of the opinion that in some cases it might be against the interest of the Court to urge that it should deal with disputes in which legal relations between parties are subordinated to the political considerations involved, and that in this case the Charter should have been interpreted rather by the political organs themselves than by the Court. He therefore concluded that it would have been better if the Court had not answered the questions put.

Judge Krylov then referred to a statement in the majority opinion that no relevant political factor is excluded and said that this means that a Member has the right of discretionary and political appreciation. He also considered the practice followed by the political organs of the United Nations with regard to the admission of new Members

and noted that both political and legal considerations had been put forth to show that a state should or should not be admitted to membership. He added, however, that political considerations were not warranted if they were inconsistent with the principles of the Charter and therefore stated that a Member is not justified in basing his opposition on arguments which relate to matters falling essentially within the domestic jurisdiction of the applicant state.

In connection with the admission of ex-enemy states, he believed that a bloc or composite vote is not forbidden by the Charter. Consequently, when it is a case of admitting states whose applications are presented in identical circumstances, particularly since the applications for admission to the United Nations of the five ex-enemy states were favored by participants of the Potsdam Agreement and by the signatories of the peace treaties, it was stated by Judge Krylov, "there was no warrant for an unjustified discrimination between the five candidates on the ground of their domestic regime".

Judge Krylov concluded therefore that a Member is entitled to declare, during the discussion and before the vote, that it takes into account "(1) the legal criteria prescribed in paragraph 1 of the said Article [Article 4], and (2) political considerations consistent with the Purposes and Principles of the United Nations".

G. OBSERVATION OF TENDE AND LA BRIGUE (TENDA-BRIGA) PLEBISCITE

In response to a request of the French Government, the President of the International Court of Justice on July 24, 1947, designated three neutral persons to participate as observers in the plebiscite held in the Tende and La Brigue (Tenda-Briga) districts, ceded to France by Italy as provided in the Italian Peace Treaty. The three neutral observers were Dr. J. A. van Hamel, President of the Special Court of Justice (War Crimes) of Amsterdam; Francois Perréard, Counsellor of State of Geneva and National Counsellor of the Swiss Confederation; and Eric Sjöborg, Minister Plenipotentiary, Swedish Foreign Office. The plebiscite was held on October 12, 1947.[24]

ANNEX: STATES ACCEPTING COMPULSORY JURISDICTION[25]

BELGIUM:
Date of Signature: June 10, 1948.
Date of Deposit of Ratification: June 25, 1948.
Conditions:
Ratification.
Reciprocity.
5 years.
For any legal dispute which may arise after gratification with regard to any situation or fact arising after such ratification.
Except in cases where the parties have agreed or agree to employ other means of peaceful settlement.

BOLIVIA:
Date of Signature: July 5, 1948.
Conditions:
5 years.

BRAZIL:
Date of Signature: February 12, 1948.
Conditions:
Reciprocity.
5 years (as from March 12, 1948).

HONDURAS:
Date of Signature: February 2, 1948.
Conditions:
Reciprocity.
6 years (as from February 10, 1948).
For all legal disputes concerning:
(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

MEXICO:
Date of Signature: October 23, 1947.
Conditions:
Reciprocity.
5 years (as from March 1, 1947), and thereafter until notice of termination is given.
For any future legal dispute arising out of events subsequent to October 23, 1947.
The declaration does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico.

PAKISTAN:
Date of Signature: June 22, 1948.
Conditions:
Reciprocity.

[24] International Court of Justice Yearbook, 1947-48, pp. 44-45.

[25] See footnotes 10-13, p. 792

5 years (and thereafter until the expiration of six months after notice of abrogation).

For all future disputes concerning:

(A) the interpretation of a treaty;

(B) any question of international law;

(C) the existence of any fact which, if established, would constitute a breach of an international obligation;

(D) the nature or extent of the reparation to be made for the breach of an international obligation; provided, that this declaration shall not apply to

(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

(b) disputes with regard to matters which are essentially within the domestic jurisdiction of the Government of Pakistan as determined by the Government of Pakistan; or

(c) disputes arising under a multilateral treaty unless

(1) all parties to the treaty affected by the decision are also parties to the case before the Court, or

(2) the Government of Pakistan specially agrees to jurisdiction.

PARAGUAY:

Date of Signature: May 11, 1933.

Conditions:

(Unconditionally.)

PHILIPPINES:

Date of Signature: July 12, 1947.

Conditions:

Reciprocity.

10 years (as from July 4, 1946), and thereafter until notification of abrogation.

For all cases enumerated in paragraph 2, Article 36, of the Statute of the Court.

SWITZERLAND:

Date of Signature: July 6, 1948.

Conditions:

Reciprocity.

Until the expiration of a year's notice of termination.

For all legal disputes concerning:

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

To take effect from the date on which Switzerland became a party to the Court's Statute [i.e., July 28, 1948].