Chapter III

International legal questions

In 2013, the International Law Commission continued to examine topics relating to the progressive development and codification of international law. It provisionally adopted five draft conclusions on the topic of subsequent agreements and subsequent practice in relation to the interpretation of treaties, three draft articles on immunity of State officials from foreign criminal jurisdiction and seven draft articles on protection of persons in the event of disasters. The Commission reconstituted its working group on the obligation to extradite or prosecute (*aut dedere aut judicare*) and its study group on the most-favoured-nation clause, and included in its work programme the topics of protection of the environment in relation to armed conflict and protection of the atmosphere, with the appointment of special rapporteurs. It also decided to rename the topic of "Formation and evidence of customary international law" as "Identification of customary international law", and to include in its long-term programme of work the topic of crimes against humanity. In December, the General Assembly welcomed the adoption by the Commission in 2011 [YUN 2011, p. 1268] of the Guide to Practice on Reservations to Treaties, including the guidelines and a detailed commentary, and encouraged its widest possible dissemination.

The Ad Hoc Committee established by the General Assembly in resolution 51/210 continued to elaborate a draft comprehensive convention on international terrorism. The Secretary-General in July reported on measures taken by States, UN system entities and intergovernmental organizations to implement the 1994 General Assembly Declaration on Measures to Eliminate International Terrorism. In December, the Assembly condemned all acts, methods and practices of terrorism as criminal and unjustifiable, and called on Member States to implement the United Nations Global Counter-Terrorism Strategy in all its aspects. Also in December, the Assembly urged States to become parties to the international conventions and protocols against terrorism, and called for continued assistance to Member States for the ratification and implementation of those instruments.

The United Nations Commission on International Trade Law (UNCITRAL) adopted the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the UNCITRAL Arbitration Rules (with a new article 1, paragraph (4), as adopted in 2013), the UNCITRAL Guide on the Implementation of a Security Rights Registry, the Guide to Enactment and Interpretation of the UNCITRAL Model Law on Cross-Border Insolvency and part four of the UNCITRAL Legislative Guide on Insolvency Law. It also adopted the guidance on procurement regulations to be promulgated in accordance with article 4 of the UNCITRAL Model Law on Public Procurement and the glossary of procurement-related terms used in the UNCITRAL Model Law on Public Procurement. The Commission also updated the UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective. It continued its work on arbitration and conciliation, security interests, insolvency law, public procurement, online dispute resolution and electronic commerce, and considered future work in the areas of public-private partnerships, international contract law and international trade law aimed at reducing the legal obstacles faced by micro-, small- and medium-sized enterprises throughout their life cycle.

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization considered, among other subjects, proposals relating to the maintenance of international peace and security, with a view to strengthening the Organization, and the implementation of Charter provisions on assistance to third States affected by the application of sanctions.

The Committee on Relations with the Host Country addressed a number of issues raised by permanent missions to the United Nations, including activities to assist members of the UN community, delays in issuing visas, exemption from taxes, the security of missions and their personnel, and transportation and parking.

During 2013, the United Nations continued to provide rule of law assistance to Member States and to ensure system-wide coordination and coherence in strengthening the rule of law and its linkages to peace and security, human rights and development.

Legal aspects of international political relations

International Law Commission

The 34-member International Law Commission (ILC) held its sixty-fifth session in Geneva in two parts (6 May–7 June and 8 July–9 August) [A/68/10]. During the second part, the International Law Seminar held its forty-ninth session, which was attended by 21 young academics and diplomats from all regions of the world. They observed ILC meetings, attended specially ar-

ranged lectures and participated in working groups on specific topics. In recognition of the contribution made by the Seminar for successive generations of young international lawyers, the Commission decided to commemorate its fiftieth anniversary in 2014.

ILC carried out its work with the assistance of various working groups and a drafting committee. The Commission provisionally adopted five draft conclusions, together with commentaries thereto, on the topic of subsequent agreements and subsequent practice in relation to the interpretation of treaties (see below), relating to the general rule and means of treaty interpretation; subsequent agreements and subsequent practice as means of interpretation; interpretation of treaty terms as capable of evolving over time; the definition of subsequent agreement and subsequent practice as means of treaty interpretation; and attribution of treaty-related practice to a State. On the topic of immunity of State officials from foreign criminal jurisdiction (see p. 1306), the Commission provisionally adopted three draft articles, together with commentaries thereto, relating to the scope of the draft articles; persons enjoying immunity *ratione personae*; and the scope of immunity *ratione personae*. Concerning the topic of protection of persons in the event of disasters [ibid.], the Commission provisionally adopted seven draft articles, together with commentaries, dealing with forms of cooperation; offers of assistance; conditions on the provision of external assistance; facilitation of external assistance; termination of external assistance; cooperation for disaster risk reduction; and the duty to reduce the risk of disasters.

The Commission considered the first report of its Special Rapporteur on formation and evidence of customary international law [ibid.], held an exchange on the scope and methodology as well as the range of materials to be consulted, and changed the topic's title to "Identification of customary international law". It also examined the first report of its Special Rapporteur on the provisional application of treaties (see p. 1307), which sought to establish the principal legal matters arising from such application, and discussed specific related issues for future consideration. On the obligation to extradite or prosecute (*aut dedere aut judicare*) (see p. 1308), ILC reconstituted its Working Group to continue the evaluation of work on the topic, particularly in light of the Judgment by the International Court of Justice of 20 July 2012 in the case *Belgium v. Senegal* [YUN 2012, p. 1260], and took note of the Group's report. It also reconstituted the Study Group on the most-favoured-nation (MFN) clause [ibid.], which continued to examine various factors that seemed to influence investment tribunals in interpreting MFN clauses.

The Commission included in its programme of work the topics of protection of the environment in relation to armed conflict (see p. 1307) and protection of the atmosphere (see p. 1308); it appointed respective Special Rapporteurs and considered an oral report on the former topic based on the Special Rapporteur's informal consultations concerning the scope of the topic, methodology, possible outcome of the Commission's work, as well as a number of substantive issues.

Among its other decisions and conclusions, the Commission reiterated that ILC promoted awareness of the rule of law through its consideration of such topics as expulsion of aliens, protection of persons in the event of disasters, the obligation to extradite or prosecute (*aut dedere aut judicare*) and immunity of State officials from foreign criminal jurisdiction. The Commission welcomed the Declaration of the 2012 high-level meeting of the General Assembly on the rule of law at the national and international levels [YUN 2012, p. 1319] and shared the Declaration's recognition that the rule of law applied to all States equally and to international organizations.

The Planning Group established by the Commission held three meetings and reconstituted the Working Group on the Long-term Programme of Work to consider possible topics for inclusion in the work programme. The Commission endorsed the inclusion of the topic "Crimes against humanity" in its long-term programme of work, based on the proposal prepared by Sean D. Murphy (United States). ILC decided that its sixty-sixth session would be held in Geneva from 5 May to 6 June and from 7 July to 8 August 2014.

Topical summary report. Pursuant to Assembly resolution 67/92 [YUN 2012, p. 1297], the Secretariat prepared a topical summary [A/CN.4/657] of the debate held on the report of the Commission at the Assembly's sixty-seventh (2012) session.

Assistance to Special Rapporteurs. At its sixty-fifth session, the Commission reiterated its views expressed in its previous reports that General Assembly resolution 56/272 of 27 March 2002 [YUN 2002, p. 1402] affected the research work of ILC Special Rapporteurs. In December, the Assembly, in its resolution 68/112 (see p. 1309), requested the Secretary-General to continue efforts to identify support options for the work of special rapporteurs, additional to those provided under its 2002 resolution.

Casual vacancies. On 6 May, the Commission elected Marcelo Vázquez-Bermúdez (Ecuador) to fill the casual vacancy occasioned by the resignation of Stephen C. Vasciannie (Jamaica) in 2012 [YUN 2012, p. 1294].

Subsequent agreements and subsequent practice in relation to the interpretation of treaties

The Commission [A/68/10] had before it the first report of Special Rapporteur Georg Nolte (Germany) on subsequent agreements and subsequent practice in relation to the interpretation of treaties [A/CN.4/660], which addressed the scope, aim and possible outcome of the work on the topic and proposed draft conclu-

sions relating to the general rule and means of treaty interpretation; subsequent agreements and subsequent practice as means of interpretation; the definition of subsequent agreement and subsequent practice as means of treaty interpretation; and attribution of treaty-related practice to a State.

Following a debate in plenary, the Commission, on 14 May, referred the four draft conclusions to the Drafting Committee. On 31 May, the Commission considered the report of the Drafting Committee and provisionally adopted five draft conclusions: on the general rule and means of treaty interpretation (conclusion 1); subsequent agreements and subsequent practice as authentic means of interpretation (conclusion 2); interpretation of treaty terms as capable of evolving over time (conclusion 3); definition of subsequent agreement and subsequent practice (conclusion 4); and attribution of subsequent practice (conclusion 5). On 5 and 6 August, the Commission adopted commentaries to the draft conclusions.

Immunity of State officials

The Commission [A/68/10] considered the second report on the immunity of State officials from foreign criminal jurisdiction [A/CN.4/661] by Special Rapporteur Concepción Escobar Hernández (Spain), analysing the scope of the topic and of the draft articles, the concepts of immunity and jurisdiction, the difference between immunity *ratione personae* and immunity *ratione materiae*, and the normative elements of immunity *ratione personae*. Based on this analysis, the Special Rapporteur proposed six draft articles addressing the scope of the draft articles (draft article 1); immunities not included in the scope of the draft articles (draft article 2); definitions of criminal jurisdiction, immunity from foreign criminal jurisdiction, immunity *ratione personae* and immunity *ratione materiae* (draft article 3); the subjective scope of immunity *ratione personae* (draft article 4); the material scope of immunity *ratione personae* (draft article 5); and the temporal scope of immunity *ratione personae* (draft article 6).

Following a debate in plenary, the Commission, on 24 May, referred the six draft articles to the Drafting Committee. On 7 June, the Commission received the report of the Drafting Committee and provisionally adopted three draft articles dealing with the scope of the present draft articles (article 1); persons enjoying immunity *ratione personae* (article 3); and the scope of immunity *ratione personae* (article 4). On 6 and 7 August, the Commission adopted commentaries to the draft articles.

Protection of persons in the event of disasters

The Commission [A/68/10] had before it the sixth report [A/CN.4/662] by Special Rapporteur Eduardo Valencia-Ospina (Colombia) on the protection of persons in the event of disasters, dealing with various aspects of prevention such as the concept of disaster risk reduction and prevention as a principle of international law, as well as international cooperation on prevention, and providing an overview of national policy and legislation concerning risk prevention, mitigation of harm and preparedness. The Special Rapporteur proposed draft articles on the duty to prevent (draft article 16) and on cooperation for disaster risk reduction (draft article 5 ter). Following a debate in plenary, the Commission, on 16 July, referred the two draft articles to the Drafting Committee.

On 10 May, the Commission provisionally adopted draft articles 5 bis and 12 to 15, of which it had taken note at its sixty-fourth session (2012) session [YUN 2012, p. 1295], dealing with, respectively, forms of cooperation; offers of assistance; conditions on the provision of external assistance; facilitation of external assistance; and termination of external assistance. It further adopted, on 26 July, the report of the Drafting Committee on draft article 5 ter and 16, concerning cooperation for disaster risk reduction and the duty to reduce the risk of disasters. On 2 and 5 August, the Commission adopted commentaries to the seven draft articles.

Formation and evidence of customary international law

The Commission [A/68/10] had before it the first report [A/CN.4/663] on formation and evidence of customary international law by Special Rapporteur Michael Wood (United Kingdom), as well as a memorandum [A/CN.4/659] prepared by the Secretariat in response to a Commission's 2012 request [YUN 2012, p. 1296] addressing elements in the Commission's work relevant to the topic. The report presented an overview of the previous work, highlighted views expressed in the Assembly's Sixth (Legal) Committee, and considered the scope and possible outcomes of the topic, as well as issues relating to customary international law as a source of international law, and the range of materials to be consulted.

The debate revolved around the scope and methodology of the topic, the range of materials to be consulted and the plan of work. The Special Rapporteur noted the importance of considering the practice of States from all legal systems and regions of the world, as well as the need to preserve the flexibility of the customary process and recalled that the intention was neither to consider the substance of customary international law nor to resolve purely theoretical disputes, but to identify rules of customary international law, which would be of practical assistance to judges and lawyers. Since the reference to "formation" in the topic's title had created confusion regarding its scope, the Special Rapporteur suggested changing the title to "Identification of customary inter-

national law", and stated his preference to not deal with *jus cogens* as part of the scope.

There was broad agreement that identifying rules of customary international law and developing a set of conclusions with commentaries would represent a practical outcome serving as a guide to lawyers and judges who were not experts in public international law. It was underscored that customary international law remained highly relevant, and that the flexibility of the customary process remained fundamental. General support was expressed for an examination of the relationship between customary international law and treaty law, as well as for the Special Rapporteur's proposal to consider both the formative elements of customary international law that gave rise to the existence of a rule and the requisite criteria for proving the existence of such elements. General support was also expressed for the proposed focus on identifying rules of customary international law rather than the content of such rules.

The Special Rapporteur concluded that there was broad support for the elaboration of a set of conclusions with commentaries; for the "two-elements" approach to identifying customary international law through both State practice and *opinio juris*; and for examining the relationship between customary international law and other sources of international law, including treaty law and general principles of law, as well as widespread interest in considering regional customary international law. Following informal consultations on the title of the topic and on the consideration of *jus cogens* within the scope of the topic, consensus was reached to change the title to "Identification of customary international law" in English and "*La détermination du droit international coutumier*" in French, which was endorsed by the Commission.

Provisional application of treaties

The Commission [A/68/10] considered the first report on the provisional application of treaties [A/CN.4/664] by Special Rapporteur Juan Manuel Gómez-Robledo (Mexico), addressing the purposes and usefulness of provisional application, its legal regime and the future workplan. The report sought to establish, in general terms, the principal legal issues that arose in the context of the provisional application of treaties by considering doctrinal approaches to the topic and briefly reviewing the existing State practice. The Commission also had before it a memorandum [A/CN.4/658] prepared by the Secretariat pursuant to a Commission's 2012 request [YUN 2012, p. 1296], which traced the negotiating history of article 25 of the 1969 Vienna Convention on the Law of Treaties [YUN 1969, p. 730] both in the Commission and at the Vienna Conference on the Law of Treaties of 1968–1969 [YUN 1968, p. 843], and included a brief analysis of some of the substantive issues raised during its consideration.

The debate revolved around the purpose of the provisional application of treaties, and the elaboration of specific issues to be considered in the future reports of the Special Rapporteur, who explained that the object of his preliminary report was to establish the main parameters of provisional application in order to encourage greater recourse to it by States. The 1969 Vienna Convention was the logical point of departure. He indicated a provisional preference for not considering the question of the provisional application of treaties by international organizations. The Special Rapporteur also pointed out that "provisional entry into force" and "provisional application" represented two distinct legal concepts and recalled that the provisional application of a treaty gave rise to the same obligations which would arise upon the entry into force of the treaty, extending beyond the obligation not to defeat the object and purpose of a treaty prior to its entry into force. He pointed to the relevance of the principle of *pacta sunt servanda* as reflected in article 26 of the Vienna Convention, and suggested that the legal regime of provisional application could be envisaged expressly in a treaty, or provided for in a separate agreement between the parties; that States could express their intention to provisionally apply a treaty either expressly or tacitly; and that termination of provisional application could be undertaken unilaterally or by agreement between the parties.

Views were expressed that it was inappropriate for the Commission to seek to promote the provisional application of treaties, which could discourage their ratification; it was not the task of the Commission to encourage or discourage recourse to provisional application, as States were free to decide to provisionally apply a treaty or not. At the same time, the significance of provisional application was confirmed by its frequent use by States.

The Special Rapporteur concluded that the Commission should be guided by the practice of States during the negotiation, implementation and interpretation of treaties being provisionally applied, with the objective of providing greater clarity to States when negotiating and implementing provisional application clauses; that the question of the customary international law character of the provisional application merited consideration in the situation where two or more States seeking to provisionally apply a treaty were not parties to the Vienna Convention and no separate agreement existed; and that the development of guidelines with commentaries would be an appropriate outcome of the consideration of the topic.

Protection of the environment in relation to armed conflict

Further to its 2011 decision on its long-term programme of work [YUN 2011, p. 1267], the Commission [A/68/10] included the topic of protection of the en-

vironment in relation to armed conflict in its work programme and appointed Marie G. Jacobsson (Sweden) as Special Rapporteur. On 30 July, ILC took note of the Special Rapporteur's oral report on the informal consultations with ILC members concerning the scope of the topic, methodology, possible outcome of the Commission's work, as well as a number of substantive issues.

The discussions during the informal consultations revolved around her proposals to address the topic through a temporal perspective rather than from the perspective of various areas of international law, such as international environmental law, the law of armed conflict and international human rights law; to address legal measures taken to protect the environment before, during and after an armed conflict, which would allow the Commission to identify concrete legal issues arising at the different stages relating to an armed conflict; to focus on obligations of relevance to a potential armed conflict (Phase I) and on post-conflict measures (Phase III), with lower priority given to the armed conflict (Phase II) during which the laws of war apply; to concentrate the work on Phase II on non-international armed conflicts; and to exclude the effect of particular weapons from the focus of the topic.

The Special Rapporteur also proposed a three-year workplan, and asked the Commission to request from States examples of when international environmental law, including regional and bilateral treaties, had continued to apply in times of international or non-international armed conflict.

Obligation to extradite or prosecute

The Commission [A/68/10] reconstituted an open-ended Working Group on the obligation to extradite or prosecute (*aut dedere aut judicare*), which continued the evaluation of work on the topic, particularly in light of the ICJ Judgment of 20 July 2012 in the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* [YUN 2012, p. 1260].

The Working Group exchanged views on the basis of the 2010 survey [YUN 2010, p. 1325] by the Secretariat, examining a typology of provisions in the relevant multilateral instruments and the preparatory work of certain key conventions that had served as models in the field. The Group considered that when drafting treaties, States could decide for themselves as to which conventional formula on the obligation to extradite or prosecute best suited their objective, due to the diversity in the formulation, content and scope of the obligation to extradite or prosecute in conventional practice. It observed, however, that there were important gaps in the present conventional regime governing the obligation to extradite or prosecute, notably in relation to most crimes against humanity, war crimes other than grave breaches and war crimes in non-international armed conflict.

Members analysed various aspects of the ICJ Judgment in the case *Belgium v. Senegal*, concerning in particular basic elements of the obligation to extradite or prosecute to be included in national legislation; establishment of the necessary jurisdiction; delay in enacting legislation; obligation to investigate; obligation to prosecute; obligation to extradite; compliance with object and purpose; temporal scope of the obligation; consequences of non-compliance; and relationship between the obligation and the alternative of surrendering the suspect to a competent international criminal tribunal (the "third alternative").

On 31 July, the Commission took note of the report of the Working Group.

Most-favoured-nation clause

The Commission reconstituted the Study Group on the Most-Favoured-Nation (MFN) clause [A/68/10], which continued examining the various factors that seemed to influence investment tribunals in interpreting MFN clauses, based on contemporary practice and jurisprudence. The Group exchanged further views on the broad outlines of its final report and recalled that it had previously identified the need to study further the question of MFN in relation to trade in services and investment agreements, the relationship between the MFN clause and regional trade agreements, as well as the relationship between MFN, fair and equitable treatment, and national treatment standards. All those aspects would continue to be monitored by the Study Group as its work progressed. The Group was at the same time mindful that it should not overly broaden the scope of its work.

The Commission took note of the Study Group's report on 31 July.

Protection of the atmosphere

Further to its 2011 decision on its long-term programme of work [YUN 2011, p. 1267], the Commission [A/68/10], on 9 August, included the topic of protection of the atmosphere in its work programme and appointed Shinya Murase (Japan) as Special Rapporteur. The topic was included on the understanding that the Special Rapporteur's work would not interfere with relevant political negotiations, including on climate change, ozone depletion, and long-range transboundary air pollution; that the topic would not deal with, but would also be without prejudice to, questions such as liability of States and their nationals, the polluter-pays principle, the precautionary principle, common but differentiated responsibilities, and the transfer of funds and technology to developing countries, including intellectual property rights; that it would also not deal with specific substances, such as black carbon, tropospheric ozone and other dual-impact substances,

which were the subject of negotiations among States, and would not seek to "fill" gaps in the treaty regimes; that questions relating to outer space, including its delimitation, were not part of the topic; and that the outcome of the work on the topic would be draft guidelines that would not seek to impose on current treaty regimes legal rules or legal principles not already contained therein.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/464], adopted **resolution 68/112** without vote [agenda item 81].

Report of the International Law Commission on the work of its sixty-fifth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its sixty-fifth session,

Emphasizing the importance of furthering the progressive development and codification of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development and codification of international law,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recalling also the role of Member States in submitting proposals for new topics for the consideration of the International Law Commission, and noting in this regard the recommendation of the Commission that such proposals be accompanied by a statement of reasons,

Reaffirming the importance for the successful work of the International Law Commission of the information provided by Member States concerning their views and practice,

Recognizing the importance of the work of the special rapporteurs of the International Law Commission,

Welcoming the holding of the International Law Seminar, which in 2014 will commemorate its fiftieth anniversary, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Acknowledging the importance of facilitating the timely publication of the *Yearbook of the International Law Commission* and of eliminating the backlog,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in General Assembly resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its sixty-fifth session;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its sixty-fifth session;

3. *Recommends* that the International Law Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the Sixth Committee;

4. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects of the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report, regarding:

(*a*) Immunity of State officials from foreign criminal jurisdiction;

(*b*) Formation and evidence of customary international law;

(*c*) Provisional application of treaties;

(*d*) Protection of the environment in relation to armed conflicts;

5. *Also draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by 1 January 2014 on the draft articles and commentaries on the topic "Expulsion of aliens" adopted on first reading by the Commission at its sixty-fourth session;

6. *Takes note* of the decision of the International Law Commission to include the topics "Protection of the environment in relation to armed conflicts" and "Protection of the atmosphere" in its programme of work, and encourages the Commission to continue the examination of the topics that are in its long-term programme of work;

7. *Invites* the International Law Commission to continue to give priority to the topics "Immunity of State officials from foreign criminal jurisdiction" and "The obligation to extradite or prosecute (*aut dedere aut judicare*)";

8. *Takes note* of paragraphs 169 and 170 of the report of the International Law Commission, and notes in particular the inclusion of the topic "Crimes against humanity" in the long-term programme of work of the Commission;

9. *Also takes note* of paragraph 181 of the report of the International Law Commission, and requests the Secretary-General to continue his efforts to identify concrete options for support for the work of special rapporteurs, additional to those provided under General Assembly resolution 56/272 of 27 March 2002;

10. *Welcomes* the efforts of the International Law Commission to improve its methods of work, and encourages the Commission to continue this practice;

11. *Decides* to revert to the consideration of the recommendation contained in paragraph 388 of the report of the International Law Commission on the work of its sixty-third session during the sixty-ninth session of the General Assembly;

12. *Invites* the International Law Commission to continue to take measures to enhance its efficiency and productivity and to consider making proposals to Member States to that end;

13. *Encourages* the International Law Commission to continue to take cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work;

14. *Takes note* of paragraph 192 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 5 May to 6 June and from 7 July to 8 August 2014;

15. *Stresses* the desirability of further enhancing the dialogue between the International Law Commission and the Sixth Committee at the sixty-ninth session of the General Assembly, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-ninth session of the Assembly;

16. *Encourages* delegations, during the debate on the report of the International Law Commission, to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

17. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

18. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

19. *Takes note* of paragraphs 193 to 198 of the report of the International Law Commission with regard to cooperation and interaction with other bodies, and encourages the Commission to continue the implementation of articles 16 (*e*), 25 and 26, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

20. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

21. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission, including in the preparation of memorandums and studies on topics on the agenda of the Commission;

22. *Also reaffirms* its previous decisions concerning the documentation and summary records of the International Law Commission;

23. *Welcomes* the institutionalization of the practice of the Secretariat to include the provisional summary records on the website relating to the work of the International Law Commission;

24. *Stresses* the need to expedite the preparation of the summary records of the International Law Commission, and welcomes the experimental measures taken to streamline the processing of summary records during the sixty-fifth session of the Commission;

25. *Takes note* of paragraph 188 of the report of the International Law Commission, stresses the unique value of the *Yearbook of the International Law Commission*, and requests the Secretary-General to ensure its timely publication in all official languages;

26. *Further takes note* of paragraph 188 of the report of the International Law Commission, expresses its appreciation to Governments that have made voluntary contributions to the trust fund on the backlog relating to the *Yearbook of the International Law Commission*, and encourages further contributions to the trust fund;

27. *Takes note* of paragraph 189 of the report of the International Law Commission, expresses its satisfaction with the remarkable progress achieved in the past few years in reducing the backlog of the *Yearbook of the International Law Commission* in all six languages, and welcomes the efforts made by the Division of Conference Management of the United Nations Office at Geneva, especially its Editing Section, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog;

28. *Further takes note* of paragraph 189 of the report of the International Law Commission, encourages the Division of Conference Management to provide continuous necessary support to the Editing Section in advancing the *Yearbook of the International Law Commission*, and requests that updates on progress made in this respect be provided to the Commission on a regular basis;

29. *Takes note* of paragraphs 184 and 185 of the report of the International Law Commission, underlines the importance of the publications of the Codification Division to the work of the Commission, and requests the Secretary-General to continue to publish the *Work of the International Law Commission* in all six official languages at the beginning of each quinquennium, the *Reports of International Arbitral Awards* in English or French and the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice* in all six official languages every five years;

30. *Welcomes* the continuous efforts of the Codification Division to maintain and improve the website relating to the work of the International Law Commission;

31. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants representing the principal legal systems of the world, including in particular those from developing countries, will be given the opportunity to attend

the Seminar, as well as delegates to the Sixth Committee, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

32. *Takes note with appreciation* of paragraphs 216 to 218 of the report of the International Law Commission and, in particular, the decision of the Commission to organize a commemoration of the fiftieth anniversary of the International Law Seminar;

33. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue to consider ways to improve the structure and content of the Seminar;

34. *Underlines* the importance of the records and topical summary of the debate in the Sixth Committee for the deliberations of the International Law Commission, and in this regard requests the Secretary-General to forward to the Commission, for its attention, the records of the debate on the report of the Commission at the sixty-eighth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

35. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

36. *Also requests* the Secretariat to make the complete report of the International Law Commission available as soon as possible after the conclusion of the session of the Commission for the consideration of Member States with due anticipation and no later than the prescribed time limit for reports in the General Assembly;

37. *Encourages* the International Law Commission to continue to consider ways in which specific issues on which the views of Governments would be of particular interest to the Commission could be framed so as to help Governments to have a better appreciation of the issues on which responses are required;

38. *Recommends* that the debate on the report of the International Law Commission at the sixty-ninth session of the General Assembly commence on 27 October 2014.

International State relations and international law

Principle of universal jurisdiction

In response to General Assembly resolution 67/98 [YUN 2012, p. 1300], the Secretary-General issued a June report [A/68/113] on the scope and application of the principle of universal jurisdiction, on the basis of information and observations received from nine Member States and three observers.

Working Group. Pursuant to resolution 67/98, the Sixth Committee, on 7 October, established a working group to discuss the scope and application of the principle of universal jurisdiction [A/68/469]. The Working Group held three meetings (23, 24 and 25 October). The Chair of the Working Group delivered an oral report to the Sixth Committee on 4 November [A/C.6/68/SR.23].

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/469], adopted **resolution 68/117** without vote [agenda item 86].

The scope and application of the principle of universal jurisdiction

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations, to international law and to an international order based on the rule of law, which is essential for peaceful coexistence and cooperation among States,

Recalling its resolutions 64/117 of 16 December 2009, 65/33 of 6 December 2010, 66/103 of 9 December 2011 and 67/98 of 14 December 2012,

Taking into account the comments and observations of Governments and observers and the discussions held in the Sixth Committee at the sixty-fourth to sixty-eighth sessions of the General Assembly on the scope and application of universal jurisdiction,

Recognizing the diversity of views expressed by States and the need for further consideration towards a better understanding of the scope and application of universal jurisdiction,

Reiterating its commitment to fighting impunity, and noting the views expressed by States that the legitimacy and credibility of the use of universal jurisdiction are best ensured by its responsible and judicious application consistent with international law,

1. *Takes note with appreciation* of the report of the Secretary-General prepared on the basis of comments and observations of Governments and relevant observers;

2. *Decides* that the Sixth Committee shall continue its consideration of the scope and application of universal jurisdiction, without prejudice to the consideration of this topic and related issues in other forums of the United Nations, and for this purpose decides to establish, at its sixty-ninth session, a working group of the Sixth Committee to continue to undertake a thorough discussion of the scope and application of universal jurisdiction;

3. *Invites* Member States and relevant observers, as appropriate, to submit, before 30 April 2014, information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties and their national legal rules and judicial practice, and requests the Secretary-General to prepare and submit to the General Assembly at its sixty-ninth session a report based on such information and observations;

4. *Decides* that the working group shall be open to all Member States and that relevant observers to the General Assembly will be invited to participate in the work of the working group;

5. *Also decides* to include in the provisional agenda of its sixty-ninth session the item entitled "The scope and application of the principle of universal jurisdiction".

Responsibility of States for internationally wrongful acts

In 2001, the International Law Commission adopted articles on the responsibility of States for internationally wrongful acts [YUN 2001, p. 1218]. The General Assembly took note of them by resolution 56/83 [ibid.].

Pursuant to Assembly resolution 65/19 [YUN 2010, p. 1329], the Secretary-General in April submitted a compilation of decisions of international courts, tribunals and other bodies concerning the responsibility of States for internationally wrongful acts [A/68/72]. Pursuant to the same resolution, the Secretary-General in March issued a report with a later addendum [A/68/69 & Add.1] containing comments and information on the topic received from seven Governments.

Working Group. Pursuant to resolution 65/19, the Sixth Committee, on 7 October, established a working group to examine the possibility of negotiating an international convention, or any other appropriate action, on the basis of the articles on responsibility of States for internationally wrongful acts [A/68/460]. The Working Group held one meeting, on 21 October. The Chair of the Working Group delivered an oral report to the Sixth Committee on 8 November [A/C.6/68/SR.28].

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/460], adopted **resolution 68/104** without vote [agenda item 77].

Responsibility of States for internationally wrongful acts

The General Assembly,

Recalling its resolution 56/83 of 12 December 2001, the annex to which contains the text of the articles on responsibility of States for internationally wrongful acts, and its resolutions 59/35 of 2 December 2004, 62/61 of 6 December 2007 and 65/19 of 6 December 2010 commending the articles to the attention of Governments,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of responsibility of States for internationally wrongful acts is of major importance in relations between States,

Taking into account the comments and observations of Governments and the discussions held in the Sixth Committee, at the fifty-sixth, fifty-ninth, sixty-second, sixty-fifth and sixty-eighth sessions of the General Assembly, on responsibility of States for internationally wrongful acts,

Noting with appreciation the compilation of decisions of international courts, tribunals and other bodies referring to the articles, prepared by the Secretary-General,

1. *Acknowledges* that a growing number of decisions of international courts, tribunals and other bodies refer to the articles on responsibility of States for internationally wrongful acts;

2. *Continues to acknowledge* the importance and usefulness of the articles, and commends them once again to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action;

3. *Requests* the Secretary-General to invite Governments to submit further written comments on any future action regarding the articles;

4. *Also requests* the Secretary-General to update the compilation of decisions of international courts, tribunals and other bodies referring to the articles and to invite Governments to submit information on their practice in this regard, and further requests the Secretary-General to submit this material well in advance of its seventy-first session;

5. *Decides* to include in the provisional agenda of its seventy-first session the item entitled "Responsibility of States for internationally wrongful acts" and to further examine, within the framework of a working group of the Sixth Committee and with a view to taking a decision, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles.

International liability

In accordance with General Assembly resolution 65/28 [YUN 2010, p. 1329], the Secretary-General in June submitted a compilation [A/68/94] of decisions of international courts, tribunals and other bodies concerning prevention of transboundary harm from hazardous activities [YUN 2007, p. 1359] and allocation of loss in the case of such harm [YUN 2006, p. 1511]. Pursuant to the same resolution, the Secretary-General in July issued a report [A/68/170] containing comments and observations on the topic received from seven Governments.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/466], adopted **resolution 68/114** without vote [agenda item 83].

Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

The General Assembly,

Recalling its resolutions 56/82 of 12 December 2001, 61/36 of 4 December 2006, the annex to which contains the text of the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, and 62/68 of 6 December 2007, the annex to which contains the text of the articles on prevention of transboundary harm from hazardous activities, as well as 65/28 of 6 December 2010,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the questions of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm are of major importance in relations between States,

Taking into account the views and comments expressed in the Sixth Committee at previous sessions and at the current session of the General Assembly,

1. *Commends once again* the articles on prevention of transboundary harm from hazardous activities, the text of which is annexed to General Assembly resolution 62/68, to the attention of Governments, without prejudice to any future action, as recommended by the International Law Commission regarding the articles;

2. *Also commends once again* the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, the text of which is annexed to General Assembly resolution 61/36, to the attention of Governments, without prejudice to any future action, as recommended by the Commission regarding the principles;

3. *Invites* Governments to submit further comments on any future action, in particular on the form of the respective articles and principles, bearing in mind the recommendations made by the Commission in that regard, including in relation to the elaboration of a convention on the basis of the articles, as well as on any practice in relation to the application of the articles and principles;

4. *Requests* the Secretary-General to submit a compilation of decisions of international courts, tribunals and other bodies referring to the articles and the principles;

5. *Decides* to include in the provisional agenda of its seventy-first session the item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm".

Law of transboundary aquifers

In response to General Assembly resolution 66/104 [YUN 2011, p. 1283], the Secretary-General transmitted to the Assembly a July report [A/68/172] on the law of transboundary aquifers. The report contained the comments and observations from 11 Governments on the draft articles on the law of transboundary aquifers. The Sixth Committee considered the item on 22 October [A/C.6/68/SR.16] and 15 November [A/C.6/68/SR.29]. ILC had submitted the draft articles to the Assembly in 2008 [YUN 2008, p. 1433], recommending that the States concerned make arrangements for the management of their transboundary aquifers on the basis of the principles enunciated in the articles and consider at a later stage the elaboration of a convention based upon them.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/470], adopted **resolution 68/118** without vote [agenda item 87].

The law of transboundary aquifers

The General Assembly,

Recalling its resolutions 63/124 of 11 December 2008 and 66/104 of 9 December 2011,

Noting the major importance of the subject of the law of transboundary aquifers in the relations of States and the need for reasonable and proper management of transboundary aquifers, a vitally important natural resource, through international cooperation for present and future generations,

Noting also that the provisions of the draft articles on the law of transboundary aquifers have been taken into account in relevant instruments such as the Guarani Aquifer Agreement signed by Argentina, Brazil, Paraguay and Uruguay on 2 August 2010, and the Model Provisions on Transboundary Groundwaters adopted by the sixth Meeting of the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes on 29 November 2012,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting the comments of Governments and the discussion held in the Sixth Committee at the sixty-third, sixty-sixth and sixty-eighth sessions of the General Assembly on this topic,

1. *Commends* to the attention of Governments the draft articles on the law of transboundary aquifers annexed to the present resolution as guidance for bilateral or regional agreements and arrangements for the proper management of transboundary aquifers;

2. *Encourages* the International Hydrological Programme of the United Nations Educational, Scientific and Cultural Organization to continue its contribution by offering further scientific and technical assistance to the States concerned;

3. *Decides* to include in the provisional agenda of its seventy-first session the item entitled "The law of transboundary aquifers".

ANNEX

The law of transboundary aquifers

...

Conscious of the importance for humankind of life-supporting groundwater resources in all regions of the world,

Bearing in mind Article 13, paragraph 1 (*a*), of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

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

Reaffirming the principles and recommendations adopted by the United Nations Conference on Environment and Development of 1992 in the Rio Declaration on Environment and Development and Agenda 21,

Taking into account increasing demands for freshwater and the need to protect groundwater resources,

Mindful of the particular problems posed by the vulnerability of aquifers to pollution,

Convinced of the need to ensure the development, utilization, conservation, management and protection of groundwater resources in the context of the promotion of the optimal and sustainable development of water resources for present and future generations,

Affirming the importance of international cooperation and good-neighbourliness in this field,

Emphasizing the need to take into account the special situation of developing countries,

Recognizing the necessity to promote international cooperation,

...

Part one

Introduction

Article 1

Scope

The present articles apply to:

(*a*) Utilization of transboundary aquifers or aquifer systems;

(*b*) Other activities that have or are likely to have an impact upon such aquifers or aquifer systems; and

(*c*) Measures for the protection, preservation and management of such aquifers or aquifer systems.

Article 2

Use of terms

For the purposes of the present articles:

(*a*) "aquifer" means a permeable water-bearing geological formation underlain by a less permeable layer and the water contained in the saturated zone of the formation;

(*b*) "aquifer system" means a series of two or more aquifers that are hydraulically connected;

(*c*) "transboundary aquifer" or "transboundary aquifer system" means, respectively, an aquifer or aquifer system, parts of which are situated in different States;

(*d*) "aquifer State" means a State in whose territory any part of a transboundary aquifer or aquifer system is situated;

(*e*) "utilization of transboundary aquifers or aquifer systems" includes extraction of water, heat and minerals, and storage and disposal of any substance;

(*f*) "recharging aquifer" means an aquifer that receives a non-negligible amount of contemporary water recharge;

(*g*) "recharge zone" means the zone which contributes water to an aquifer, consisting of the catchment area of rainfall water and the area where such water flows to an aquifer by run-off on the ground and infiltration through soil;

(*h*) "discharge zone" means the zone where water originating from an aquifer flows to its outlets, such as a watercourse, a lake, an oasis, a wetland or an ocean.

Part two

General principles

Article 3

Sovereignty of aquifer States

Each aquifer State has sovereignty over the portion of a transboundary aquifer or aquifer system located within its territory. It shall exercise its sovereignty in accordance with international law and the present articles.

Article 4

Equitable and reasonable utilization

Aquifer States shall utilize transboundary aquifers or aquifer systems according to the principle of equitable and reasonable utilization, as follows:

(*a*) They shall utilize transboundary aquifers or aquifer systems in a manner that is consistent with the equitable and reasonable accrual of benefits therefrom to the aquifer States concerned;

(*b*) They shall aim at maximizing the long-term benefits derived from the use of water contained therein;

(*c*) They shall establish individually or jointly a comprehensive utilization plan, taking into account present and future needs of, and alternative water sources for, the aquifer States; and

(*d*) They shall not utilize a recharging transboundary aquifer or aquifer system at a level that would prevent continuance of its effective functioning.

Article 5

Factors relevant to equitable and reasonable utilization

1. Utilization of a transboundary aquifer or aquifer system in an equitable and reasonable manner within the meaning of article 4 requires taking into account all relevant factors, including:

(*a*) The population dependent on the aquifer or aquifer system in each aquifer State;

(*b*) The social, economic and other needs, present and future, of the aquifer States concerned;

(*c*) The natural characteristics of the aquifer or aquifer system;

(*d*) The contribution to the formation and recharge of the aquifer or aquifer system;

(*e*) The existing and potential utilization of the aquifer or aquifer system;

(*f*) The actual and potential effects of the utilization of the aquifer or aquifer system in one aquifer State on other aquifer States concerned;

(*g*) The availability of alternatives to a particular existing and planned utilization of the aquifer or aquifer system;

(*h*) The development, protection and conservation of the aquifer or aquifer system and the costs of measures to be taken to that effect;

(*i*) The role of the aquifer or aquifer system in the related ecosystem.

2. The weight to be given to each factor is to be determined by its importance with regard to a specific transboundary aquifer or aquifer system in comparison with that of other relevant factors. In determining what is equitable and reasonable utilization, all relevant factors are to be considered together and a conclusion reached on the basis of all the factors. However, in weighing different kinds of utilization of a transboundary aquifer or aquifer system, special regard shall be given to vital human needs.

Article 6

Obligation not to cause significant harm

1. Aquifer States shall, in utilizing transboundary aquifers or aquifer systems in their territories, take all appropriate measures to prevent the causing of significant harm to other aquifer States or other States in whose territory a discharge zone is located.

2. Aquifer States shall, in undertaking activities other than utilization of a transboundary aquifer or aquifer system that have, or are likely to have, an impact upon that transboundary aquifer or aquifer system, take all appropriate measures to prevent the causing of significant harm

through that aquifer or aquifer system to other aquifer States or other States in whose territory a discharge zone is located.

3. Where significant harm nevertheless is caused to another aquifer State or a State in whose territory a discharge zone is located, the aquifer State whose activities cause such harm shall take, in consultation with the affected State, all appropriate response measures to eliminate or mitigate such harm, having due regard for the provisions of articles 4 and 5.

Article 7

General obligation to cooperate

1. Aquifer States shall cooperate on the basis of sovereign equality, territorial integrity, sustainable development, mutual benefit and good faith in order to attain equitable and reasonable utilization and appropriate protection of their transboundary aquifers or aquifer systems.

2. For the purpose of paragraph 1, aquifer States should establish joint mechanisms of cooperation.

Article 8

Regular exchange of data and information

1. Pursuant to article 7, aquifer States shall, on a regular basis, exchange readily available data and information on the condition of their transboundary aquifers or aquifer systems, in particular of a geological, hydrogeological, hydrological, meteorological and ecological nature and related to the hydrochemistry of the aquifers or aquifer systems, as well as related forecasts.

2. Where knowledge about the nature and extent of a transboundary aquifer or aquifer system is inadequate, aquifer States concerned shall employ their best efforts to collect and generate more complete data and information relating to such aquifer or aquifer system, taking into account current practices and standards. They shall take such action individually or jointly and, where appropriate, together with or through international organizations.

3. If an aquifer State is requested by another aquifer State to provide data and information relating to an aquifer or aquifer system that are not readily available, it shall employ its best efforts to comply with the request. The requested State may condition its compliance upon payment by the requesting State of the reasonable costs of collecting and, where appropriate, processing such data or information.

4. Aquifer States shall, where appropriate, employ their best efforts to collect and process data and information in a manner that facilitates their utilization by the other aquifer States to which such data and information are communicated.

Article 9

Bilateral and regional agreements and arrangements

For the purpose of managing a particular transboundary aquifer or aquifer system, aquifer States are encouraged to enter into bilateral or regional agreements or arrangements among themselves. Such agreements or arrangements may be entered into with respect to an entire aquifer or aquifer system or any part thereof or a particular project, programme or utilization except insofar as an agreement or arrangement adversely affects, to a significant extent, the utilization by one or more other aquifer States of the water in that aquifer or aquifer system, without their express consent.

Part three

Protection, preservation and management

Article 10

Protection and preservation of ecosystems

Aquifer States shall take all appropriate measures to protect and preserve ecosystems within, or dependent upon, their transboundary aquifers or aquifer systems, including measures to ensure that the quality and quantity of water retained in an aquifer or aquifer system, as well as that released through its discharge zones, are sufficient to protect and preserve such ecosystems.

Article 11

Recharge and discharge zones

1. Aquifer States shall identify the recharge and discharge zones of transboundary aquifers or aquifer systems that exist within their territory. They shall take appropriate measures to prevent and minimize detrimental impacts on the recharge and discharge processes.

2. All States in whose territory a recharge or discharge zone is located, in whole or in part, and which are not aquifer States with regard to that aquifer or aquifer system, shall cooperate with the aquifer States to protect the aquifer or aquifer system and related ecosystems.

Article 12

Prevention, reduction and control of pollution

Aquifer States shall, individually and, where appropriate, jointly, prevent, reduce and control pollution of their transboundary aquifers or aquifer systems, including through the recharge process, that may cause significant harm to other aquifer States. Aquifer States shall take a precautionary approach in view of uncertainty about the nature and extent of a transboundary aquifer or aquifer system and of its vulnerability to pollution.

Article 13

Monitoring

1. Aquifer States shall monitor their transboundary aquifers or aquifer systems. They shall, wherever possible, carry out these monitoring activities jointly with other aquifer States concerned and, where appropriate, in collaboration with competent international organizations. Where monitoring activities cannot be carried out jointly, the aquifer States shall exchange the monitored data among themselves.

2. Aquifer States shall use agreed or harmonized standards and methodology for monitoring their transboundary aquifers or aquifer systems. They should identify key parameters that they will monitor based on an agreed conceptual model of the aquifers or aquifer systems. These parameters should include parameters on the condition of the aquifer or aquifer system as listed in article 8, paragraph 1, and also on the utilization of the aquifers or aquifer systems.

Article 14

Management

Aquifer States shall establish and implement plans for the proper management of their transboundary aquifers or aquifer systems. They shall, at the request of any of them, enter into consultations concerning the management of a transboundary aquifer or aquifer system. A joint management mechanism shall be established, wherever appropriate.

Article 15

Planned activities

1. When a State has reasonable grounds for believing that a particular planned activity in its territory may affect a transboundary aquifer or aquifer system and thereby may have a significant adverse effect upon another State, it shall, as far as practicable, assess the possible effects of such activity.

2. Before a State implements or permits the implementation of planned activities which may affect a transboundary aquifer or aquifer system and thereby may have a significant adverse effect upon another State, it shall provide that State with timely notification thereof. Such notification shall be accompanied by available technical data and information, including any environmental impact assessment, in order to enable the notified State to evaluate the possible effects of the planned activities.

3. If the notifying and the notified States disagree on the possible effect of the planned activities, they shall enter into consultations and, if necessary, negotiations with a view to arriving at an equitable resolution of the situation. They may utilize an independent fact-finding body to make an impartial assessment of the effect of the planned activities.

Part four

Miscellaneous provisions

Article 16

Technical cooperation with developing States

States shall, directly or through competent international organizations, promote scientific, educational, technical, legal and other cooperation with developing States for the protection and management of transboundary aquifers or aquifer systems, including, inter alia:

(*a*) Strengthening their capacity-building in scientific, technical and legal fields;

(*b*) Facilitating their participation in relevant international programmes;

(*c*) Supplying them with necessary equipment and facilities;

(*d*) Enhancing their capacity to manufacture such equipment;

(*e*) Providing advice on and developing facilities for research, monitoring, educational and other programmes;

(*f*) Providing advice on and developing facilities for minimizing the detrimental effects of major activities affecting their transboundary aquifer or aquifer system;

(*g*) Providing advice in the preparation of environmental impact assessments;

(*h*) Supporting the exchange of technical knowledge and experience among developing States with a view to strengthening cooperation among them in managing the transboundary aquifer or aquifer system.

Article 17

Emergency situations

1. For the purpose of the present article, "emergency" means a situation, resulting suddenly from natural causes or from human conduct, that affects a transboundary aquifer or aquifer system and poses an imminent threat of causing serious harm to aquifer States or other States.

2. The State within whose territory the emergency originates shall:

(*a*) Without delay and by the most expeditious means available, notify other potentially affected States and competent international organizations of the emergency;

(*b*) In cooperation with potentially affected States and, where appropriate, competent international organizations, immediately take all practicable measures necessitated by the circumstances to prevent, mitigate and eliminate any harmful effect of the emergency.

3. Where an emergency poses a threat to vital human needs, aquifer States, notwithstanding articles 4 and 6, may take measures that are strictly necessary to meet such needs.

4. States shall provide scientific, technical, logistical and other cooperation to other States experiencing an emergency. Cooperation may include coordination of international emergency actions and communications, making available emergency response personnel, emergency response equipment and supplies, scientific and technical expertise and humanitarian assistance.

Article 18

Protection in time of armed conflict

Transboundary aquifers or aquifer systems and related installations, facilities and other works shall enjoy the protection accorded by the principles and rules of international law applicable in international and non-international armed conflict and shall not be used in violation of those principles and rules.

Article 19

Data and information vital to national defence or security

Nothing in the present articles obliges a State to provide data or information vital to its national defence or security. Nevertheless, that State shall cooperate in good faith with other States with a view to providing as much information as possible under the circumstances.

Law of treaties

The 1969 Vienna Convention on the Law of Treaties [YUN 1969, p. 730], which entered into force in 1980 [YUN 1980, p. 1141], had 113 parties as at 31 December 2013, with the accession of Timor-Leste on 8 January.

Reservation to treaties

The International Law Commission's guidelines and commentaries constituting the Guide to Practice on Reservations to Treaties, adopted in 2011 [YUN 2011, p. 1268], included an introduction and an annex setting out conclusions and a recommendation from the Commission on the reservations dialogue and on mechanisms of assistance in relation to reservations. The Commission recommended that the General Assembly take note of the Guide and ensure its dissemination. The Sixth Committee considered the item on 30 October [A/C.6/68/SR.19] and 15 November [A/C.6/68/SR.29].

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee

[A/68/464], adopted **resolution 68/111** without vote [agenda item 81].

Reservations to treaties

The General Assembly,

Having considered chapter IV of the report of the International Law Commission on the work of its sixty-third session, which contains the Guide to Practice on Reservations to Treaties, including an annex on the reservations dialogue,

Noting that the Commission recommended that the General Assembly take note of the Guide to Practice and ensure its widest possible dissemination,

Taking note of the recommendation of the Commission contained in paragraph 73 of its report,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of reservations to treaties is of major importance in the relations of States,

Recognizing the role that reservations to treaties may play in achieving a satisfactory balance between the objectives of safeguarding the integrity of multilateral treaties and facilitating wide participation therein,

1. *Welcomes* the successful completion of the work of the International Law Commission on the subject of reservations to treaties and its adoption of the Guide to Practice on Reservations to Treaties, including the guidelines and a detailed commentary thereto;

2. *Expresses its appreciation* to the Commission for its continuing contribution to the codification and progressive development of international law;

3. *Takes note* of the Guide to Practice, presented by the Commission, including the guidelines, the text of which is annexed to the present resolution, and encourages its widest possible dissemination.

Annex

Text of the guidelines constituting the Guide to Practice on Reservations to Treaties

1. Definitions

1.1. Definition of reservations

1. "Reservation" means a unilateral statement, however phrased or named, made by a State or an international organization when signing, ratifying, formally confirming, accepting, approving or acceding to a treaty, or by a State when making a notification of succession to a treaty, whereby the State or organization purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State or to that international organization.

2. Paragraph 1 is to be interpreted as including reservations which purport to exclude or to modify the legal effect of certain provisions of a treaty, or of the treaty as a whole with respect to certain specific aspects, in their application to the State or to the international organization which formulates the reservation.

1.1.1. Statements purporting to limit the obligations of their author

A unilateral statement formulated by a State or an international organization at the time when that State or that organization expresses its consent to be bound by a treaty, by which its author purports to limit the obligations imposed on it by the treaty, constitutes a reservation.

1.1.2. Statements purporting to discharge an obligation by equivalent means

A unilateral statement formulated by a State or an international organization at the time when that State or that organization expresses its consent to be bound by a treaty, by which that State or that organization purports to discharge an obligation pursuant to the treaty in a manner different from, but considered by the author of the statement to be equivalent to, that imposed by the treaty, constitutes a reservation.

1.1.3. Reservations relating to the territorial application of the treaty

A unilateral statement by which a State purports to exclude the application of some provisions of a treaty, or of the treaty as a whole with respect to certain specific aspects, to a territory to which they would be applicable in the absence of such a statement constitutes a reservation.

1.1.4. Reservations formulated when extending the territorial application of a treaty

A unilateral statement by which a State, when extending the application of a treaty to a territory, purports to exclude or to modify the legal effect of certain provisions of the treaty in relation to that territory constitutes a reservation.

1.1.5. Reservations formulated jointly

The joint formulation of a reservation by several States or international organizations does not affect the unilateral character of that reservation.

1.1.6. Reservations formulated by virtue of clauses expressly authorizing the exclusion or the modification of certain provisions of a treaty

A unilateral statement made by a State or an international organization when that State or organization expresses its consent to be bound by a treaty, in accordance with a clause expressly authorizing the parties or some of them to exclude or to modify the legal effect of certain provisions of the treaty with regard to the party that has made the statement, constitutes a reservation expressly authorized by the treaty.

1.2. Definition of interpretative declarations

"Interpretative declaration" means a unilateral statement, however phrased or named, made by a State or an international organization, whereby that State or that organization purports to specify or clarify the meaning or scope of a treaty or of certain of its provisions.

1.2.1. Interpretative declarations formulated jointly

The joint formulation of an interpretative declaration by several States or international organizations does not affect the unilateral character of that interpretative declaration.

1.3. Distinction between reservations and interpretative declarations

The character of a unilateral statement as a reservation or as an interpretative declaration is determined by the legal effect that its author purports to produce.

1.3.1. Method of determining the distinction between reservations and interpretative declarations

To determine whether a unilateral statement formulated by a State or an international organization in respect of a treaty is a reservation or an interpretative declaration, the statement should be interpreted in good faith in accordance with the ordinary meaning to be given to its terms, with a view to identifying therefrom the intention of its author, in the light of the treaty to which it refers.

1.3.2. Phrasing and name

The phrasing or name of a unilateral statement provides an indication of the purported legal effect.

1.3.3. Formulation of a unilateral statement when a reservation is prohibited

When a treaty prohibits reservations to all or certain of its provisions, a unilateral statement formulated in respect of those provisions by a State or an international organization shall be presumed not to constitute a reservation. Such a statement nevertheless constitutes a reservation if it purports to exclude or modify the legal effect of certain provisions of the treaty, or of the treaty as a whole with respect to certain specific aspects, in their application to its author.

1.4. Conditional interpretative declarations

1. A conditional interpretative declaration is a unilateral statement formulated by a State or an international organization when signing, ratifying, formally confirming, accepting, approving or acceding to a treaty, or by a State when making a notification of succession to a treaty, whereby the State or international organization subjects its consent to be bound by the treaty to a specific interpretation of the treaty or of certain provisions thereof.

2. Conditional interpretative declarations are subject to the rules applicable to reservations.

1.5. Unilateral statements other than reservations and interpretative declarations

Unilateral statements formulated in relation to a treaty which are neither reservations nor interpretative declarations (including conditional interpretative declarations) are outside the scope of the present Guide to Practice.

1.5.1. Statements of non-recognition

A unilateral statement by which a State indicates that its participation in a treaty does not imply recognition of an entity which it does not recognize is outside the scope of the present Guide to Practice even if it purports to exclude the application of the treaty between the declaring State and the non-recognized entity.

1.5.2. Statements concerning modalities of implementation of a treaty at the internal level

A unilateral statement formulated by a State or an international organization whereby that State or that organization indicates the manner in which it intends to implement a treaty at the internal level, without affecting its rights and obligations towards the other contracting States or contracting organizations, is outside the scope of the present Guide to Practice.

1.5.3. Unilateral statements made under a clause providing for options

1. A unilateral statement made by a State or an international organization in accordance with a clause in a treaty permitting the parties to accept an obligation that is not otherwise imposed by the treaty, or permitting them to choose between two or more provisions of the treaty, is outside the scope of the present Guide to Practice.

2. A restriction or condition contained in a statement by which a State or an international organization accepts, by virtue of a clause in a treaty, an obligation that is not otherwise imposed by the treaty does not constitute a reservation.

1.6. Unilateral statements in respect of bilateral treaties

1.6.1. "Reservations" to bilateral treaties

A unilateral statement, however phrased or named, formulated by a State or an international organization after initialling or signature but prior to entry into force of a bilateral treaty, by which that State or that organization purports to obtain from the other party a modification of the provisions of the treaty, does not constitute a reservation within the meaning of the present Guide to Practice.

1.6.2. Interpretative declarations in respect of bilateral treaties

Guidelines 1.2 and 1.4 are applicable to interpretative declarations in respect of both multilateral and bilateral treaties.

1.6.3. Legal effect of acceptance of an interpretative declaration made in respect of a bilateral treaty by the other party

The interpretation resulting from an interpretative declaration made in respect of a bilateral treaty by a State or an international organization party to the treaty and accepted by the other party constitutes an authentic interpretation of that treaty.

1.7. Alternatives to reservations and interpretative declarations

1.7.1. Alternatives to reservations

In order to achieve results comparable to those effected by reservations, States or international organizations may also have recourse to alternative procedures, such as:

- the insertion in the treaty of a clause purporting to limit its scope or application;
- the conclusion of an agreement, under a specific provision of a treaty, by which two or more States or international organizations purport to exclude or modify the legal effect of certain provisions of the treaty as between themselves.

1.7.2. Alternatives to interpretative declarations

In order to specify or clarify the meaning or scope of a treaty or certain of its provisions, States or international organizations may also have recourse to procedures other than interpretative declarations, such as:

- the insertion in the treaty of provisions purporting to interpret the treaty;
- the conclusion of a supplementary agreement to the same end, simultaneously or subsequently to the conclusion of the treaty.

1.8. Scope of definitions

The definitions of unilateral statements included in the present Part are without prejudice to the validity and legal effects of such statements under the rules applicable to them.

2. Procedure

2.1. Form and notification of reservations

2.1.1. Form of reservations

A reservation must be formulated in writing.

2.1.2. Statement of reasons for reservations

A reservation should, to the extent possible, indicate the reasons why it is being formulated.

2.1.3. Representation for the purpose of formulating a reservation at the international level

1. Subject to the usual practices followed in international organizations which are depositaries of treaties, a person is considered as representing a State or an international organization for the purpose of formulating a reservation if:

(*a*) that person produces appropriate full powers for the purposes of adopting or authenticating the text of the treaty with regard to which the reservation is formulated or expressing the consent of the State or organization to be bound by the treaty; or

(*b*) it appears from practice or from other circumstances that it was the intention of the States and international organizations concerned to consider that person as representing the State or the international organization for such purposes without having to produce full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State for the purpose of formulating a reservation at the international level:

(*a*) Heads of State, Heads of Government and Ministers for Foreign Affairs;

(*b*) representatives accredited by States to an international conference, for the purpose of formulating a reservation to a treaty adopted at that conference;

(*c*) representatives accredited by States to an international organization or one of its organs, for the purpose of formulating a reservation to a treaty adopted in that organization or organ;

(*d*) heads of permanent missions to an international organization, for the purpose of formulating a reservation to a treaty between the accrediting States and that organization.

2.1.4. Absence of consequences at the international level of the violation of internal rules regarding the formulation of reservations

1. The competent authority and the procedure to be followed at the internal level for formulating a reservation are determined by the internal law of each State or the relevant rules of each international organization.

2. A State or an international organization may not invoke the fact that a reservation has been formulated in violation of a provision of the internal law of that State or the rules of that organization regarding competence and the procedure for formulating reservations for the purpose of invalidating the reservation.

2.1.5. Communication of reservations

1. A reservation must be communicated in writing to the contracting States and contracting organizations and other States and international organizations entitled to become parties to the treaty.

2. A reservation to a treaty in force which is the constituent instrument of an international organization must also be communicated to such organization.

2.1.6. Procedure for communication of reservations

1. Unless otherwise provided in the treaty or agreed by the contracting States and contracting organizations, the communication of a reservation to a treaty shall be transmitted:

(i) if there is no depositary, directly by the author of the reservation to the contracting States and contracting organizations and other States and international organizations entitled to become parties to the treaty; or

(ii) if there is a depositary, to the depositary, which shall notify the States and international organizations for which it is intended as soon as possible.

2. The communication of a reservation shall be considered as having been made with regard to a State or an international organization only upon receipt by that State or organization.

3. The communication of a reservation to a treaty by means other than a diplomatic note or depositary notification, such as electronic mail or facsimile, must be confirmed within an appropriate period of time by such a note or notification. In such case, the reservation is considered as having been formulated at the date of the initial communication.

2.1.7. Functions of depositaries

1. The depositary shall examine whether a reservation to a treaty formulated by a State or an international organization is in due and proper form and, if need be, bring the matter to the attention of the State or international organization concerned.

2. In the event of any difference appearing between a State or an international organization and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of:

(*a*) the signatory States and organizations and the contracting States and contracting organizations; or

(*b*) where appropriate, the competent organ of the international organization concerned.

2.2. Confirmation of reservations

2.2.1. Formal confirmation of reservations formulated when signing a treaty

If formulated when signing a treaty subject to ratification, act of formal confirmation, acceptance or approval, a reservation must be formally confirmed by the reserving State or international organization when expressing its consent to be bound by the treaty. In such a case, the reservation shall be considered as having been formulated on the date of its confirmation.

2.2.2. Instances of non-requirement of confirmation of reservations formulated when signing a treaty

A reservation formulated when signing a treaty does not require subsequent confirmation when a State or an international organization expresses by signature its consent to be bound by the treaty.

2.2.3. Reservations formulated upon signature when a treaty expressly so provides

Where the treaty expressly provides that a State or an international organization may formulate a reservation when signing the treaty, such a reservation does not require formal confirmation by the reserving State or international organization when expressing its consent to be bound by the treaty.

2.2.4. Form of formal confirmation of reservations

The formal confirmation of a reservation must be made in writing.

2.3. Late formulation of reservations

A State or an international organization may not formulate a reservation to a treaty after expressing its consent to be bound by the treaty, unless the treaty otherwise provides or none of the other contracting States and contracting organizations opposes the late formulation of the reservation.

2.3.1. Acceptance of the late formulation of a reservation

Unless the treaty otherwise provides or the well-established practice followed by the depositary differs, the late formulation of a reservation shall be deemed to have been accepted only if no contracting State or contracting organization has opposed such formulation after the expiry of the twelve-month period following the date on which notification was received.

2.3.2. Time period for formulating an objection to a reservation that is formulated late

An objection to a reservation that is formulated late must be made within twelve months of the acceptance, in accordance with guideline 2.3.1, of the late formulation of the reservation.

2.3.3. Limits to the possibility of excluding or modifying the legal effect of a treaty by means other than reservations

A contracting State or a contracting organization cannot exclude or modify the legal effect of provisions of the treaty by:

(*a*) the interpretation of an earlier reservation; or

(*b*) a unilateral statement made subsequently under a clause providing for options.

2.3.4. Widening of the scope of a reservation

The modification of an existing reservation for the purpose of widening its scope is subject to the rules applicable to the late formulation of a reservation. If such a modification is opposed, the initial reservation remains unchanged.

2.4. Procedure for interpretative declarations

2.4.1. Form of interpretative declarations

An interpretative declaration should preferably be formulated in writing.

2.4.2. Representation for the purpose of formulating interpretative declarations

An interpretative declaration must be formulated by a person who is considered as representing a State or an international organization for the purpose of adopting or authenticating the text of a treaty or expressing the consent of the State or international organization to be bound by a treaty.

2.4.3. Absence of consequences at the international level of the violation of internal rules regarding the formulation of interpretative declarations

1. The competent authority and the procedure to be followed at the internal level for formulating an interpretative declaration are determined by the internal law of each State or the relevant rules of each international organization.

2. A State or an international organization may not invoke the fact that an interpretative declaration has been formulated in violation of a provision of the internal law of that State or the rules of that organization regarding competence and the procedure for formulating interpretative declarations for the purpose of invalidating the declaration.

2.4.4. Time at which an interpretative declaration may be formulated

Without prejudice to the provisions of guidelines 1.4 and 2.4.7, an interpretative declaration may be formulated at any time.

2.4.5. Communication of interpretative declarations

The communication of written interpretative declarations should follow the procedure established in guidelines 2.1.5, 2.1.6 and 2.1.7.

2.4.6. Non-requirement of confirmation of interpretative declarations formulated when signing a treaty

An interpretative declaration formulated when signing a treaty does not require subsequent confirmation when a State or an international organization expresses its consent to be bound by the treaty.

2.4.7. Late formulation of an interpretative declaration

Where a treaty provides that an interpretative declaration may be formulated only at specified times, a State or an international organization may not formulate an interpretative declaration concerning that treaty subsequently, unless none of the other contracting States and contracting organizations objects to the late formulation of the interpretative declaration.

2.4.8. Modification of an interpretative declaration

Unless the treaty otherwise provides, an interpretative declaration may be modified at any time.

2.5. Withdrawal and modification of reservations and interpretative declarations

2.5.1. Withdrawal of reservations

Unless the treaty otherwise provides, a reservation may be withdrawn at any time without the consent of a State or of an international organization which has accepted the reservation being required for its withdrawal.

2.5.2. Form of withdrawal

The withdrawal of a reservation must be formulated in writing.

2.5.3. Periodic review of the usefulness of reservations

1. States or international organizations which have formulated one or more reservations to a treaty should undertake a periodic review of such reservations and consider withdrawing those which no longer serve their purpose.

2. In such a review, States and international organizations should devote special attention to the aim of preserving the integrity of multilateral treaties and, where relevant, consider the usefulness of retaining the reservations, in particular in relation to developments in their internal law since the reservations were formulated.

2.5.4. Representation for the purpose of withdrawing a reservation at the international level

1. Subject to the usual practices followed in international organizations which are depositaries of treaties, a person is considered as representing a State or an international organization for the purpose of withdrawing a reservation made on behalf of a State or an international organization if:

(*a*) that person produces appropriate full powers for the purpose of that withdrawal; or

(*b*) it appears from practice or from other circumstances that it was the intention of the States and international organizations concerned to consider that person as representing the State or the international organization for such purpose without having to produce full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as representing a State for the purpose of withdrawing a reservation at the international level on behalf of that State:

(*a*) Heads of State, Heads of Government and Ministers for Foreign Affairs;

(*b*) representatives accredited by States to an international organization or one of its organs, for the purpose of withdrawing a reservation to a treaty adopted in that organization or organ;

(*c*) heads of permanent missions to an international organization, for the purpose of withdrawing a reservation to a treaty between the accrediting States and that organization.

2.5.5. Absence of consequences at the international level of the violation of internal rules regarding the withdrawal of reservations

1. The competent authority and the procedure to be followed at the internal level for withdrawing a reservation are determined by the internal law of each State or the relevant rules of each international organization.

2. A State or an international organization may not invoke the fact that a reservation has been withdrawn in violation of a provision of the internal law of that State or the rules of that organization regarding competence and the procedure for the withdrawal of reservations for the purpose of invalidating the withdrawal.

2.5.6. Communication of withdrawal of a reservation

The procedure for communicating the withdrawal of a reservation follows the rules applicable to the communication of reservations contained in guidelines 2.1.5, 2.1.6 and 2.1.7.

2.5.7. Effects of withdrawal of a reservation

1. The withdrawal of a reservation entails the full application of the provisions to which the reservation relates in the relations between the State or international organization which withdraws the reservation and all the other parties, whether they had accepted the reservation or objected to it.

2. The withdrawal of a reservation entails the entry into force of the treaty in the relations between the State or international organization which withdraws the reservation and a State or international organization which had objected to the reservation and opposed the entry into force of the treaty between itself and the reserving State or international organization by reason of that reservation.

2.5.8. Effective date of withdrawal of a reservation

Unless the treaty otherwise provides, or it is otherwise agreed, the withdrawal of a reservation becomes operative in relation to a contracting State or a contracting organization only when notice of it has been received by that State or that organization.

2.5.9. Cases in which the author of a reservation may set the effective date of withdrawal of the reservation

The withdrawal of a reservation becomes operative on the date set by the State or international organization which withdraws the reservation, where:

(*a*) that date is later than the date on which the other contracting States or contracting organizations received notification of it; or

(*b*) the withdrawal does not add to the rights of the withdrawing State or international organization, in relation to the other contracting States or contracting organizations.

2.5.10. Partial withdrawal of reservations

1. The partial withdrawal of a reservation limits the legal effect of the reservation and achieves a more complete application of the provisions of the treaty, or of the treaty as a whole, in the relations between the withdrawing State or international organization and the other parties to the treaty.

2. The partial withdrawal of a reservation is subject to the same rules on form and procedure as a total withdrawal and becomes operative under the same conditions.

2.5.11. Effect of a partial withdrawal of a reservation

1. The partial withdrawal of a reservation modifies the legal effect of the reservation to the extent provided by the new formulation of the reservation. Any objection formulated to the reservation continues to have effect as long as its author does not withdraw it, insofar as the objection does not apply exclusively to that part of the reservation which has been withdrawn.

2. No new objection may be formulated to the reservation resulting from the partial withdrawal, unless that partial withdrawal has a discriminatory effect.

2.5.12. Withdrawal of interpretative declarations

An interpretative declaration may be withdrawn at any time by an authority considered as representing the State or international organization for that purpose, following the same procedure applicable to its formulation.

2.6. Formulation of objections

2.6.1. Definition of objections to reservations

"Objection" means a unilateral statement, however phrased or named, made by a State or an international organization in response to a reservation formulated by another State or international organization, whereby the former State or organization purports to preclude the reser-

vation from having its intended effects or otherwise opposes the reservation.

2.6.2. Right to formulate objections

A State or an international organization may formulate an objection to a reservation irrespective of the permissibility of the reservation.

2.6.3. Author of an objection

An objection to a reservation may be formulated by:

(i) any contracting State or contracting organization; and

(ii) any State or international organization that is entitled to become a party to the treaty, in which case the objection does not produce any legal effect until the State or international organization has expressed its consent to be bound by the treaty.

2.6.4. Objections formulated jointly

The joint formulation of an objection by several States or international organizations does not affect the unilateral character of that objection.

2.6.5. Form of objections

An objection must be formulated in writing.

2.6.6. Right to oppose the entry into force of the treaty vis-à-vis the author of the reservation

A State or an international organization that formulates an objection to a reservation may oppose the entry into force of the treaty as between itself and the author of the reservation.

2.6.7. Expression of intention to preclude the entry into force of the treaty

When a State or an international organization formulating an objection to a reservation intends to preclude the entry into force of the treaty as between itself and the reserving State or international organization, it shall definitely express its intention before the treaty would otherwise enter into force between them.

2.6.8. Procedure for the formulation of objections

Guidelines 2.1.3, 2.1.4, 2.1.5, 2.1.6 and 2.1.7 are applicable mutatis mutandis to objections.

2.6.9. Statement of reasons for objections

An objection should, to the extent possible, indicate the reasons why it is being formulated.

2.6.10. Non-requirement of confirmation of an objection formulated prior to formal confirmation of a reservation

An objection to a reservation formulated by a State or an international organization prior to confirmation of the reservation in accordance with guideline 2.2.1 does not itself require confirmation.

2.6.11. Confirmation of an objection formulated prior to the expression of consent to be bound by a treaty

An objection formulated prior to the expression of consent to be bound by the treaty does not need to be formally confirmed by the objecting State or international organization at the time it expresses its consent to be bound if that State or that organization was a signatory to the treaty when it formulated the objection; it must be confirmed if the State or international organization had not signed the treaty.

2.6.12. Time period for formulating objections

Unless the treaty otherwise provides, a State or an international organization may formulate an objection to a reservation within a period of twelve months after it was notified of the reservation or by the date on which such State or international organization expresses its consent to be bound by the treaty, whichever is later.

2.6.13. Objections formulated late

An objection to a reservation formulated after the end of the time period specified in guideline 2.6.12 does not produce all the legal effects of an objection formulated within that time period.

2.7. Withdrawal and modification of objections to reservations

2.7.1. Withdrawal of objections to reservations

Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.

2.7.2. Form of withdrawal of objections to reservations

The withdrawal of an objection to a reservation must be formulated in writing.

2.7.3. Formulation and communication of the withdrawal of objections to reservations

Guidelines 2.5.4, 2.5.5 and 2.5.6 are applicable mutatis mutandis to the withdrawal of objections to reservations.

2.7.4. Effect on reservation of withdrawal of an objection

A State or an international organization that withdraws an objection formulated to a reservation is presumed to have accepted that reservation.

2.7.5. Effective date of withdrawal of an objection

Unless the treaty otherwise provides, or it is otherwise agreed, the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State or international organization which formulated the reservation.

2.7.6. Cases in which the author of an objection may set the effective date of withdrawal of the objection

The withdrawal of an objection becomes operative on the date set by its author where that date is later than the date on which the reserving State or international organization received notice of it.

2.7.7. Partial withdrawal of an objection

1. Unless the treaty otherwise provides, a State or an international organization may partially withdraw an objection to a reservation.

2. The partial withdrawal of an objection is subject to the same rules on form and procedure as a total withdrawal and becomes operative under the same conditions.

2.7.8. Effect of a partial withdrawal of an objection

The partial withdrawal modifies the legal effects of the objection on the treaty relations between the author of the

objection and the author of the reservation to the extent provided by the new formulation of the objection.

2.7.9. Widening of the scope of an objection to a reservation

1. A State or an international organization which has made an objection to a reservation may widen the scope of that objection during the time period referred to in guideline 2.6.12.

2. Such a widening of the scope of the objection cannot have an effect on the existence of treaty relations between the author of the reservation and the author of the objection.

2.8. Formulation of acceptances of reservations

2.8.1. Forms of acceptance of reservations

The acceptance of a reservation may arise from a unilateral statement to this effect or from silence of a contracting State or contracting organization during the periods specified in guideline 2.6.12.

2.8.2. Tacit acceptance of reservations

Unless the treaty otherwise provides, a reservation is considered to have been accepted by a State or an international organization if it shall have raised no objection to the reservation within the time period provided for in guideline 2.6.12.

2.8.3. Express acceptance of reservations

A State or an international organization may, at any time, expressly accept a reservation formulated by another State or international organization.

2.8.4. Form of express acceptance of reservations

The express acceptance of a reservation must be formulated in writing.

2.8.5. Procedure for formulating express acceptance of reservations

Guidelines 2.1.3, 2.1.4, 2.1.5, 2.1.6 and 2.1.7 apply mutatis mutandis to express acceptances.

2.8.6. Non-requirement of confirmation of an acceptance formulated prior to formal confirmation of a reservation

An express acceptance of a reservation formulated by a State or an international organization prior to confirmation of the reservation in accordance with guideline 2.2.1 does not itself require confirmation.

2.8.7. Unanimous acceptance of reservations

In the event of a reservation requiring unanimous acceptance by some or all States or international organizations which are parties or entitled to become parties to the treaty, such acceptance, once obtained, is final.

2.8.8. Acceptance of a reservation to the constituent instrument of an international organization

When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.

2.8.9. Organ competent to accept a reservation to a constituent instrument

Subject to the rules of the organization, competence to accept a reservation to a constituent instrument of an international organization belongs to the organ competent:

- to decide on the admission of a member to the organization; or
- to amend the constituent instrument; or
- to interpret this instrument.

2.8.10. Modalities of the acceptance of a reservation to a constituent instrument

1. Subject to the rules of the organization, the acceptance by the competent organ of the organization shall not be tacit. However, the admission of the State or the international organization which is the author of the reservation is tantamount to the acceptance of that reservation.

2. For the purposes of the acceptance of a reservation to the constituent instrument of an international organization, the individual acceptance of the reservation by States or international organizations that are members of the organization is not required.

2.8.11. Acceptance of a reservation to a constituent instrument that has not yet entered into force

In the case set forth in guideline 2.8.8 and where the constituent instrument has not yet entered into force, a reservation is considered to have been accepted if no signatory State or signatory international organization has raised an objection to that reservation within a period of twelve months after they were notified of that reservation. Such a unanimous acceptance, once obtained, is final.

2.8.12. Reaction by a member of an international organization to a reservation to its constituent instrument

Guideline 2.8.10 does not preclude States or international organizations that are members of an international organization from taking a position on the permissibility or appropriateness of a reservation to a constituent instrument of the organization. Such an opinion is in itself devoid of legal effects.

2.8.13. Final nature of acceptance of a reservation

The acceptance of a reservation cannot be withdrawn or amended.

2.9. Formulation of reactions to interpretative declarations

2.9.1. Approval of an interpretative declaration

"Approval" of an interpretative declaration means a unilateral statement made by a State or an international organization in reaction to an interpretative declaration in respect of a treaty formulated by another State or another international organization, whereby the former State or organization expresses agreement with the interpretation formulated in that declaration.

2.9.2. Opposition to an interpretative declaration

"Opposition" to an interpretative declaration means a unilateral statement made by a State or an international organization in reaction to an interpretative declaration in respect of a treaty formulated by another State or another international organization, whereby the former State or or-

ganization disagrees with the interpretation formulated in the interpretative declaration, including by formulating an alternative interpretation.

2.9.3. Recharacterization of an interpretative declaration

1. "Recharacterization" of an interpretative declaration means a unilateral statement made by a State or an international organization in reaction to an interpretative declaration in respect of a treaty formulated by another State or another international organization, whereby the former State or organization purports to treat the declaration as a reservation.

2. A State or an international organization that intends to treat an interpretative declaration as a reservation should take into account guidelines 1.3 to 1.3.3.

2.9.4. Right to formulate approval or opposition, or to recharacterize

An approval, opposition or recharacterization in respect of an interpretative declaration may be formulated at any time by any contracting State or any contracting organization and by any State or any international organization that is entitled to become a party to the treaty.

2.9.5. Form of approval, opposition and recharacterization

An approval, opposition or recharacterization in respect of an interpretative declaration should preferably be formulated in writing.

2.9.6. Statement of reasons for approval, opposition and recharacterization

An approval, opposition or recharacterization in respect of an interpretative declaration should, to the extent possible, indicate the reasons why it is being formulated.

2.9.7. Formulation and communication of approval, opposition or recharacterization

Guidelines 2.1.3, 2.1.4, 2.1.5, 2.1.6 and 2.1.7 are applicable mutatis mutandis to an approval, opposition or recharacterization in respect of an interpretative declaration.

2.9.8. Non-presumption of approval or opposition

1. An approval of, or an opposition to, an interpretative declaration shall not be presumed.

2. Notwithstanding guidelines 2.9.1 and 2.9.2, an approval of an interpretative declaration or an opposition thereto may be inferred, in exceptional cases, from the conduct of the States or international organizations concerned, taking into account all relevant circumstances.

2.9.9. Silence with respect to an interpretative declaration

An approval of an interpretative declaration shall not be inferred from the mere silence of a State or an international organization.

3. Permissibility of reservations and interpretative declarations

3.1. Permissible reservations

A State or an international organization may, when signing, ratifying, formally confirming, accepting, approving or acceding to a treaty, formulate a reservation unless:

(*a*) the reservation is prohibited by the treaty;

(*b*) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or

(*c*) in cases not falling under subparagraphs (*a*) and (*b*), the reservation is incompatible with the object and purpose of the treaty.

3.1.1. Reservations prohibited by the treaty

A reservation is prohibited by the treaty if it contains a provision:

(*a*) prohibiting all reservations;

(*b*) prohibiting reservations to specified provisions to which the reservation in question relates; or

(*c*) prohibiting certain categories of reservations including the reservation in question.

3.1.2. Definition of specified reservations

For the purposes of guideline 3.1, the expression "specified reservations" means reservations that are expressly envisaged in the treaty to certain provisions of the treaty or to the treaty as a whole with respect to certain specific aspects.

3.1.3. Permissibility of reservations not prohibited by the treaty

Where the treaty prohibits the formulation of certain reservations, a reservation which is not prohibited by the treaty may be formulated by a State or an international organization only if it is not incompatible with the object and purpose of the treaty.

3.1.4. Permissibility of specified reservations

Where the treaty envisages the formulation of specified reservations without defining their content, a reservation may be formulated by a State or an international organization only if it is not incompatible with the object and purpose of the treaty.

3.1.5. Incompatibility of a reservation with the object and purpose of the treaty

A reservation is incompatible with the object and purpose of the treaty if it affects an essential element of the treaty that is necessary to its general tenor, in such a way that the reservation impairs the raison d'être of the treaty.

3.1.5.1. Determination of the object and purpose of the treaty

The object and purpose of the treaty is to be determined in good faith, taking account of the terms of the treaty in their context, in particular the title and the preamble of the treaty. Recourse may also be had to the preparatory work of the treaty and the circumstances of its conclusion and, where appropriate, the subsequent practice of the parties.

3.1.5.2. Vague or general reservations

A reservation shall be worded in such a way as to allow its meaning to be understood, in order to assess in particular its compatibility with the object and purpose of the treaty.

3.1.5.3. Reservations to a provision reflecting a customary rule

The fact that a treaty provision reflects a rule of customary international law does not in itself constitute an obstacle to the formulation of a reservation to that provision.

3.1.5.4. Reservations to provisions concerning rights from which no derogation is permissible under any circumstances

A State or an international organization may not formulate a reservation to a treaty provision concerning rights from which no derogation is permissible under any circumstances, unless the reservation in question is compatible with the essential rights and obligations arising out of that treaty. In assessing that compatibility, account shall be taken of the importance which the parties have conferred upon the rights at issue by making them non-derogable.

3.1.5.5. Reservations relating to internal law

A reservation by which a State or an international organization purports to exclude or to modify the legal effect of certain provisions of a treaty or of the treaty as a whole in order to preserve the integrity of specific rules of the internal law of that State or of specific rules of that organization in force at the time of the formulation of the reservation may be formulated only insofar as it does not affect an essential element of the treaty nor its general tenor.

3.1.5.6. Reservations to treaties containing numerous interdependent rights and obligations

To assess the compatibility of a reservation with the object and purpose of a treaty containing numerous interdependent rights and obligations, account shall be taken of that interdependence as well as the importance that the provision to which the reservation relates has within the general tenor of the treaty, and the extent of the impact that the reservation has on the treaty.

3.1.5.7. Reservations to treaty provisions concerning dispute settlement or the monitoring of the implementation of the treaty

A reservation to a treaty provision concerning dispute settlement or the monitoring of the implementation of the treaty is not, in itself, incompatible with the object and purpose of the treaty, unless:

(i) the reservation purports to exclude or modify the legal effect of a provision of the treaty essential to its raison d'être; or

(ii) the reservation has the effect of excluding the reserving State or international organization from a dispute settlement or treaty implementation monitoring mechanism with respect to a treaty provision that it has previously accepted, if the very purpose of the treaty is to put such a mechanism into effect.

3.2. Assessment of the permissibility of reservations

The following may assess, within their respective competences, the permissibility of reservations to a treaty formulated by a State or an international organization:

- contracting States or contracting organizations;
- dispute settlement bodies;
- treaty monitoring bodies.

3.2.1. Competence of the treaty monitoring bodies to assess the permissibility of reservations

1. A treaty monitoring body may, for the purpose of discharging the functions entrusted to it, assess the permissibility of reservations formulated by a State or an international organization.

2. The assessment made by such a body in the exercise of this competence has no greater legal effect than that of the act which contains it.

3.2.2. Specification of the competence of treaty monitoring bodies to assess the permissibility of reservations

When providing bodies with the competence to monitor the application of treaties, States or international organizations should specify, where appropriate, the nature and the limits of the competence of such bodies to assess the permissibility of reservations.

3.2.3. Consideration of the assessments of treaty monitoring bodies

States and international organizations that have formulated reservations to a treaty establishing a treaty monitoring body shall give consideration to that body's assessment of the permissibility of the reservations.

3.2.4. Bodies competent to assess the permissibility of reservations in the event of the establishment of a treaty monitoring body

When a treaty establishes a treaty monitoring body, the competence of that body is without prejudice to the competence of the contracting States or contracting organizations to assess the permissibility of reservations to that treaty, or to that of dispute settlement bodies competent to interpret or apply the treaty.

3.2.5. Competence of dispute settlement bodies to assess the permissibility of reservations

When a dispute settlement body is competent to adopt decisions binding upon the parties to a dispute, and the assessment of the permissibility of a reservation is necessary for the discharge of such competence by that body, such assessment is, as an element of the decision, legally binding upon the parties.

3.3. Consequences of the non-permissibility of a reservation

3.3.1. Irrelevance of distinction among the grounds for non-permissibility

A reservation formulated notwithstanding a prohibition arising from the provisions of the treaty or notwithstanding its incompatibility with the object and purpose of the treaty is impermissible, without there being any need to distinguish between the consequences of these grounds for non-permissibility.

3.3.2. Non-permissibility of reservations and international responsibility

The formulation of an impermissible reservation produces its consequences pursuant to the law of treaties and does not engage the international responsibility of the State or international organization which has formulated it.

3.3.3. Absence of effect of individual acceptance of a reservation on the permissibility of the reservation

Acceptance of an impermissible reservation by a contracting State or by a contracting organization shall not affect the impermissibility of the reservation.

3.4. Permissibility of reactions to reservations

3.4.1. Permissibility of the acceptance of a reservation

Acceptance of a reservation is not subject to any condition of permissibility.

3.4.2. Permissibility of an objection to a reservation

An objection to a reservation by which a State or an international organization purports to exclude in its relations with the author of the reservation the application of provisions of the treaty to which the reservation does not relate is only permissible if:

1. the provisions thus excluded have a sufficient link with the provisions to which the reservation relates; and

2. the objection would not defeat the object and purpose of the treaty in the relations between the author of the reservation and the author of the objection.

3.5. Permissibility of an interpretative declaration

A State or an international organization may formulate an interpretative declaration unless the interpretative declaration is prohibited by the treaty.

3.5.1. Permissibility of an interpretative declaration which is in fact a reservation

If a unilateral statement which appears to be an interpretative declaration is in fact a reservation, its permissibility must be assessed in accordance with the provisions of guidelines 3.1 to 3.1.5.7.

3.6. Permissibility of reactions to interpretative declarations

An approval of, opposition to, or recharacterization of, an interpretative declaration shall not be subject to any conditions for permissibility.

4. Legal effects of reservations and interpretative declarations

4.1. Establishment of a reservation with regard to another State or international organization

A reservation formulated by a State or an international organization is established with regard to a contracting State or a contracting organization if it is permissible and was formulated in accordance with the required form and procedures, and if that contracting State or contracting organization has accepted it.

4.1.1. Establishment of a reservation expressly authorized by a treaty

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States and contracting organizations, unless the treaty so provides.

2. A reservation expressly authorized by a treaty is established with regard to the other contracting States and contracting organizations if it was formulated in accordance with the required form and procedures.

4.1.2. Establishment of a reservation to a treaty which has to be applied in its entirety

When it appears, from the limited number of negotiating States and organizations and the object and purpose of the treaty, that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation to this treaty is established with regard to the other contracting States and contracting organizations if it is permissible and was formulated in accordance with the required form and procedures, and if all the contracting States and contracting organizations have accepted it.

4.1.3. Establishment of a reservation to a constituent instrument of an international organization

When a treaty is a constituent instrument of an international organization, a reservation to this treaty is established with regard to the other contracting States and contracting organizations if it is permissible and was formulated in accordance with the required form and procedures, and if it has been accepted in conformity with guidelines 2.8.8 to 2.8.11.

4.2. Effects of an established reservation

4.2.1. Status of the author of an established reservation

As soon as a reservation is established in accordance with guidelines 4.1 to 4.1.3, its author becomes a contracting State or contracting organization to the treaty.

4.2.2. Effect of the establishment of a reservation on the entry into force of a treaty

1. When a treaty has not yet entered into force, the author of a reservation shall be included in the number of contracting States and contracting organizations required for the treaty to enter into force once the reservation is established.

2. The author of the reservation may however be included at a date prior to the establishment of the reservation in the number of contracting States and contracting organizations required for the treaty to enter into force, if no contracting State or contracting organization is opposed.

4.2.3. Effect of the establishment of a reservation on the status of the author as a party to the treaty

The establishment of a reservation constitutes its author a party to the treaty in relation to contracting States and contracting organizations in respect of which the reservation is established if or when the treaty is in force.

4.2.4. Effect of an established reservation on treaty relations

1. A reservation established with regard to another party excludes or modifies for the reserving State or international organization in its relations with that other party the legal effect of the provisions of the treaty to which the reservation relates or of the treaty as a whole with respect to certain specific aspects, to the extent of the reservation.

2. To the extent that an established reservation excludes the legal effect of certain provisions of a treaty, the author of that reservation has neither rights nor obligations under those provisions in its relations with the other parties with regard to which the reservation is established. Those other parties shall likewise have neither rights nor obligations under those provisions in their relations with the author of the reservation.

3. To the extent that an established reservation modifies the legal effect of certain provisions of a treaty, the author of that reservation has rights and obligations under those provisions, as modified by the reservation, in its relations with the other parties with regard to which the reservation is established. Those other parties shall have rights and obligations under those provisions, as modified by the reservation, in their relations with the author of the reservation.

4.2.5. Non-reciprocal application of obligations to which a reservation relates

Insofar as the obligations under the provisions to which the reservation relates are not subject to reciprocal application in view of the nature of the obligations or the object

and purpose of the treaty, the content of the obligations of the parties other than the author of the reservation remains unaffected. The content of the obligations of those parties likewise remains unaffected when reciprocal application is not possible because of the content of the reservation.

4.2.6. Interpretation of reservations

A reservation is to be interpreted in good faith, taking into account the intention of its author as reflected primarily in the text of the reservation, as well as the object and purpose of the treaty and the circumstances in which the reservation was formulated.

4.3. Effect of an objection to a valid reservation

Unless the reservation has been established with regard to an objecting State or organization, the formulation of an objection to a valid reservation precludes the reservation from having its intended effects as against that State or international organization.

4.3.1. Effect of an objection on the entry into force of the treaty as between the author of the objection and the author of a reservation

An objection by a contracting State or by a contracting organization to a valid reservation does not preclude the entry into force of the treaty as between the objecting State or organization and the reserving State or organization, except in the case mentioned in guideline 4.3.5.

4.3.2. Effect of an objection to a reservation that is formulated late

If a contracting State or a contracting organization to a treaty objects to a reservation whose late formulation has been unanimously accepted in accordance with guideline 2.3.1, the treaty shall enter into or remain in force in respect of the reserving State or international organization without the reservation being established.

4.3.3. Entry into force of the treaty between the author of a reservation and the author of an objection

The treaty enters into force between the author of a valid reservation and the objecting contracting State or contracting organization as soon as the author of the reservation has become a contracting State or a contracting organization in accordance with guideline 4.2.1 and the treaty has entered into force.

4.3.4. Non-entry into force of the treaty for the author of a reservation when unanimous acceptance is required

If the establishment of a reservation requires the acceptance of the reservation by all the contracting States and contracting organizations, any objection by a contracting State or by a contracting organization to a valid reservation precludes the entry into force of the treaty for the reserving State or organization.

4.3.5. Non-entry into force of the treaty as between the author of a reservation and the author of an objection with maximum effect

An objection by a contracting State or a contracting organization to a valid reservation precludes the entry into force of the treaty as between the objecting State or organization and the reserving State or organization, if the objecting State or organization has definitely expressed an intention to that effect in accordance with guideline 2.6.7.

4.3.6. Effect of an objection on treaty relations

1. When a State or an international organization objecting to a valid reservation has not opposed the entry into force of the treaty between itself and the reserving State or organization, the provisions to which the reservation relates do not apply as between the author of the reservation and the objecting State or organization, to the extent of the reservation.

2. To the extent that a valid reservation purports to exclude the legal effect of certain provisions of the treaty, when a contracting State or a contracting organization has raised an objection to it but has not opposed the entry into force of the treaty between itself and the author of the reservation, the objecting State or organization and the author of the reservation are not bound, in their treaty relations, by the provisions to which the reservation relates.

3. To the extent that a valid reservation purports to modify the legal effect of certain provisions of the treaty, when a contracting State or a contracting organization has raised an objection to it but has not opposed the entry into force of the treaty between itself and the author of the reservation, the objecting State or organization and the author of the reservation are not bound, in their treaty relations, by the provisions of the treaty as intended to be modified by the reservation.

4. All the provisions of the treaty other than those to which the reservation relates shall remain applicable as between the reserving State or organization and the objecting State or organization.

4.3.7. Effect of an objection on provisions other than those to which the reservation relates

1. A provision of the treaty to which the reservation does not relate, but which has a sufficient link with the provisions to which the reservation does relate, is not applicable in the treaty relations between the author of the reservation and the author of an objection formulated in accordance with guideline 3.4.2.

2. The reserving State or international organization may, within a period of twelve months following the notification of an objection which has the effect referred to in paragraph 1, oppose the entry into force of the treaty between itself and the objecting State or organization. In the absence of such opposition, the treaty shall apply between the author of the reservation and the author of the objection to the extent provided by the reservation and the objection.

4.3.8. Right of the author of a valid reservation not to comply with the treaty without the benefit of its reservation

The author of a valid reservation is not required to comply with the provisions of the treaty without the benefit of its reservation.

4.4. Effect of a reservation on rights and obligations independent of the treaty

4.4.1. Absence of effect on rights and obligations under other treaties

A reservation, acceptance of a reservation or objection to a reservation neither modifies nor excludes any rights and obligations of their authors under other treaties to which they are parties.

4.4.2. Absence of effect on rights and obligations under customary international law

A reservation to a treaty provision which reflects a rule of customary international law does not of itself affect the rights and obligations under that rule, which shall continue to apply as such between the reserving State or organization and other States or international organizations which are bound by that rule.

4.4.3. Absence of effect on a peremptory norm of general international law (*jus cogens*)

1. A reservation to a treaty provision which reflects a peremptory norm of general international law (*jus cogens*) does not affect the binding nature of that norm, which shall continue to apply as such between the reserving State or organization and other States or international organizations.

2. A reservation cannot exclude or modify the legal effect of a treaty in a manner contrary to a peremptory norm of general international law.

4.5. Consequences of an invalid reservation

4.5.1. Nullity of an invalid reservation

A reservation that does not meet the conditions of formal validity and permissibility set out in Parts 2 and 3 of the Guide to Practice is null and void, and therefore devoid of any legal effect.

4.5.2. Reactions to a reservation considered invalid

1. The nullity of an invalid reservation does not depend on the objection or the acceptance by a contracting State or a contracting organization.

2. Nevertheless, a State or an international organization which considers that a reservation is invalid should formulate a reasoned objection as soon as possible.

4.5.3. Status of the author of an invalid reservation in relation to the treaty

1. The status of the author of an invalid reservation in relation to a treaty depends on the intention expressed by the reserving State or international organization on whether it intends to be bound by the treaty without the benefit of the reservation or whether it considers that it is not bound by the treaty.

2. Unless the author of the invalid reservation has expressed a contrary intention or such an intention is otherwise established, it is considered a contracting State or a contracting organization without the benefit of the reservation.

3. Notwithstanding paragraphs 1 and 2, the author of the invalid reservation may express at any time its intention not to be bound by the treaty without the benefit of the reservation.

4. If a treaty monitoring body expresses the view that a reservation is invalid and the reserving State or international organization intends not to be bound by the treaty without the benefit of the reservation, it should express its intention to that effect within a period of twelve months from the date at which the treaty monitoring body made its assessment.

4.6. Absence of effect of a reservation on the relations between the other parties to the treaty

A reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.

4.7. Effect of interpretative declarations

4.7.1. Clarification of the terms of the treaty by an interpretative declaration

1. An interpretative declaration does not modify treaty obligations. It may only specify or clarify the meaning or scope which its author attributes to a treaty or to certain provisions thereof and may, as appropriate, constitute an element to be taken into account in interpreting the treaty in accordance with the general rule of interpretation of treaties.

2. In interpreting the treaty, account shall also be taken, as appropriate, of the approval of, or opposition to, the interpretative declaration, by other contracting States or contracting organizations.

4.7.2. Effect of the modification or the withdrawal of an interpretative declaration

The modification or the withdrawal of an interpretative declaration may not produce the effects provided for in guideline 4.7.1 to the extent that other contracting States or contracting organizations have relied upon the initial declaration.

4.7.3. Effect of an interpretative declaration approved by all the contracting States and contracting organizations

An interpretative declaration that has been approved by all the contracting States and contracting organizations may constitute an agreement regarding the interpretation of the treaty.

5. Reservations, acceptances of reservations, objections to reservations, and interpretative declarations in cases of succession of States

5.1. Reservations in cases of succession of States

5.1.1. Newly independent States

1. When a newly independent State establishes its status as a party or as a contracting State to a multilateral treaty by a notification of succession, it shall be considered as maintaining any reservation to that treaty which was applicable at the date of the succession of States in respect of the territory to which the succession of States relates unless, when making the notification of succession, it expresses a contrary intention or formulates a reservation which relates to the same subject matter as that reservation.

2. When making a notification of succession establishing its status as a party or as a contracting State to a multilateral treaty, a newly independent State may formulate a reservation unless the reservation is one the formulation of which would be excluded by the provisions of subparagraph (*a*), (*b*) or (*c*) of guideline 3.1.

3. When a newly independent State formulates a reservation in conformity with paragraph 2, the relevant rules set out in Part 2 (Procedure) of the Guide to Practice apply in respect of that reservation.

4. For the purposes of this Part of the Guide to Practice, "newly independent State" means a successor State the territory of which immediately before the date of the succession of States was a dependent territory for the international relations of which the predecessor State was responsible.

5.1.2. Uniting or separation of States

1. Subject to the provisions of guideline 5.1.3, a successor State which is a party to a treaty as the result of a uniting or separation of States shall be considered as main-

taining any reservation to the treaty which was applicable at the date of the succession of States in respect of the territory to which the succession of States relates, unless it expresses its intention not to maintain one or more reservations of the predecessor State at the time of the succession.

2. A successor State which is a party to a treaty as the result of a uniting or separation of States may neither formulate a new reservation nor widen the scope of a reservation that is maintained.

3. When a successor State formed from a uniting or separation of States makes a notification whereby it establishes its status as a contracting State to a treaty which, at the date of the succession of States, was not in force for the predecessor State but to which the predecessor State was a contracting State, that State shall be considered as maintaining any reservation to the treaty which was applicable at the date of the succession of States in respect of the territory to which the succession of States relates, unless it expresses a contrary intention when making the notification or formulates a reservation which relates to the same subject matter as that reservation. That successor State may formulate a new reservation to the treaty.

4. A successor State may formulate a reservation in accordance with paragraph 3 only if the reservation is one the formulation of which would not be excluded by the provisions of subparagraph (*a*), (*b*) or (*c*) of guideline 3.1. The relevant rules set out in Part 2 (Procedure) of the Guide to Practice apply in respect of that reservation.

5.1.3. Irrelevance of certain reservations in cases involving a uniting of States

When, following a uniting of two or more States, a treaty in force at the date of the succession of States in respect of any of them continues in force in respect of the successor State, such reservations as may have been formulated by any such State which, at the date of the succession of States, was a contracting State in respect of which the treaty was not in force shall not be maintained.

5.1.4. Maintenance of the territorial scope of reservations formulated by the predecessor State

Subject to the provisions of guideline 5.1.5, a reservation considered as being maintained in conformity with guideline 5.1.1, paragraph 1, or guideline 5.1.2, paragraph 1 or 3, shall retain the territorial scope that it had at the date of the succession of States, unless the successor State expresses a contrary intention.

5.1.5. Territorial scope of reservations in cases involving a uniting of States

1. When, following a uniting of two or more States, a treaty in force at the date of the succession of States in respect of only one of the States forming the successor State becomes applicable to a part of the territory of that State to which it did not apply previously, any reservation considered as being maintained by the successor State shall apply to that territory unless:

(*a*) the successor State expresses a contrary intention when making the notification extending the territorial scope of the treaty; or

(*b*) the nature or purpose of the reservation is such that the reservation cannot be extended beyond the territory to which it was applicable at the date of the succession of States.

2. When, following a uniting of two or more States, a treaty in force at the date of the succession of States in respect of two or more of the uniting States becomes applicable to a part of the territory of the successor State to which it did not apply at the date of the succession of States, no reservation shall extend to that territory unless:

(*a*) an identical reservation has been formulated by each of those States in respect of which the treaty was in force at the date of the succession of States;

(*b*) the successor State expresses a different intention when making the notification extending the territorial scope of the treaty; or

(*c*) a contrary intention otherwise becomes apparent from the circumstances surrounding that State's succession to the treaty.

3. A notification purporting to extend the territorial scope of a reservation in accordance with paragraph 2 (*b*) shall be without effect if such an extension would give rise to the application of contradictory reservations to the same territory.

4. The provisions of paragraphs 1 to 3 apply mutatis mutandis to reservations considered as being maintained by a successor State that is a contracting State, following a uniting of States, to a treaty which was not in force for any of the uniting States at the date of the succession of States but to which one or more of those States were contracting States at that date, when the treaty becomes applicable to a part of the territory of the successor State to which it did not apply at the date of the succession of States.

5.1.6. Territorial scope of reservations of the successor State in cases of succession involving part of territory

When, as a result of a succession of States involving part of the territory of a State, a treaty to which the successor State is a contracting State becomes applicable to that territory, any reservation to the treaty formulated previously by that State shall also apply to that territory as from the date of the succession of States unless:

(*a*) the successor State expresses a contrary intention; or

(*b*) it appears from the reservation that its scope was limited to the territory of the successor State that was within its borders prior to the date of the succession of States, or to a part of this territory.

5.1.7. Timing of the effects of non-maintenance by a successor State of a reservation formulated by the predecessor State

The non-maintenance, in conformity with guideline 5.1.1 or 5.1.2, by the successor State of a reservation formulated by the predecessor State becomes operative in relation to another contracting State or a contracting organization only when notice of it has been received by that State or organization.

5.1.8. Late formulation of a reservation by a successor State

A reservation shall be considered as late if it is formulated:

(*a*) by a newly independent State after it has made a notification of succession to the treaty;

(*b*) by a successor State other than a newly independent State after it has made a notification establishing its status as a contracting State to a treaty which, at the date of the

succession of States, was not in force for the predecessor State but in respect of which the predecessor State was a contracting State; or

(*c*) by a successor State other than a newly independent State in respect of a treaty which, following the succession of States, continues in force for that State.

5.2. Objections to reservations in cases of succession of States

5.2.1. Maintenance by the successor State of objections formulated by the predecessor State

Subject to the provisions of guideline 5.2.2, a successor State shall be considered as maintaining any objection formulated by the predecessor State to a reservation formulated by a contracting State or contracting organization, unless it expresses a contrary intention at the time of the succession.

5.2.2. Irrelevance of certain objections in cases involving a uniting of States

1. When, following a uniting of two or more States, a treaty in force at the date of the succession of States in respect of any of them continues in force in respect of the State so formed, such objections to a reservation as may have been formulated by any of those States in respect of which the treaty was not in force on the date of the succession of States shall not be maintained.

2. When, following a uniting of two or more States, the successor State is a contracting State to a treaty to which it has maintained reservations in conformity with guideline 5.1.1 or 5.1.2, objections to a reservation made by another contracting State or a contracting organization shall not be maintained if the reservation is identical or equivalent to a reservation which the successor State itself has maintained.

5.2.3. Maintenance of objections to reservations of the predecessor State

When a reservation formulated by the predecessor State is considered as being maintained by the successor State in conformity with guideline 5.1.1 or 5.1.2, any objection to that reservation formulated by another contracting State or by a contracting organization shall be considered as being maintained in respect of the successor State.

5.2.4. Reservations of the predecessor State to which no objections have been made

When a reservation formulated by the predecessor State is considered as being maintained by the successor State in conformity with guideline 5.1.1 or 5.1.2, a State or an international organization that had not formulated an objection to the reservation in respect of the predecessor State may not object to it in respect of the successor State, unless:

(*a*) the time period for formulating an objection has not yet expired at the date of the succession of States and the objection is made within that time period; or

(*b*) the territorial extension of the reservation radically changes the conditions for the operation of the reservation.

5.2.5. Right of a successor State to formulate objections to reservations

1. When making a notification of succession establishing its status as a contracting State, a newly independent State may, in accordance with the relevant guidelines, formulate an objection to reservations formulated by a contracting State or a contracting organization, even if the predecessor State made no such objection.

2. A successor State, other than a newly independent State, shall also have the right provided for in paragraph 1 when making a notification establishing its status as a contracting State to a treaty which, at the date of the succession of States, was not in force for the predecessor State but in respect of which the predecessor State was a contracting State.

3. The right referred to in paragraphs 1 and 2 is nonetheless excluded in the case of treaties falling under guidelines 2.8.7 and 4.1.2.

5.2.6. Objections by a successor State other than a newly independent State in respect of which a treaty continues in force

A successor State, other than a newly independent State, in respect of which a treaty continues in force following a succession of States may not formulate an objection to a reservation to which the predecessor State had not objected, unless the time period for formulating an objection has not yet expired at the date of the succession of States and the objection is made within that time period.

5.3. Acceptances of reservations in cases of succession of States

5.3.1. Maintenance by a newly independent State of express acceptances formulated by the predecessor State

When a newly independent State establishes its status as a contracting State to a treaty, it shall be considered as maintaining any express acceptance by the predecessor State of a reservation formulated by a contracting State or by a contracting organization, unless it expresses a contrary intention within twelve months of the date of the notification of succession.

5.3.2. Maintenance by a successor State other than a newly independent State of express acceptances formulated by the predecessor State

1. A successor State, other than a newly independent State, in respect of which a treaty continues in force following a succession of States shall be considered as maintaining any express acceptance by the predecessor State of a reservation formulated by a contracting State or by a contracting organization.

2. When making a notification of succession establishing its status as a contracting State to a treaty which, on the date of the succession of States, was not in force for the predecessor State but to which the predecessor State was a contracting State, a successor State other than a newly independent State shall be considered as maintaining any express acceptance by the predecessor State of a reservation formulated by a contracting State or by a contracting organization, unless it expresses a contrary intention within twelve months of the date of the notification of succession.

5.3.3. Timing of the effects of non-maintenance by a successor State of an express acceptance formulated by the predecessor State

The non-maintenance, in conformity with guideline 5.3.1 or guideline 5.3.2, paragraph 2, by the successor State of the express acceptance by the predecessor State of a reservation formulated by a contracting State or a contracting organization becomes operative in relation to a contracting State or a contracting organization only when notice of it has been received by that State or that organization.

5.4. Legal effects of reservations, acceptances and objections in cases of succession of States

1. Reservations, acceptances and objections considered as being maintained pursuant to the guidelines contained in this Part of the Guide to Practice shall continue to produce their legal effects in conformity with the provisions of Part 4 of the Guide.

2. Part 4 of the Guide to Practice is also applicable, mutatis mutandis, to new reservations, acceptances and objections formulated by a successor State in conformity with the provisions of the present Part of the Guide.

5.5. Interpretative declarations in cases of succession of States

1. A successor State should clarify its position concerning interpretative declarations formulated by the predecessor State. In the absence of such clarification, a successor State shall be considered as maintaining the interpretative declarations of the predecessor State.

2. Paragraph 1 is without prejudice to cases in which the successor State has demonstrated, by its conduct, its intention to maintain or to reject an interpretative declaration formulated by the predecessor State.

Special missions

The General Assembly, by resolution 2530(XXIV) [YUN 1969, p. 750], adopted the Convention on Special Missions and its Optional Protocol on the compulsory settlement of disputes. The Convention, which entered into force in 1985, had 38 States parties as at 31 December 2013. The Optional Protocol, which also entered into force in 1985, had 17 States parties.

Treaties involving international organizations

The 1975 Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character [YUN 1975, p. 879], which would enter into force when ratified by 35 parties, had 34 States parties as at 31 December 2013.

The 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations [YUN 1986, p. 1006] had 42 parties, including 12 international organizations. It would enter into force when ratified by 35 States.

Succession of States

The 1978 Vienna Convention on Succession of States in Respect of Treaties [YUN 1978, p. 951], which entered into force in 1996 [YUN 1996, p. 1214], had 22 States parties as at 31 December 2013.

The 1983 Vienna Convention on Succession of States in Respect of State Property, Archives and Debts [YUN 1983, p. 1119], which would enter into force when ratified by 15 parties, had 7 States parties.

Jurisdictional immunities of States and their property

The General Assembly, by resolution 59/38 [YUN 2004, p. 1304], adopted the Convention on Jurisdictional Immunities of States and Their Property. As at 31 December, the Convention had 14 States parties, with the accession of Italy on 6 May. The Convention would enter into force when ratified by 30 parties.

International terrorism

Convention on international terrorism

Ad Hoc Committee. In accordance with General Assembly resolution 67/99 [YUN 2012, p. 1302], the Ad Hoc Committee established by Assembly resolution 51/210 [YUN 1996, p. 1208] held its sixteenth session (New York, 8–12 April) [A/68/37] to continue the elaboration of a draft comprehensive convention on international terrorism.

The Ad Hoc Committee held informal consultations on the draft comprehensive convention, and on the question of convening a high-level conference under UN auspices to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. Delegations reiterated the importance of concluding the draft convention and affirmed their commitment to the negotiating process. Several delegations stressed the need for a clear definition of terrorism which distinguished terrorism from the legitimate struggle of peoples in the exercise of their right to self-determination or under foreign occupation. Some delegations were of the view that the convention should also address State terrorism, including acts committed by the military forces of a State, and should cover acts by individuals in command of the armed forces of a State or in control of armed groups when those acts were not governed by international humanitarian law; others reiterated that the convention, as a law enforcement instrument, should deal with individual criminal responsibility and not extend to State terrorism or State military action, already covered by different legal regimes such as the law on State responsibility. Differences continued to revolve primarily around the convention's exclusionary elements covered by draft article 3.

On the proposed convening of a high-level conference, Egypt, as sponsor delegation, reiterated its 1999 proposal concerning the convening of an international conference under UN auspices to formulate a joint organized response to terrorism in all its forms and manifestations. The proposed conference would aim at adopting an action plan and providing a forum to address all issues related to the fight against terrorism, including the conditions conducive to its spread and a discussion on the definition of terrorism, as well as the outstanding issues relating to the draft convention.

At the conclusion of its session on 12 April, the Ad Hoc Committee, noting that more time was required to achieve substantive progress on the outstanding issues, recommended that the Sixth Committee, at the General Assembly's sixty-ninth (2014) session, establish a working group to finalise the process on the draft convention and discussions on convening a high-level conference.

Measures to eliminate international terrorism

In accordance with General Assembly resolution 50/53 [YUN 1995, p. 1330], the Secretary-General in July issued his annual report [A/68/180] on measures taken by 16 States, 3 UN system entities and 5 international organizations to implement the 1994 Declaration on Measures to Eliminate International Terrorism, adopted by Assembly resolution 49/60 [YUN 1994, p. 1293]. The report listed 40 international instruments pertaining to terrorism, including 18 universal and 22 regional, and provided information on workshops and training courses on combating terrorism by two international organizations.

During its twenty-second session (Vienna, 7 December 2012, 22–26 April and 12–13 December 2013), the Commission on Crime Prevention and Criminal Justice [E/2013/30 & Corr.1 & Add.1] considered the question of ratification and implementation of the international instruments to prevent and combat terrorism. The Commission had before it a report of the Secretary-General on assistance in implementing the international conventions and protocols related to terrorism [E/CN.15/2013/5 & Corr.1], which provided information on the progress made by the United Nations Office on Drugs and Crime (UNODC) in delivering technical assistance on counter-terrorism.

Since 2003, legal technical assistance was provided to 168 countries, resulting in 601 ratifications of the international legal instruments and 97 new or revised counter-terrorism legislation; 84 countries were assisted and 25 new ratifications achieved in 2012 alone. During the same period, over 15,200 national criminal justice officials received training, including more than 2,400 officials in 2012. UNODC developed counter-terrorism programmes and organized national, regional and international workshops on criminal justice topics related to the prevention, investigation, prosecution and adjudication of terrorist acts, providing Member States with the specialized skills required to effectively prosecute in a broad spectrum of cases potentially related to terrorism. Its activities dealt with specific aspects such as legislative incorporation of the international legal instruments, countering the Internet use for terrorist purposes, improving the criminal justice response in support of victims of terrorism, strengthening international cooperation in criminal matters, suppressing the financing of terrorism, addressing transport-related terrorism offences and countering chemical, biological, radiological and nuclear terrorism, as well as reinforcing the principle of complementarity between counter-terrorism measures and protection of human rights, in accordance with the United Nations Global Counter-Terrorism Strategy [YUN 2006, p. 65]. This work was carried out in partnership with the UN Security Council's Counter-Terrorism Committee and its Executive Directorate, as well as through the Counter-Terrorism Implementation Task Force, comprising 31 UN entities and INTERPOL.

The Commission underlined the importance of upholding the rule of law, respecting human rights and complying with international obligations and standards in countering terrorism, and called on UNODC to continue providing relevant assistance, in cooperation with the Counter-Terrorism Committee Executive Directorate and the Counter-Terrorism Implementation Task Force.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/67/471], adopted **resolution 68/119** without vote [agenda item 110].

Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming, in all its aspects, the United Nations Global Counter-Terrorism Strategy, adopted on 8 September 2006, which enhances the overall framework for the efforts of the international community to effectively counter the scourge of terrorism in all its forms and manifestations, and recalling the first, second and third biennial reviews of the Strategy, on 4 and 5 September 2008, 8 September 2010, and 28 and 29 June 2012, respectively, and the debates that were held on those occasions,

Recalling its resolutions 62/272 of 5 September 2008, 64/297 of 8 September 2010 and 66/282 of 29 June 2012,

Recalling also its resolution 66/10 of 18 November 2011,

Recalling further the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Recalling the United Nations Millennium Declaration,

Recalling also the 2005 World Summit Outcome, and reaffirming, in particular, the section on terrorism,

Recalling further the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to Assembly resolution 51/210 of 17 December 1996,

Recalling all General Assembly resolutions on measures to eliminate international terrorism and Security Council resolutions on threats to international peace and security caused by terrorist acts,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Reaffirming its strong condemnation of the heinous acts of terrorism that have caused enormous loss of human life, destruction and damage, including those which prompted the adoption of General Assembly resolution 56/1 of 12 September 2001, as well as Security Council resolutions 1368(2001) of 12 September 2001, 1373(2001) of 28 September 2001 and 1377(2001) of 12 November 2001, and those that have occurred since,

Reaffirming also its strong condemnation of the atrocious and deliberate attacks that have occurred against United Nations offices in various parts of the world,

Affirming that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and must adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional and subregional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373(2001) concerning counter-terrorism in monitoring the implementation of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Mindful also of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and effectively suppress international terrorism in all its forms and manifestations,

Reiterating its call upon States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Emphasizing that tolerance and dialogue among civilizations and the enhancement of interfaith and intercultural understanding are among the most important elements in promoting cooperation and success in combating terrorism, and welcoming the various initiatives to this end,

Reaffirming that no terrorist act can be justified in any circumstances,

Recalling Security Council resolution 1624(2005) of 14 September 2005, and bearing in mind that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

Noting recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, including those of the African Union, Asia-Pacific Economic Cooperation, the Association of Southeast Asian Nations, the Bali Counter-Terrorism Process, the Central American Integration System, the Collective Security Treaty Organization, the Common Market for Eastern and Southern Africa, the Conference on Interaction and Confidence-building Measures in Asia, the Cooperation Council for the Arab States of the Gulf, the Council of Europe, the East African Community, the Economic Community of West African States, the Euro-Mediterranean Partnership, the European Free Trade Association, the European Union, the Global Counterterrorism Forum, the Group of Eight, the Intergovernmental Authority on Development, the International Civil Aviation Organization, the International Maritime Organization, the League of Arab States, the Movement of Non-Aligned Countries, the North Atlantic Treaty Organization, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of American States, the Organization of Islamic Cooperation, the Pacific Islands Forum, the Regional Forum of the Association of Southeast Asian Nations, the Shanghai Cooperation Organization, the South Asian Association for Regional Cooperation, the Southern African Development Community and the World Customs Organization,

Noting also regional and subregional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002, 58/81 of 9 December 2003, 59/46 of 2 December 2004, 60/43 of 8 December 2005, 61/40 of 4 December 2006, 62/71 of 6 December 2007, 63/129 of 11 December 2008, 64/118 of 16 December 2009, 65/34 of 6 December 2010, 66/105 of 9 December 2011 and 67/99 of 14 December 2012 that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Recalling also that, in the Final Document of the Sixteenth Conference of Heads of State or Government of Non-Aligned Countries, adopted in Tehran on 31 August 2012, the Heads of State or Government reiterated the collective position of the Movement of Non-Aligned Countries on terrorism and reaffirmed its previous initiative calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, as well as other relevant initiatives,

Bearing in mind its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of

18 December 2008, 64/168 of 18 December 2009, 65/221 of 21 December 2010 and 66/171 of 19 December 2011,

Having examined the report of the Secretary-General and the report of the Ad Hoc Committee on the work of its sixteenth session,

1. *Strongly condemns* all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed;

2. *Calls upon* all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy, as well as the resolutions relating to the first, second and third biennial reviews of the Strategy, in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise;

3. *Recalls* the pivotal role of the General Assembly in following up the implementation and the updating of the United Nations Global Counter-Terrorism Strategy, looks forward to the fourth biennial review, in 2014, and in this regard recalls its invitation to the Secretary-General to contribute to the future deliberations of the Assembly, and requests the Secretary-General when doing so to provide information on relevant activities within the Secretariat to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

4. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

5. *Reiterates its call upon* all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider, in particular, the implementation of the measures set out in paragraphs 3 (*a*) to (*f*) of General Assembly resolution 51/210;

6. *Also reiterates its call upon* all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

7. *Reiterates its call upon* States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

8. *Expresses concern* at the increase in incidents of kidnapping and hostage-taking with demands for ransom and/or political concessions by terrorist groups, and expresses the need to address this issue;

9. *Urges* States to ensure that their nationals or other persons and entities within their territory that wilfully provide or collect funds for the benefit of persons or entities who commit, or attempt to commit, facilitate or participate in the commission of terrorist acts are punished by penalties consistent with the grave nature of such acts;

10. *Reminds* States of their obligations under relevant international conventions and protocols and Security Council resolutions, including Council resolution 1373(2001), to ensure that perpetrators of terrorist acts are brought to justice;

11. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

12. *Recalls* the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism, the Amendment to the Convention on the Physical Protection of Nuclear Material, the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, and urges all States to consider, as a matter of priority, becoming parties to these instruments;

13. *Urges* all States that have not yet done so to consider, as a matter of priority and in accordance with Security Council resolution 1373(2001) and Council resolution 1566(2004) of 8 October 2004, becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings, the International Convention for the Suppression of the Financing of Terrorism, the International Convention for the Suppression of Acts of Nuclear Terrorism and the Amendment to the Convention on the Physical Protection of Nuclear Material, and calls upon all States to enact, as appropriate, the national legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts and to cooperate with and provide support and assistance to other States and relevant international, regional and subregional organizations to that end;

14. *Urges* States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other expert advice is provided to those States requiring and requesting assistance in becoming parties to and implementing the conventions and protocols referred to in paragraph 13 above;

15. *Notes with appreciation and satisfaction* that, consistent with the call contained in paragraphs 12 and 13 of General Assembly resolution 67/99, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions;

16. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to Assembly resolution 51/210, and calls upon all States to implement them;

17. *Calls upon* all States to cooperate to prevent and suppress terrorist acts;

18. *Urges* all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

19. *Notes* that the United Nations Counter-Terrorism Centre is performing its duties within the Counter-

Terrorism Implementation Task Force in New York and that the Centre is supporting the implementation of the United Nations Global Counter-Terrorism Strategy, and encourages all Member States to collaborate with the Centre and to contribute to the implementation of its activities within the Task Force;

20. *Requests* the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna to continue its efforts to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and recognizes, in the context of the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1373(2001), its role in assisting States in becoming parties to and implementing the relevant international conventions and protocols relating to terrorism, including the most recent among them, and in strengthening international cooperation mechanisms in criminal matters related to terrorism, including through national capacity-building;

21. *Notes* the continuing efforts by the Secretariat to prepare the fourth edition of the compendium of international instruments related to the prevention and suppression of international terrorism in all official languages;

22. *Invites* regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism, as well as on intergovernmental meetings held by those organizations;

23. *Takes note* of the report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 on the work of its sixteenth session;

24. *Decides*, taking into account the recommendation of the Ad Hoc Committee that more time was required to achieve substantive progress on the outstanding issues, to recommend that the Sixth Committee, at the sixty-ninth session of the General Assembly, establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations;

25. *Recognizes* the efforts of Member States towards resolving any outstanding issues, and encourages all Member States to redouble their efforts during the intersessional period;

26. *Decides* to include in the provisional agenda of its sixty-ninth session the item entitled "Measures to eliminate international terrorism".

On 25 July, the Economic and Social Council, by **resolution 2013/32** (see p. 1252), recommended to the General Assembly the adoption of a draft resolution on technical assistance for implementing international conventions and protocols related to counter-terrorism.

On 18 December, in its **resolution 68/187** (ibid.) on that topic, the Assembly called on States to become parties to the international conventions and protocols against terrorism, and requested UNODC to continue strengthening its technical assistance to Member States for the ratification and implementation of those instruments and for the development of counter-terrorism strategies, as well as enhancing its assistance related to international legal cooperation in combating terrorism, including through targeted programmes and training. The Assembly also requested UNODC to continue developing specialized knowledge, in particular with regard to criminal justice responses to terrorism and the use of Internet for countering the spread of terrorism, and called for stronger cooperation at the international level and within the UN system, including with the Security Council's Counter-Terrorism Committee and its Executive Directorate, and with the Counter-Terrorism Implementation Task Force, in the assistance, delivery and implementation of the United Nations Global Counter-Terrorism Strategy.

Diplomatic relations

Protection of diplomatic and consular missions and representatives

As at 31 December, the States parties to the following conventions relating to the protection of diplomatic and consular relations numbered: 189 States parties to the 1961 Vienna Convention on Diplomatic Relations [YUN 1961, p. 512], 51 parties to the Optional Protocol concerning the acquisition of nationality [ibid., p. 516] and 69 parties to the Optional Protocol concerning the compulsory settlement of disputes [ibid.].

The 1963 Vienna Convention on Consular Relations [YUN 1963, p. 510] had 176 parties, the Optional Protocol concerning acquisition of nationality [ibid., p. 512] had 41, and the Optional Protocol concerning the compulsory settlement of disputes [ibid.] had 51.

Parties to the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents [YUN 1973, p. 775] numbered 176.

Diplomatic protection

In 2006, the International Law Commission adopted the draft articles on diplomatic protection [YUN 2006, p. 1522]. The General Assembly took note of them by resolution 61/35 [ibid.] and invited Governments to submit comments concerning the Commission's recommendation to elaborate a convention on the basis of the articles.

In a June report and a later addendum [A/68/115 & Add.1], the Secretary-General summarized comments and information received from five States, pursuant to General Assembly resolution 65/27 [YUN 2010, p. 1338], on any future action regarding the articles on diplomatic protection, and from five States on the articles on diplomatic protection themselves.

Working Group. Pursuant to resolution 65/27, the Sixth Committee, on 7 October, established a working group to examine the question of a convention, or any other appropriate action, on the basis of

the articles on diplomatic protection [A/68/465]. The Working Group held one meeting, on 23 October. The Chair of the Group delivered an oral report to the Sixth Committee on 8 November [A/C.6/68/SR.28].

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/465], adopted **resolution 68/113** without vote [agenda item 82].

Diplomatic protection

The General Assembly,

Recalling its resolution 62/67 of 6 December 2007, the annex to which contains the text of the articles on diplomatic protection, commending the articles to the attention of Governments,

Recalling also that the International Law Commission decided to recommend to the General Assembly the elaboration of a convention on the basis of the articles on diplomatic protection,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of diplomatic protection is of major importance in relations between States,

Taking into account the comments and observations of Governments and the discussions held in the Sixth Committee, at the sixty-second, sixty-fifth and sixty-eighth sessions of the General Assembly, on diplomatic protection,

1. *Commends once again* the articles on diplomatic protection to the attention of Governments, and invites them to submit in writing to the Secretary-General any further comments, including comments concerning the recommendation by the International Law Commission to elaborate a convention on the basis of the articles;

2. *Decides* to include in the provisional agenda of its seventy-first session the item entitled "Diplomatic protection" and, within the framework of a working group of the Sixth Committee, in the light of the written comments of Governments, as well as views expressed in the debates held at the sixty-second, sixty-fifth and sixty-eighth sessions of the General Assembly, to continue to examine the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the above-mentioned articles and to also identify any difference of opinion on the articles.

Treaties and agreements

UN registration and publication of treaties

During 2013, the United Nations received 1,678 treaties and 994 actions for registration. In accordance with Article 102 of the Charter and relevant General Assembly regulations, 1,144 treaties and 872 subsequent actions were registered with the Secretariat. Registered treaties and actions included those submitted prior to 2013, but not registered at the time of submission due to defects in the submission, as well as treaties and actions deposited with the Secretary-General.

The United Nations published nine issues of the *Monthly Statement of Treaties and International Agreements* and 74 volumes of the *United Nations Treaty Series* (UNTS), incorporating the texts of treaties registered or filed, and recorded and related subsequent actions in the original languages, with translations into English and French, as appropriate. The United Nations Treaty Collection website, which provided access to UNTS and to up-to-date information on the status of all multilateral treaties deposited with the Secretary-General, generated over 2.7 million page views.

The 2013 Treaty Event entitled "Towards Universal Participation and Implementation" (New York, 24–26 and 30 September and 1 October) resulted in 113 treaty actions undertaken by 59 States with respect to 39 treaties deposited with the Secretary-General.

Multilateral treaties deposited with the Secretary-General

The United Nations received 1,170 treaty actions—such as signatures, ratifications, acceptances, approvals, accessions, declarations, reservations, objections and notifications—for deposit with the Secretary-General, resulting in the issuance of 2,088 depositary notifications.

The following new treaties were among those deposited with the Secretary-General in 2013:

—*Intergovernmental Agreement on Dry Ports*, adopted in Bangkok, Thailand, on 1 May;

—*Arms Trade Treaty*, adopted in New York on 2 April;

—*Amendment to Annex A to the Stockholm Convention on Persistent Organic Pollutants*, adopted in Geneva on 10 May;

—*Amendment to the Constitution of the International Vaccine Institute*, adopted in Seoul, Republic of Korea, on 1 November;

—*Amendments to Annex I to the United Nations Framework Convention on Climate Change*, adopted in Durban, South Africa, on 9 January; and

—*Minamata Convention on Mercury*, adopted in Kumamoto, Japan, on 10 October.

The following multilateral treaties and protocols deposited with the Secretary-General were among those that came into force in 2013:

—*United Nations Convention on the Use of Electronic Communications in International Contracts*, adopted in New York on 23 November 2005 and which entered into force on 1 March 2013;

—*Food Assistance Convention*, adopted in London on 25 April 2012 and which entered into force on 1 January 2013;

—*Amendment to the Constitution of the International Vaccine Institute*, adopted in Seoul on 1 November 2013 and which entered into force on the same day;

—*Amendments to Annex I to the United Nations Framework Convention on Climate Change*, adopted in Durban on 9 January 2013 and which entered into force on the same day;

—*Amendments to Annex I to the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone*, adopted in Geneva on 4 May 2012 and which entered into force on 5 June 2013; and

—*Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, adopted in New York on 10 December 2008 and which entered into force on 5 May 2013.

Advice and capacity-building in treaty law and practice

Advice and assistance on treaty law and practice were provided to Member States, the specialized agencies, the regional commissions, UN bodies, treaty bodies and other entities. Two seminars on treaty law and practice (16–17 April and 19–20 November) were conducted at UN Headquarters for legal advisors from Member States and other officials. Capacity-building training was delivered to government officials as part of the Regional Seminar on the Law of Treaties (Lima, Peru, 1–3 July), organized in collaboration with the Ministry for Foreign Affairs of the Republic of Peru, which included sessions on the general principles of the law of treaties, the registration of treaties and the practice of the Secretary-General as depositary of multilateral treaties, and UN conventions against corruption and against transnational organized crime. Legal assistance was also provided in drafting final clauses of the treaties deposited with the Secretary-General.

International economic law

In 2013, legal aspects of international economic law continued to be considered by the United Nations Commission on International Trade Law (UNCITRAL) and by the Sixth Committee of the General Assembly.

Commission on International Trade Law

At its forty-sixth session (Vienna, 8–26 July) [A/68/17], the Commission adopted the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the UNCITRAL Arbitration Rules (with a new article 1, paragraph (4), as adopted in 2013), and recommended their use in the settlement of investment disputes. It also adopted the UNCITRAL Guide on the Implementation of a Security Rights Registry, and recommended that States consider the Guide when revising relevant legislation, administrative regulations or guidelines; as well as the Guide to Enactment and Interpretation of the UNCITRAL Model Law on Cross-Border Insolvency [YUN 1997, p. 1379] and part four of the UNCITRAL Legislative Guide on Insolvency Law [YUN 2010, p. 1341], with a recommendation that States use the Legislative Guide in assessing the economic efficiency of their insolvency laws. The Commission further adopted the guidance on procurement regulations to be promulgated in accordance with article 4 of the UNCITRAL Model Law on Public Procurement [YUN 2011, p. 1291] and the glossary of procurement-related terms used in the UNCITRAL Model Law on Public Procurement, and updated the UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective [YUN 2011, p. 1292].

The Commission considered the status of the conventions and model laws emanating from its work and the status of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) [YUN 1958, p. 391], on the basis of a Secretariat note [A/CN.9/773] and further information from the Secretariat. The Commission also considered a bibliography of writings relating to its work [A/CN.9/772]. UNCITRAL continued its work on arbitration and conciliation, security interests, insolvency law, public procurement, online dispute resolution and electronic commerce, and considered possible future work in the areas of public-private partnerships, international contract law and international trade law aimed at reducing the legal obstacles faced by micro-, small- and medium-sized enterprises throughout their life cycle. It also reviewed the implementation of the New York Convention, the work on the collection and dissemination of case law on UNCITRAL texts (CLOUT), and training and technical assistance activities.

Pursuant to General Assembly resolution 67/97 [YUN 2012, p. 1322], the Commission held a panel discussion on its role in promoting the rule of law and the peaceful settlement of international disputes. It endorsed the views that emphasized the importance of its instruments in the areas of arbitration and conciliation, transparency in investor-State dispute resolution and online dispute resolution, of the increased use of UNCITRAL standards and of technical assistance, as well as its potential role in dispute settlement in post-conflict situations. The Commission also heard an oral report on the statement delivered by the UNCITRAL Chairman at the 2012 high-level meeting of the General Assembly on the rule of law at the national and international levels [ibid., p. 1319], in which he underscored the mutually reinforcing impact of the rule of law and economic development. UNCITRAL decided to consider at its forty-seventh (2014) session the subtopic "Sharing States' national practices in strengthening the rule of law through access to justice", further to consideration of that subtopic in the Assembly's Sixth Committee.

Arbitration and conciliation

UNCITRAL [A/68/17] had before it the reports of Working Group II (Arbitration and Conciliation) on its fifty-seventh (Vienna, 1–5 October 2012) [A/CN.9/760] and fifty-eighth (New York, 4–8 February) [A/CN.9/765] sessions, together with a Secretariat note [A/CN.9/783] transmitting draft UNCITRAL rules on transparency in treaty-based investor-State arbitration, and another on the applicability of the rules on transparency to existing investment treaties [A/CN.9/784]. The Commission noted that the Working Group, at its fifty-eighth session, had completed its third reading of the rules on transparency; it also took note of the comments by Governments [A.CN.9/787 & Add.1/Corr.1 & Add.2, 3] on those rules and on the proposed amendments to the UNCITRAL Arbitration Rules (as revised in 2010) [YUN 2010, p. 1340]. The Commission considered and further revised the draft rules on transparency, amended the UNCITRAL Arbitration Rules (as revised in 2010) as required by the application of the transparency rules, and entrusted the Working Group with preparing a convention on the application of the rules on transparency to existing treaties.

Further to a Secretariat note on the functions of a repository of published information under the rules on transparency [A/CN.9/791] and the Working Group's decision on the subject, the Commission expressed its unanimous opinion that the UNCITRAL secretariat should fulfil the role of a transparency repository, mandated the Secretariat to seek the funding necessary for fulfilling those functions and requested it to report in 2014 on the status of the repository's establishment and functioning.

On 11 July, the Commission adopted the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the UNCITRAL Arbitration Rules (with a new article 1, paragraph (4), as adopted in 2013), and recommended their use in the settlement of investment disputes. It requested the Secretary-General, through the UNCITRAL secretariat, to perform the functions of the transparency repository, as well as to publish and disseminate the rules broadly, and to transmit them to Governments and interested organizations. It also recommended that the rules on transparency be applied through appropriate mechanisms to investor-State arbitration initiated pursuant to investment treaties concluded before the date of coming into effect of those rules, to the extent such application was consistent with those investment treaties.

UNCITRAL also considered a note [A/CN.9/785] by the Secretariat on possible future work in the settlement of commercial disputes, which presented the topics already noted by the Commission, including revision of the UNCITRAL Notes on Organizing Arbitral Proceedings and arbitrability, as well as other possible topics such as multiple, concurrent proceedings in the field of investment arbitration; dispute boards; guidance on the role of the investor's home State in an investment arbitration; mass claim arbitration; enforcement of settlement agreements; power to conclude arbitration agreements; and third-party funding. Following discussion, it was suggested that the topic should be revisited at a future session of the Commission, after completion of its work on developing a convention on transparency. The Commission further agreed that the future activities in the area of commercial dispute settlement should be submitted to Working Group II.

At its fifty-ninth session (Vienna, 16–20 September) [A/CN.9/794 & Corr.1], Working Group II continued the preparation of a convention on transparency in treaty-based investor-State arbitration, focusing on the relation between the transparency convention and existing investment treaties; unilateral offer to arbitrate under the rules on transparency; and application to arbitrations under the UNCITRAL Arbitration Rules or under all arbitration rules. Based on the deliberations and decisions of the Working Group, the Secretariat was requested to prepare a revised draft of the transparency convention.

Implementation of the 1958 New York Convention

UNCITRAL, at its forty-sixth session [A/68/17], was informed of the progress made by the Secretariat in promoting the uniform application of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards [YUN 1958, p. 391] through making available details on its judicial interpretation by States parties. A website established in cooperation between the secretariat of UNCITRAL and international legal scholars George Bermann and Emmanuel Gaillard provided summaries of 782 cases on the Convention's implementation from 18 jurisdictions, and included over 900 original-language decisions and 90 English-language translations, with case law and summaries being added on an ongoing basis. The database complemented reporting case law on the New York Convention in CLOUT (see p. 1345), according to a Secretariat note [A/CN.9/777]. It also included material used for the preparation of the Guide on the New York Convention, further to the Commission's 2008 decision to envisage developing a guide to enactment of the Convention [YUN 2008, p. 1454] and its 2010 request to pursue those efforts [YUN 2010, p. 1342] aimed at promoting the Convention's uniform interpretation and application.

The Commission had before it a note by the Secretariat containing an excerpt of the UNCITRAL Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) [A/CN.9/786]. It took note of the collaboration with the experts and their teams, and expressed appreciation for their work on the project. During the discussion,

concerns were expressed that a guide would indicate preference for some views over others and would not therefore reflect an international consensus on the interpretation of the New York Convention; the question of the form in which the guide might be published was also raised in this context. The Commission requested the Secretariat to submit the guide for further consideration at its forty-seventh (2014) session.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/462], adopted **resolution 68/109** without vote [agenda item 79].

United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013)

The General Assembly,

Recalling its resolution 2205(XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recognizing the value of arbitration as a method of settling disputes that may arise in the context of international relations and the wide use of arbitration for the settlement of treaty-based investor-State disputes,

Recalling its resolutions 31/98 of 15 December 1976 and 65/22 of 6 December 2010, in which it recommended the use of the Arbitration Rules of the United Nations Commission on International Trade Law,

Bearing in mind that the Arbitration Rules are widely used for the settlement of treaty-based investor-State disputes,

Recognizing the need for provisions on transparency in the settlement of such treaty-based investor-State disputes to take account of the public interest involved in such arbitrations,

Believing that rules on transparency in treaty-based investor-State arbitration would contribute significantly to the establishment of a harmonized legal framework for a fair and efficient settlement of international investment disputes, increase transparency and accountability and promote good governance,

Noting that the Commission, at its forty-sixth session, adopted the Rules on Transparency in Treaty-based Investor-State Arbitration and amended the Arbitration Rules as revised in 2010 to include, in a new article 1, paragraph 4, a reference to the Rules on Transparency,

Noting also that the Rules on Transparency are available for use in investor-State arbitrations initiated under rules other than the Arbitration Rules or in ad hoc proceedings,

Noting further that the preparation of the Rules on Transparency was the subject of due deliberation in the Commission and that they benefited from consultations with Governments and interested intergovernmental and international non-governmental organizations,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for having prepared and adopted the Rules on Transparency in Treaty-based Investor-State Arbitration and the Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013), as annexed to the report of the Commission on the work of its forty-sixth session;

2. *Requests* the Secretary-General to publish, including electronically, and disseminate broadly the text of the Rules on Transparency, both together with the Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013) and as a stand-alone text, and to transmit them to Governments and organizations interested in the field of dispute settlement;

3. *Recommends* the use of the Rules on Transparency in relation to the settlement of investment disputes within the scope of their application as defined in article 1 of the Rules, and invites Member States that have chosen to include the Rules in their treaties to inform the Commission accordingly;

4. *Also recommends* that, subject to any provision in relevant treaties that may require a higher degree of transparency than that provided in the Rules on Transparency, the Rules be applied through appropriate mechanisms to investor-State arbitration initiated pursuant to treaties providing for the protection of investors or investments concluded before the date of coming into effect of the Rules, to the extent that such application is consistent with those treaties.

Security interests

The Commission [A/68/17] considered the progress made by Working Group VI (Security Interests) at its twenty-second (Vienna, 10–14 December 2012) [A/CN.9/764] and twenty-third (New York, 8–12 April) [A/CN.9/767] sessions in preparing a text on the registration of security rights in movable assets, in the form of a guide providing examples of model regulations and consistent with the UNCITRAL Legislative Guide on Secured Transactions (Secured Transactions Guide) adopted by UNCITRAL in 2007 [YUN 2007, p. 1378] and the General Assembly in 2008 [YUN 2008, p. 1474]. The Commission had before it a Secretariat note entitled "Draft Technical Legislative Guide on the Implementation of a Security Rights Registry" [A/CN.9/WG.VI/WP.54 & Add.1–6], which contained a commentary, and another containing the draft UNCITRAL Guide on the Implementation of a Security Rights Registry [A/CN.9/781 & Add.1, 2] together with changes to the commentary, recommendations and examples of registry forms agreed by the Working Group at its twenty-third session.

On 16 July, the Commission adopted the UNCITRAL Guide on the Implementation of a Security Rights Registry as amended at its forty-sixth session, and requested the Secretary-General to publish the

Guide, including electronically, and disseminate it broadly to Governments and other bodies. It recommended that States consider the Guide on the Implementation of a Security Rights Registry when revising relevant legislation, administrative regulations or guidelines, and the Secured Transactions Guide when revising or adopting legislation on secured transactions, and that they become party to the United Nations Convention on the Assignment of Receivables in International Trade (United Nations Assignment Convention) [YUN 2001, p. 1261].

UNCITRAL noted coordination efforts in the field of security interests, including the preparation of a joint set of uncitral-World Bank principles on secured transactions that would incorporate the recommendations of the Legislative Guide, and cooperation with the European Commission to ensure a coordinated approach to the issue of the law applicable to the third-party effects of assignments of receivables that would take into account the United Nations Assignment Convention and the Secured Transactions Guide. It renewed the Secretariat's mandate to continue with such efforts and report to the Commission.

With regard to the future work programme, the Commission confirmed its decision that Working Group VI should prepare a concise model law on secured transactions based on the recommendations of the Secured Transactions Guide and consistent with all texts prepared by UNCITRAL on secured transactions. It noted that the Working Group, at its twenty-third session (see p. 1339), had discussed a draft Model Law on Secured Transactions on the basis of a note by the Secretariat [A/CN.9/WG.VI/WP.55 & Add.1–4], and that it had requested the Secretariat to prepare a revised version following the deliberations.

At its twenty-fourth session (Vienna, 2–6 December) [A/CN.9/796], Working Group VI continued the preparation of a model law consistent with relevant UNCITRAL texts, including the United Nations Assignment Convention and the Supplement on Security Rights in Intellectual Property (the Intellectual Property Supplement) [YUN 2010, p. 1340]. The Working Group considered a Secretariat note on the draft Model Law on Secured Transactions [A/CN.9/WG.VI/WP.57 & Add.1–4], focusing on the scope of application, rights and obligations of the parties, effectiveness of a security right against third parties, the registry system, as well as priority of a security right and its enforcement. The Secretariat was requested to revise the draft Model Law following the deliberations.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/462], adopted **resolution 68/108** without vote [agenda item 79].

United Nations Commission on International Trade Law Guide on the Implementation of a Security Rights Registry

The General Assembly,

Recognizing the importance to all States of efficient secured transactions regimes in promoting access to affordable secured credit,

Recognizing also that access to affordable secured credit is likely to assist all countries, in particular developing countries and countries with economies in transition, in their efforts to achieve economic growth, sustainable development, the rule of law and financial inclusion,

Recalling its resolution 63/121 of 11 December 2008, in which it recommended that all States give favourable consideration to the *Legislative Guide on Secured Transactions* of the United Nations Commission on International Trade Law when revising or adopting legislation relevant to secured transactions,

Recognizing that an efficient secured transactions regime with a publicly accessible security rights registry of the kind recommended in the *Legislative Guide on Secured Transactions* is likely to increase access to affordable secured credit,

Noting with satisfaction that the United Nations Commission on International Trade Law Guide on the Implementation of a Security Rights Registry is consistent with and usefully supplements the *Legislative Guide on Secured Transactions* and that the two Guides, together, will provide comprehensive guidance to States with respect to legal and practical issues that need to be addressed when implementing a modern secured transactions regime,

Noting that secured transactions law reform could not be effectively implemented without the establishment of an efficient, publicly accessible security rights registry where information about the potential existence of a security right in movable assets may be registered and that States urgently need guidance with respect to the establishment and operation of such registries,

Taking into account that the harmonization of national security rights registries on the basis of the Guide on the Implementation of a Security Rights Registry is likely to increase the availability of credit across national borders and thus facilitate the development of international trade, which, if achieved on the basis of equality and mutual benefit to all States, is an important element in promoting friendly relations among States,

Expressing its appreciation to intergovernmental and international non-governmental organizations active in the field of secured transactions law reform for their participation in and support for the development of the Guide on the Implementation of a Security Rights Registry,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for the completion and adoption of the Guide on the Implementation of a Security Rights Registry;

2. *Requests* the Secretary-General to publish the Guide on the Implementation of a Security Rights Registry, including through electronic means, and to disseminate it broadly to Governments and other interested bodies such as national and international financial institutions and chambers of commerce;

3. *Recommends* that all States give favourable consideration to the Guide on the Implementation of a Security Rights Registry when revising relevant legislation, administrative regulations or guidelines and to the *Legislative Guide on Secured Transactions* of the Commission when revising or adopting legislation relevant to secured transactions, and invites States that have used the Guides to advise the Commission accordingly;

4. *Also recommends* that all States continue to consider becoming parties to the United Nations Convention on the Assignment of Receivables in International Trade, the principles of which are reflected in the *Legislative Guide on Secured Transactions* and the optional annex to which refers to the registration of data with regard to assignments.

Insolvency law

UNCITRAL [A/68/17] considered the progress made by Working Group V (Insolvency Law) at its forty-second (Vienna, 26–30 November 2012) [A/CN.9/763] and forty-third (New York, 15–19 April) [A/CN.9/766] sessions, noting that at its forty-third session the Working Group had discussed the provision of guidance on interpretation and application of selected concepts of the UNCITRAL Model Law on Cross-Border Insolvency [YUN 1997, p. 1379] relating to the "centre of main interests" and its applicability to enterprise groups, as well as possible development of provisions on insolvency law addressing selected international issues such as jurisdiction, access and recognition, and responsibility of directors of an enterprise in the period approaching insolvency. The Commission had before it proposed revisions to the Guide to Enactment of the Model Law on Cross-Border Insolvency [A/CN.9/WG.V/WP.112]; a text on directors' obligations in the period approaching insolvency [A/CN.9/WG.V/WP.113], prepared as an additional part of the UNCITRAL Legislative Guide on Insolvency Law [YUN 2010, p. 1341] and containing a commentary and set of legislative recommendations; as well as further revisions to both texts agreed by the Working Group at its forty-third session.

On 18 July, the Commission adopted the Guide to Enactment and Interpretation of the UNCITRAL Model Law on Cross-Border Insolvency as revised at its forty-sixth session, and requested the Secretary-General to publish the Guide, including electronically, together with the Model Law, and transmit it to Governments and other bodies. It recommended that the Guide be duly considered by legislators, policymakers, judges, insolvency practitioners and others concerned with cross-border insolvency laws and proceedings, and that States consider implementing the Model Law. Also on 18 July, the Commission adopted part four of the UNCITRAL Legislative Guide on Insolvency Law as revised at its forty-sixth session, and requested the Secretary-General to publish the text of part four, including electronically, and transmit it to Governments and other bodies. It also requested the Secretary-General to consolidate parts one to four of the Legislative Guide, and recommended that States use the Guide in assessing the economic efficiency of their insolvency law regimes and consider it when revising or adopting insolvency-related legislation.

The Commission also considered a Secretariat note [A/CN.9/778] on the proposed updates to the UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective [YUN 2011, p. 1292], noting that the Secretariat had established a board of experts on updating the Judicial Perspective to take account of jurisprudence on the Model Law and proposed revisions to its Guide to Enactment, and the updated text had also been provided to the Tenth Multinational Judicial Colloquium, organized by UNCITRAL in conjunction with INSOL International and the World Bank (The Hague, 18–19 May). It requested the Secretariat to publish the updated Judicial Perspective, including electronically, and transmit it to Governments, together with the request that the text be made available to relevant authorities.

Regarding its future work programme, the Commission noted that Working Group V continued addressing the issues relevant in the context of enterprise groups, including in relation to the "centre of main interests", as well as the possible development of a model law or provisions on insolvency law addressing selected international issues in a manner that would not preclude the development of a convention. The Commission decided that the Working Group should hold a colloquium to discuss its work on enterprise group issues and consider future topics, including insolvency issues specific to micro-, small- and medium-sized enterprises (MSMEs). The Working Group was requested to consider whether the UNCITRAL Legislative Guide on Insolvency Law provided adequate solutions for such enterprises and what might be required to streamline and simplify insolvency procedures for them.

At its forty-fourth session (Vienna, 16–20 December) [A/CN.9/798], Working Group V held a colloquium on its possible future work. It agreed to develop provisions on issues related to cross-border insolvency of multinational enterprise groups, some of which would extend the existing provisions of the Model Law on Cross-Border Insolvency and part three of the Legislative Guide on Insolvency Law, and involve reference to the Practice Guide on Cross-Border Insolvency Cooperation [YUN 2009, p. 1319]. The Working Group also agreed to study the feasibility of developing a convention on selected international insolvency issues and to continue its work on cross-border insolvency of financial institutions. It retained as topics for possible future work choice of law, issues relating to creditors and claims, insolvency treatment of financial contracts and netting, regulation of insolvency practitioners, enforcement of insolvency-derived judgments, and treatment of intellectual property contracts in cross-border insolvency cases.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/462], adopted **resolutions 68/107 A** and **B** without vote [agenda item 79].

Revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency and part four of the Legislative Guide on Insolvency Law of the United Nations Commission on International Trade Law

A

REVISION OF THE GUIDE TO ENACTMENT OF THE MODEL LAW ON CROSS-BORDER INSOLVENCY

The General Assembly,

Recalling its resolution 2205(XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolution 52/158 of 15 December 1997, in which it recommended the use of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law, contained in the annex thereto,

Noting that legislation based upon the Model Law on Cross-Border Insolvency has been enacted in some 20 States,

Noting also the widespread increase in the incidence of cross-border insolvency proceedings and, accordingly, the growing opportunities for use and application of the Model Law on Cross-Border Insolvency in cross-border insolvency proceedings and the development of international jurisprudence interpreting its provisions,

Noting further that courts frequently have reference to the Guide to Enactment of the Model Law on Cross-Border Insolvency for guidance on the background to the drafting and interpretation of its provisions,

Recognizing that some uncertainty with respect to the interpretation of certain provisions of the Model Law on Cross-Border Insolvency has emerged in the jurisprudence arising from its application in practice,

Convinced of the desirability, in the interpretation of those provisions, of regard to the international origin of the Model Law on Cross-Border Insolvency and the need to promote uniformity in its application,

Convinced also of the desirability of providing additional guidance through revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency with respect to the interpretation and application of selected aspects of the Model Law to facilitate uniform interpretation,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for revising the Guide to Enactment of the Model Law on Cross-Border Insolvency;

2. *Requests* the Secretary-General to publish, including electronically, the text of the Guide to Enactment and Interpretation of the Model Law on Cross-Border Insolvency, together with the text of the Model Law on Cross-Border Insolvency, and to transmit it to Governments and interested bodies, so that it becomes widely known and available;

3. *Recommends* that the Guide to Enactment and Interpretation of the Model Law on Cross-Border Insolvency be given due consideration, as appropriate, by legislators, policymakers, judges, insolvency practitioners and other individuals concerned with cross-border insolvency laws and proceedings;

4. *Also recommends* that all States continue to consider implementation of the Model Law on Cross-Border Insolvency, and invites States that have enacted legislation based upon the Model Law to advise the Commission accordingly.

B

PART FOUR OF THE LEGISLATIVE GUIDE ON INSOLVENCY LAW

The General Assembly,

Recalling its resolution 2205(XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolutions 59/40 of 2 December 2004, in which it recommended the use of the *Legislative Guide on Insolvency Law* of the United Nations Commission on International Trade Law, and 65/24 of 6 December 2010, in which it recommended the use of part three of the *Guide*, on the treatment of enterprise groups in insolvency,

Considering that effective insolvency regimes, in addition to providing a predictable legal process for addressing the financial difficulties of troubled enterprises and the necessary framework for their efficient reorganization or orderly liquidation, should also permit an examination to be made of the circumstances giving rise to insolvency and, in particular, of the conduct of directors of such an enterprise in the period before insolvency proceedings commence,

Noting that the *Legislative Guide*, while addressing the obligations of directors of an enterprise once insolvency proceedings commence, does not address the conduct of directors in the period approaching insolvency and the obligations that might be applicable to directors in that period,

Considering that the provision of incentives for directors to take timely action to address the effects of financial distress experienced by an enterprise may be key to its successful reorganization or liquidation and that such incentives should be part of an effective insolvency regime,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for developing and adopting part four of the *Legislative Guide on Insolvency Law*, addressing the obligations of directors of an enterprise in the period approaching the insolvency of that enterprise;

2. *Requests* the Secretary-General to publish, including electronically, the text of part four of the *Legislative Guide* and to transmit it to Governments and other interested bodies;

3. *Recommends* that all States utilize the *Legislative Guide* to assess the economic efficiency of their insolvency law regimes and give favourable consideration to the *Guide*

when revising or adopting legislation relevant to insolvency, and invites States that have used the *Guide* to advise the Commission accordingly.

Procurement

The Commission [A/68/17] considered a Secretariat note [A.CN.9/770] on the guidance on procurement regulations to be promulgated in accordance with article 4 of the UNCITRAL Model Law on Public Procurement [YUN 2011, p. 1291], and another containing the glossary of procurement-related terms used in the UNCITRAL Model Law on Public Procurement [A/CN.9/771], prepared further to its 2012 request [YUN 2012, p. 1310] for a study of existing resources that might support the implementation of the Model Law and its accompanying Guide to Enactment [ibid.]. The Commission adopted the guidance and the glossary, and requested the Secretary-General to publish them, including electronically, and to disseminate them broadly to Governments and other bodies so that they become generally known and available. It recommended that States and reform agencies consider them in reforming public procurement systems based on the Model Law and its Guide to Enactment.

The Commission decided that the Model Law and the Guide addressed in sufficient detail the legal aspects of the effective use of procurement methods, centralized purchasing and framework agreements, sustainability and environmental procurement, as well as access for small- and medium-sized enterprises to procurement markets. It also decided to entrust Working Group I (Procurement) with work on reducing the legal obstacles faced by MSMEs throughout their life cycle, and further decided that issues of contract management and administration and procurement planning could be addressed in any future work in the field of public-private partnerships (see p. 1344).

Online dispute resolution

UNCITRAL [A/68/17] noted the progress made by Working Group III (Online Dispute Resolution) on the draft procedural rules on dispute resolution for cross-border electronic transactions, at the twenty-sixth (Vienna, 5–9 November 2012) [A/CN.9/762] and the twenty-seventh (New York, 20–24 May) [A.CN.9/769] sessions, in particular its proposal for a two-track system in online dispute resolution proceedings, one track of which ended in arbitration and one of which did not. The Commission noted the views expressed in the Working Group that a global online dispute resolution system should be devised to accommodate both the jurisdictions that provided for pre-dispute arbitration agreements to be binding on consumers and the jurisdictions that did not. It also took note of the two structural proposals in relation to the rules, one for a business-to-business set of rules intended to precede the development of a business-to-consumer set of rules, and the other a modified proposal implementing the two-track system. The Commission further noted the Working Group's determination to consider those proposals and address the concerns raised.

The Commission decided that the Working Group should continue discussing the effects of online dispute resolution on consumer protection in developing and developed countries, as well as countries in post-conflict situations, including when the consumer was the respondent party, and consider how the draft rules would respond to the needs of developing countries and those facing post-conflict situations. UNCITRAL reaffirmed the Working Group's mandate in respect of low-value, high-volume cross-border electronic transactions and encouraged it to continue to explore means of effectively implementing online dispute resolution outcomes, including possible alternatives to arbitration.

At its twenty-eighth session (Vienna, 18–22 November) [A/CN.9/795], the Working Group continued its deliberations on the draft procedural rules on online dispute resolution for cross-border electronic transactions.

Electronic commerce

UNCITRAL [A/68/17] noted the progress made by Working Group IV (Electronic Commerce) in the field of electronic transferable records at its forty-sixth (Vienna, 29 October–2 November 2012) [A/CN.9/761] and forty-seventh (New York, 13–17 May) [A/CN.9/768] sessions, in particular the emphasis on a functional approach in developing generic rules that should encompass various types of electronic transferable records, and agreement that draft provisions should be prepared in the form of a model law, without prejudice to the decision on the final form. There was general understanding that work should be guided by the principles of functional equivalence and technological neutrality, and should not deal with matters governed by the substantive law. The view was expressed that work should take into consideration the Convention Providing a Uniform Law for Bills of Exchange and Promissory Notes (Geneva, 7 June 1930) and the Convention Providing a Uniform Law for Cheques (Geneva, 19 March 1931), as introduction of electronic equivalents of such instruments could create legal difficulties in States parties to those conventions.

The Commission noted that the United Nations Convention on the Use of Electronic Communications in International Contracts (Electronic Communications Convention) [YUN 2005, p. 1459] had entered into force on 1 March 2013 and that its provisions had influenced States in revising or enacting their legislation on electronic commerce, thus having the positive effect of updating and supplementing the UNCITRAL Model Law on Electronic Commerce [YUN 1996, p. 1236].

The Commission reaffirmed the Working Group's mandate relating to electronic transferable records and requested the Secretariat to continue reporting on relevant developments relating to electronic commerce. It also agreed that work towards developing a legislative text in the field of electronic transferable records should continue, and that whether that work would extend to identity management, single windows and mobile commerce would be assessed at a future time.

At its forty-eighth session (Vienna, 9–13 December) [A/CN.9/797], Working Group IV discussed draft provisions on electronic transferable records, including 31 draft articles and their relationship with the Geneva Conventions (see 1343).

Commercial fraud

UNCITRAL [A/68/17] had before it a Secretariat note [A/CN.9/788] on the results of the informal expert group meeting on commercial fraud (Vienna, 29–30 April), convened further to the Commission's suggestion that the group continue to meet periodically. At its meeting, the group had reviewed the 2008 "Indicators of commercial fraud" [YUN 2008, p. 1473], considered the proposal of holding an international colloquium on the subject, discussed a mechanism for future work and agreed on a list of recommended topics for consideration by the Commission. Noting that there was no current proposal to prepare a new legislative text in this area, the Commission decided to be kept informed of future developments on this topic.

International contract law

Further to its 2012 consideration of a proposal by Switzerland suggesting to explore the desirability and feasibility of possible work for further harmonization of contract law [YUN 2012, p. 1314], the Commission [A/68/17] was informed of the Secretariat activities on this topic, including a symposium on assessing the 1980 United Nations Convention on Contracts for the International Sale of Goods (United Nations Sales Convention) [YUN 1980, p. 1131] and other international endeavours to unify international contract law (Villanova University School of Law, United States, January), an expert meeting on contract law at the UNCITRAL Regional Centre for Asia and the Pacific (Incheon, Republic of Korea, February) and updates to the relevant bibliography. The Commission also had before it a proposal by the United States regarding UNCITRAL future work [A/CN.9/789], which recommended, inter alia, celebrating the thirty-fifth anniversary of the United Nations Sales Convention in 2015.

UNCITRAL requested the Secretariat to commence planning for a colloquium to celebrate the thirty-fifth anniversary of the United Nations Sales Convention, to take place after its forty-seventh (2014) session. It was noted that the Secretariat would continue reviewing the situation and report to the Commission as necessary.

Micro-, small- and medium-sized enterprises

UNCITRAL [A/68/17] was informed of the results of a colloquium on microfinance and the formalization of micro-, small- and medium-sized enterprises (MSMEs) (Vienna, 16–18 January), organized further to its 2012 request [YUN 2012, p. 1314]. It took note of the recommendation to entrust a working group with addressing the legal aspects of an enabling legal environment for MSMEs and to provide guidance allowing for simplified business start-up and operation procedures. Specific issues concerned a system for resolving disputes between borrowers and lenders, including through the use of online dispute resolution; effective access to financial services for MSMEs, including by broadening the scope of existing UNCITRAL instruments on e-commerce and international credit transfers; access to credit, transparency in lending and enforcement of lending transactions; and insolvency of MSMEs. A legislative guide or a model law was recommended as a flexible tool for harmonizing efforts in that sector and provide momentum for reforms. UNCITRAL also heard a proposal by Colombia [A/CN.9/790] to create a new mandate for a working group on the enterprise life cycle, particularly in relation to MSMEs.

The Commission agreed that work on international trade law aimed at reducing the legal obstacles faced by MSMEs throughout their life cycle and in particular those in developing economies should be added to its work programme, and should focus initially on the legal questions concerning the simplification of incorporation. The Secretariat was requested to include in the preparatory documentation for the working group information showing the mandate's complementarity with the work of other organizations and its impact on sustainable development and inclusive finance. The Commission also agreed to discontinue the use of the term "microfinance" when referring to the new subject, and allocated it to Working Group I.

Public-private partnerships

The Commission considered a report of the UNCITRAL colloquium on possible future work in the area of public-private partnerships (PPPs) (Vienna, 2–3 May) [A/CN.9/779], organized in response to its 2012 request [YUN 2012, p. 1310]. It noted the importance of PPPs in securing resources for infrastructure and other development, at the international and regional levels and for States at all stages of development. It also noted that the topic was amenable to harmonization and the consensual development of a legislative text, and that there was a lack of a universally accepted standard on public-private partnerships.

There was agreement on the need to update and revise the instruments on privately-financed infrastructure projects in light of the development in the market for PPPs, and on the key elements of a legislative text on PPPs. Further preparatory work, however, was required to set a scope for any mandate in a working group. The Commission agreed to hold further colloquiums on the subject and requested the Secretariat to report to it at its forty-seventh (2014) session.

Case law on UNCITRAL texts

The Commission [A/68/17] considered a Secretariat note on the promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts [A/CN.9/777], which provided information on the current status of the case law on UNCITRAL texts (CLOUT) system and an update on work undertaken by the Secretariat on digests of case law relating to the United Nations Sales Convention [YUN 1980, p. 1131] and the Model Law on International Commercial Arbitration (Model Law on Arbitration) [YUN 1985, p. 1192].

The Commission noted the increasing number of UNCITRAL legal texts represented in the CLOUT system. As at 26 April, 128 issues of compiled case-law abstracts from the CLOUT system had been prepared for publication, dealing with 1,234 cases related to the New York Convention [YUN 1958, p. 391], the 1974 Convention on the Limitation Period in the International Sale of Goods [YUN 1974, p. 853] and the Convention on the Limitation Period in the International Sale of Goods as amended by the Protocol of 11 April 1980 [YUN 1980, p. 1132], the 1978 United Nations Convention on the Carriage of Goods by Sea [YUN 1978, p. 955], the United Nations Sales Convention, the UNCITRAL Model Law on International Credit Transfers [YUN 1992, p. 1013], the 1995 United Nations Convention on Independent Guarantees and Stand-by Letters of Credit [YUN 1995, p. 1358], the UNCITRAL Model Law on International Commercial Arbitration (1985) with amendments as adopted in 2006 [YUN 2006, p. 1528], the UNCITRAL Model Law on Electronic Commerce [YUN 1996, p. 1236], the UNCITRAL Model Law on Cross-Border Insolvency [YUN 1997, p. 1379] and the Electronic Communications Convention [YUN 2005, p. 1459]. The Commission noted an increase in the number of abstracts from Latin America and the Caribbean; it also noted that the network of national correspondents, which began its five-year mandate in 2012 [YUN 2012, p. 1314] and was composed to date of 64 correspondents representing 31 countries.

UNCITRAL was informed of the publication of the digest of case law on the United Nations Sales Convention in English and its translation into five other languages, as well as of the activities to promote the digest of case law on the Model Law on Arbitration and of the progress in preparing the digest of case law on the Model Law on Cross-Border Insolvency. It welcomed the efforts to update and upgrade the CLOUT system and make it more user-friendly, and appealed to States to assist the Secretariat in the search for available funding to ensure the coordination and expansion of the system.

Technical cooperation and assistance

UNCITRAL [A/68/17] considered a Secretariat note [A/CN.9/775] describing technical cooperation and assistance activities undertaken since 2012. The Commission noted that the number of activities remained limited due to the lack of available resources, and reiterated its appeal for either multi-year or specific-purpose contributions to the UNCITRAL Trust Fund for Symposia, to enable the Secretariat to meet the increasing number of requests from developing countries and economies in transition. The Secretariat was requested to continue exploring alternative sources of extrabudgetary funding, and was encouraged to seek cooperation with international organizations, including through regional offices and bilateral assistance providers.

The Commission also took note of the activities undertaken by the UNCITRAL Regional Centre for Asia and the Pacific, aimed at raising awareness of UNCITRAL texts relating to arbitration and electronic commerce, as well as promoting universal participation in the New York Convention and uniform interpretation of the United Nations Sales Convention. The Commission stressed the importance of the tasks assigned to the Regional Centre and welcomed the continuing interest of Kenya in hosting an UNCITRAL regional centre in Nairobi. The Secretariat was requested to inform the Commission on further developments in the operation of the Regional Centre for Asia and the Pacific and the establishment of other UNCITRAL regional centres.

Coordination and cooperation

UNCITRAL [A/68/17] considered a Secretariat note [A/CN.9/776] prepared pursuant to General Assembly resolution 34/142 [YUN 1979, p. 1132] and providing information on the activities of other international organizations active in the field of international trade law in which the UNCITRAL Secretariat had participated since 2012. The Commission noted that the Secretariat had engaged in activities with a number of organizations, including the European Union, the Hague Conference on Private International Law (the Hague Conference), the Organization for Economic Cooperation and Development, the United Nations Centre for Trade Facilitation and Electronic Business, the United Nations Conference on Trade and Development, the Economic Commission for Europe, the International Institute for the Unification of Private Law (Unidroit), the United Nations Inter-Agency

Cluster on Trade and Productive Capacity of the United Nations System Chief Executives Board for Coordination, and the World Bank. The Secretariat participated in expert groups, working groups and plenary meetings of those organizations to share information and expertise and avoid duplication of work.

The Commission took note of the decision by the Unidroit Governing Council to seek substantive cooperation with UNCITRAL, agreed that Unidroit, the Hague Conference and UNCITRAL should emphasize their cooperation in common areas, and supported the proposal to prepare an uncitral-Unidroit report on possible joint projects. It also noted the European Commission's proposal for an optional contract law instrument that would be open for selection in cross-border business-to-consumer transactions and business-to-business transactions where one party was a small or medium-sized enterprise. The work being done with the World Bank in establishing uniform legal frameworks in public procurement, arbitration and conciliation, insolvency and secured transactions was also highlighted.

Future work

The Commission [A/68/17] considered a Secretariat note on planned and possible future work [A/CN.9/774], which supplemented the note on a strategic direction for UNCITRAL submitted in 2012 [YUN 2012, p. 1315], as well as certain issues set out in a proposal by the United States regarding UNCITRAL future work [A/CN.9/789] (see also p. 1344). It underscored the importance of a strategic approach to the allocation of UNCITRAL resources, focused on identifying the subject areas of the highest priority, emphasizing formal rather than informal negotiations, achieving the optimal balance among UNCITRAL activities and mobilizing additional resources through joint activities and cooperation with other bodies.

The Commission also stressed the importance of undertaking legislative development on those topics that were based on an existing economic need and were likely to produce consensus and result in a legislative text benefitting the development of international trade law. It agreed on four tests in assessing whether legislative development in a particular topic should be referred to a working group: the topic's amenability to harmonization and the consensual development of a legislative text; clarity of the scope of a future text; the likelihood for a legislative text to enhance modernization, harmonization or unification of the international trade law; and the legislative work undertaken by other bodies so as to avoid potential duplication.

UNCITRAL approved the holding of its forty-seventh session in New York from 7 to 25 July 2014. It also approved the schedule of meetings for its working groups up to and after its forty-seventh session.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/462], adopted **resolution 68/106** without vote [agenda item 79].

Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session

The General Assembly,

Recalling its resolution 2205(XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

Having considered the report of the Commission,

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law;

2. *Commends* the Commission for the finalization and adoption of the Rules on Transparency in Treaty-based Investor-State Arbitration, the Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013), the Guide on the Implementation of a Security Rights Registry, the Guide to Enactment and Interpretation of the Model Law on Cross-Border Insolvency, part four of the *Legislative Guide on Insolvency Law*, on the obligations of directors in the period approaching insolvency, the guidance on procurement regulations to be promulgated in accordance with article 4 of the Model Law on Public Procurement and the glossary of procurement-related terms used in the Model Law on Public Procurement, as well as

for the updating of the Model Law on Cross-Border Insolvency: The Judicial Perspective;

3. *Recognizes* the opinion expressed by the Commission that the secretariat of the Commission should fulfil the role of a repository of published information under the Rules on Transparency in Treaty-based Investor-State Arbitration ("transparency repository"), invites the Secretary-General to consider performing, in accordance with article 8 of the Rules on Transparency, the role of the transparency repository through the secretariat of the Commission, and requests the Secretary-General to report to the General Assembly and the Commission in this regard;

4. *Takes note with interest* of the decisions taken by the Commission as regards its future work and the progress made by the Commission in its work in the areas of arbitration and conciliation, online dispute resolution, electronic commerce, insolvency law, security interests, international trade law aimed at reducing the legal obstacles faced by micro-, small- and medium-sized enterprises throughout their life cycle and public-private partnerships, and commends in particular the efforts undertaken by the Commission to improve the management of its resources while maintaining and increasing its current levels of activity, including through the use of informal working methods where appropriate, with due regard to the formal negotiation process;

5. *Notes with appreciation* the projects of the Commission aimed at promoting the uniform and effective application of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), done at New York on 10 June 1958, including the preparation of a guide on the Convention, in close cooperation with international experts, to be submitted to the Commission at a future session for its consideration;

6. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

7. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical cooperation and assistance in the field of international trade law reform and development, and in this connection:

(*a*) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical cooperation and assistance programme, and in that respect encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work;

(*b*) Expresses its appreciation to the Commission for carrying out technical cooperation and assistance activities and for providing assistance with legislative drafting in the field of international trade law, and draws the attention of the Secretary-General to the limited resources that are made available in this field;

(*c*) Expresses its appreciation to the Governments whose contributions enabled the technical cooperation and assistance activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, for the financing of special projects and otherwise to assist the secretariat of the Commission in carrying out technical cooperation and assistance activities, in particular in developing countries;

(*d*) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical cooperation and assistance programme of the Commission and to cooperate with the Commission and coordinate their activities with those of the Commission in the light of the relevance and importance of the work and programmes of the Commission for the promotion of the rule of law at the national and international levels and for the implementation of the international development agenda, including the achievement of the Millennium Development Goals;

8. *Recalls* the importance of adherence to the rules of procedure and methods of work of the Commission, including transparent and inclusive deliberations, taking into account the summary of conclusions as reproduced in annex III to the report on the work of its forty-third session, requests the Secretariat to issue, prior to meetings of the Commission and of its working groups, a reminder of those rules of procedure and methods of work with a view to ensuring the high quality of the work of the Commission and encouraging the assessment of its instruments, and in this regard recalls its previous resolutions related to this matter;

9. *Welcomes* the activities of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific, in the Republic of Korea, towards reaching out and providing technical assistance with international trade law reforms to developing countries in the region, notes with satisfaction expressions of interest from other States in hosting regional centres of the Commission, and requests the Secretary-General to keep the General Assembly informed of developments regarding the establishment of regional centres, in particular their funding and budgetary situation;

10. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the Trust Fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, in order to enable renewal of the provision of that assistance and to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in those countries to put in place a regulatory and enabling environment for business, trade and investment;

11. *Decides*, in order to ensure full participation of all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-eighth session of the General Assembly, its consideration of granting travel assistance to the least

developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

12. *Endorses* the conviction of the Commission that the implementation and effective use of modern private law standards in international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that the promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit in the Executive Office of the Secretary-General;

13. *Notes* the rule of law panel discussion held at the forty-sixth session of the Commission and the comments transmitted by the Commission highlighting its role in promoting the rule of law and the peaceful settlement of international disputes through its work in the areas of arbitration and conciliation, transparency in investor-State dispute resolution and online dispute resolution and its work towards achieving universal accession to, and the effective implementation and uniform interpretation and application of, the New York Convention;

14. *Notes with satisfaction* that, in paragraph 8 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, adopted by consensus as resolution 67/1 of 24 September 2012, Member States recognized the importance of fair, stable and predictable legal frameworks for generating inclusive, sustainable and equitable development, economic growth and employment, generating investment and facilitating entrepreneurship and, in this regard, commended the work of the Commission in modernizing and harmonizing international trade law and that, in paragraph 7 of the declaration, Member States expressed their conviction that the rule of law and development were strongly interrelated and mutually reinforcing;

15. *Reiterates its request* to the Secretary-General, in conformity with resolutions of the General Assembly on documentation-related matters, which, in particular, emphasize that any invitation to limit, where appropriate, the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and functions of the Commission in the progressive development and codification of international trade law when implementing page limits with respect to the documentation of the Commission;

16. *Requests* the Secretary-General to continue the publication of Commission standards and the provision of summary records of the meetings of the Commission, including committees of the whole established by the Commission for the duration of its annual session, relating to the formulation of normative texts, and takes note of the Commission's decision to continue the trial use of digital recordings, in parallel with summary records where applicable, with a view to assessing at its forty-seventh session, in 2014, the experience of using digital recordings and, on the basis of that assessment, taking a decision regarding the possible replacement of summary records by digital recordings;

17. *Recalls* paragraph 48 of its resolution 66/246 of 24 December 2011 regarding the rotation scheme of meetings between Vienna and New York;

18. *Notes with appreciation* the work of the Secretariat on the system for the collection and dissemination of case law on Commission texts in the six official languages of the United Nations (the CLOUT system), notes the resource-intensive nature of the system, acknowledges the need for further resources to sustain and expand it, and in this regard welcomes efforts by the Secretariat towards building partnerships with interested institutions, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to assist the secretariat of the Commission in raising awareness as to the availability and usefulness of the CLOUT system in professional, academic and judiciary circles and in securing the funding required for the coordination and expansion of the system and the establishment, within the secretariat of the Commission, of a pillar focused on the promotion of ways and means of interpreting Commission texts in a uniform manner;

19. *Stresses* the importance of promoting the use of texts emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to conventions, enacting model laws and encouraging the use of other relevant texts;

20. *Welcomes* the continued work of the Secretariat on digests of case law related to Commission texts, including their wide dissemination, as well as the continuing increase in the number of abstracts available through the CLOUT system, in view of the role of the digests and the CLOUT system as important tools for the promotion of the uniform interpretation of international trade law, in particular by building local capacity of judges, arbitrators and other legal practitioners to interpret those standards in the light of their international character and the need to promote uniformity in their application and the observance of good faith in international trade.

Other questions

Rule of law at the national and international levels

In July, pursuant to General Assembly resolution 67/97 [YUN 2012, p. 1298], the Secretary-General submitted a report [A/68/213] on strengthening and coordinating UN rule of law activities, which illustrated achievements and challenges in strengthening the rule of law at the national and international levels over the preceding year, and highlighted projects and initiatives aimed at strengthening specific aspects of the rule of law. The report also provided information on the measures taken to enhance coordination and coherence within the United Nations with regard to the rule of law, and on the activities carried out further to the Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, adopted by the Assembly in resolution 67/1 [YUN 2012, p. 1319].

The Secretary-General recalled that in the Declaration, Member States had reaffirmed their commitment to the rule of law as an indispensable foundation for a more peaceful, prosperous and just world, stressed the interrelationship between the rule of law and the three pillars of the Organization—peace and security, human rights and development—and called for the rule of law to be considered on the international development agenda beyond 2015 (see also p. 1350 for Economic and Social Council action).

The report summarized activities to foster the rule of law at the international level relating to codification, development and promotion of an international framework of norms and standards; action by international and hybrid courts and tribunals; non-judicial dispute resolution and accountability and support mechanisms such as commissions of inquiry or fact-finding missions; as well as regional rule of law programmes and initiatives—such as the regional programmes launched in 2013 by UNODC for Southern Africa, South Asia and the Caribbean—and the rule of law response to transnational threats. The Secretary-General noted that the UN approach to the rule of law at the national level involved strengthening legal frameworks, enhancing capacities of justice systems as well as the police and corrections services, improving access to justice and promoting transitional justice mechanisms and processes. The report also addressed the linkages between the rule of law and sustainable development, in particular protection of the environment.

Coordination and coherence efforts within the United Nations were ensured through a new three-tier system. At the strategic level, the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit, continued to exercise the overall leadership role for rule of law activities. Its efforts were complemented at the Headquarters level by the joint global focal point for the police, justice and corrections in the rule of law in post-conflict and other crisis situations, with the Department of Peacekeeping Operations (DPKO) and the United Nations Development Programme (UNDP) as lead entities, which assumed joint responsibilities for responding to country-level requests for assistance and for convening UN entities to address country-level requests of system-wide relevance.

The global focal point had undertaken joint assessment missions to Afghanistan, Haiti, Libya and Somalia, and was finalizing country support plans in response to requests from the United Nations in Côte d'Ivoire, Haiti, Liberia and Libya; its efforts were supported and facilitated by the Office of the UN High Commissioner for Human Rights (OHCHR) and UN-Women. The Secretary-General noted that interagency cooperation and joint initiatives contributed to a better use of resources and increased coherence and effectiveness of UN assistance at the country level, as well as to developing integrated and multidisciplinary approaches and expanding partnerships with public and private entities and civil society.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the Assembly, on the recommendation of the Sixth Committee [A/68/468], adopted **resolution 68/116** without vote [agenda item 85].

The rule of law at the national and international levels

The General Assembly,

Recalling its resolution 67/97 of 14 December 2012,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming also the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,

Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered, in accordance with Chapter VI of the Charter, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and its Member States,

Recalling paragraph 134 (*e*) of the 2005 World Summit Outcome,

1. *Recalls* the high-level meeting of the General Assembly on the rule of law at the national and international levels, held during the high-level segment of its sixty-seventh session, and the declaration adopted at that meeting;

2. *Takes note* of the annual report of the Secretary-General on strengthening and coordinating United Nations rule of law activities;

3. *Reaffirms* the role of the General Assembly in encouraging the progressive development of international law

and its codification, and reaffirms further that States shall abide by all their obligations under international law;

4. *Also reaffirms* the imperative of upholding and promoting the rule of law at the international level in accordance with the principles of the Charter of the United Nations;

5. *Welcomes* the dialogue initiated by the Rule of Law Coordination and Resource Group and the Rule of Law Unit in the Executive Office of the Secretary-General with Member States on the topic "Promoting the rule of law at the international level", and calls for the continuation of this dialogue with a view to fostering the rule of law at the international level;

6. *Stresses* the importance of adherence to the rule of law at the national level and the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building;

7. *Reiterates its request* to the Secretary-General to ensure greater coordination and coherence among the United Nations entities and with donors and recipients, and reiterates its call for greater evaluation of the effectiveness of such activities, including possible measures to improve the effectiveness of those capacity-building activities;

8. *Calls*, in this context, for dialogue to be enhanced among all stakeholders with a view to placing national perspectives at the centre of rule of law assistance in order to strengthen national ownership;

9. *Calls upon* the Secretary-General and the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, including the participation of women in rule of law-related activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement;

10. *Expresses full support* for the overall coordination and coherence role of the Rule of Law Coordination and Resource Group within the United Nations system within existing mandates, supported by the Rule of Law Unit, under the leadership of the Deputy Secretary-General;

11. *Requests* the Secretary-General to submit, in a timely manner, his next annual report on United Nations rule of law activities, in accordance with paragraph 5 of its resolution 63/128 of 11 December 2008;

12. *Recognizes* the importance of restoring confidence in the rule of law as a key element of transitional justice;

13. *Encourages* the Secretary-General and the United Nations system to accord high priority to rule of law activities;

14. *Invites* the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law;

15. *Invites* the Rule of Law Coordination and Resource Group and the Rule of Law Unit to continue to interact with Member States on a regular basis, in particular in informal briefings;

16. *Stresses* the need to provide the Rule of Law Unit with the necessary funding and staff in order to enable it to carry out its tasks in an effective and sustainable manner, and urges the Secretary-General and Member States to continue to support the functioning of the Unit;

17. *Decides* to include in the provisional agenda of its sixty-ninth session the item entitled "The rule of law at the national and international levels", and invites Member States to focus their comments in the upcoming Sixth Committee debate on the subtopic "Sharing States' national practices in strengthening the rule of law through access to justice".

On 25 July, the Economic and Social Council, by **resolution 2013/33** (see p. 1243), recommended to the General Assembly the adoption of a draft resolution on the rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015.

On 18 December, in its **resolution 68/188** (ibid.) on that topic, the Assembly recognized the cross-cutting nature of the rule of law, crime prevention and criminal justice and development, and underscored that the post-2015 development agenda should be guided by respect for and promotion of the rule of law and that crime prevention and criminal justice had an important role in that regard. The Assembly highlighted the work of UNODC in strengthening the rule of law in the context of criminal justice reforms; encouraged further participation by UNODC in rule of law assistance and delivery at the national and international levels; recommended that development assistance in the areas of crime prevention and criminal justice could include elements relating to strengthening the rule of law; and invited the UN crime prevention and criminal justice programme network to explore the challenges to the rule of law in their work programmes.

Strengthening the role of the United Nations

Special Committee on United Nations Charter

In accordance with General Assembly resolution 67/96 [YUN 2012, p. 1326], the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its sixty-eighth session (New York, 19–27 February) [A/68/33], considered proposals relating to the maintenance of international peace and security; the peaceful settlement of disputes; working methods of the Committee and identification of new subjects; and the status of the publications *Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council*.

Regarding the maintenance of international peace and security, the Committee considered the question of the implementation of the Charter provisions relating to assistance to third States affected by sanctions. Many delegations stated that the issue of sanctions remained of serious concern and questioned whether the suffering inflicted on vulnerable groups in the country targeted by sanctions was a legitimate means of exerting political pressure; sanctions were not applicable as a preventive measure in any instances of the violation of international law. Concern was also expressed over

the imposition of unilateral sanctions in violation of international law. For other delegations, the sanctions regimes adopted by the Council had demonstrated that sanctions could be applied in a targeted way so as to substantially minimize the possibility of adverse consequences to civilian populations and third parties. Some delegations welcomed the efforts to limit unintended side effects of targeted sanctions and develop clear legal standards for imposing targeted sanctions regimes; the sanctions' effects on third States should be mitigated, and the establishment of a mechanism for evaluating such effects and assisting affected States merited consideration. Several delegations emphasized that sanctions should be applied in conformity with the UN Charter and international law, and imposed as a last resort when there existed a threat to international peace and security, a breach of peace or an act of aggression; the Security Council's power to determine the existence of such a threat was not unfettered and the Council could not overstep its competence under the UN Charter. The view was expressed that sanctions should have clearly defined objectives and a specified time frame, should be held under continuous review, and should be lifted immediately when they were no longer necessary.

Support was expressed for providing possible compensation to targeted or third States for damage caused by unlawfully imposed sanctions; it was suggested that the International Law Commission consider the legal consequences of sanctions imposed arbitrarily by the Security Council. Some delegations noted that none of the sanctions committees had been approached by Member States with regard to special economic problems arising from the implementation of sanctions since 2003. They also noted that in 2012, neither the Assembly nor the Economic and Social Council had found it necessary to take any action relating to that matter. Therefore, the question of assistance to third States affected by the application of sanctions should not be a matter of priority for the Committee and did not merit further discussion.

The Special Committee considered Libya's revised proposal on strengthening the role of the United Nations in the maintenance of international peace and security [YUN 1998, p. 1233]. Libya recalled that the proposal recommended considering ways and means to bolster the role of the General Assembly and to enhance the relationship between the Assembly and the Security Council, elaborating criteria to ensure that the Council's composition reflected the UN membership and an equitable geographical distribution, and formulating a definition of what constituted a threat to international peace and security under Chapter VII of the Charter.

The Special Committee also discussed a further revised working paper entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs", submitted by Venezuela in 2011 [YUN 2011, p. 1301]. Several delegations expressed concern at the fact that the Security Council had encroached on the functions and powers of the General Assembly and the Economic and Social Council by addressing issues that fell within their competence. Some delegations expressed support for the proposal and maintained that the Special Committee was a proper forum to consider it; others maintained that the responsibilities of the principal UN organs were adequately defined in the UN Charter and that the proposal duplicated other efforts aimed at revitalizing the Organization. Venezuela announced that it would continue to hold bilateral discussions on the proposal.

The Special Committee considered the revised working paper submitted by Belarus and the Russian Federation in 2005 [YUN 2005, p. 1445], in which it was recommended that an advisory opinion be requested from the International Court of Justice (ICJ) as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. The co-sponsors pointed out that the advisory opinion could further the development and codification of international law by establishing a uniform interpretation of the Charter provisions regarding the use of force. Some delegations maintained that the issue of the use of force had been adequately addressed in the Charter and, consequently, that the proposal could not be supported. The Committee decided to keep the proposal on its agenda.

The Special Committee also considered the working paper on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations, submitted by Cuba in 2012 [YUN 2012, p. 1324]. Some delegations stated that the working paper merited continued study, as it would contribute to achieving a balance between the mandates of the General Assembly and of the Security Council; others stressed the need to conduct a legal examination of the implementation of the Charter provisions pertaining to the Assembly's functions and powers. Cuba indicated that it would submit a revised working paper at a future point.

During the general exchange of views on the item entitled "Peaceful settlement of disputes", delegations reiterated that, in accordance with the mandate of the Special Committee, the item should remain on its agenda. The central role of the ICJ in the peaceful settlement of disputes was highlighted, and it was noted that the Court's observance of the rule of law boosted the confidence of Member States in its effectiveness in fulfilling that role. It was suggested that emphasis should be laid on the prevention of disputes, and the significance of the Manila Declaration on the Peaceful Settlement of International Disputes, approved by the

General Assembly in 1982 and annexed to its resolution 37/10 [YUN 1982, p. 1372], was recalled.

Delegations commended ongoing Secretariat efforts to update the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and eliminate the backlog in the preparation of those publications. Concerning the *Repertory*, further progress had been made in preparing studies pertaining to volume III, supplements 7 to 9 covering the period from 1985 to 1999. With regard to the *Repertoire*, in the previous year, the Secretariat had completed supplement 16, covering the period from 2008 to 2009; expected to complete in 2013 supplement 17, covering the years 2010 and 2011; and began preparations for supplement 18. The Special Committee recommended that the Assembly call on the Secretary-General to continue efforts to update the two publications and make them available in all language versions, and to address, on a priority basis, the question of the backlog in the preparation of volume III of the *Repertory*.

Following the general exchange of views on its working methods, the Special Committee recommended that Member States submit the candidatures of Bureau members well in advance of Committee sessions to allow for the Bureau's informal meetings on the sessions' agenda and work; it also recommended inviting Member States to consider holding informal intersessional consultations on matters pertaining to the agenda.

Regarding the identification of new subjects, some delegations suggested examining legal matters relating to the Organization's reform and revitalization; others called for the consideration of the proposals submitted at previous sessions; still others encouraged submitting proposals for new subjects. It was also suggested that no new subjects should be explored until the Special Committee had addressed its working methods and that no new proposals should be considered that might envisage amendments to the Charter. Some delegations supported the proposal introduced by Ghana in 2010 [YUN 2010, p. 1349] on including a new subject entitled "Principles and practical measures/mechanism for strengthening and ensuring more effective cooperation between the United Nations and regional organizations on the maintenance of international peace and security in areas of conflict prevention and resolution and post-conflict peacebuilding and peacekeeping, consistent with Chapter VIII of the Charter of the United Nations". The Chair of the Special Committee suggested that the question of new topics could be considered in informal consultations prior to the Committee's sessions.

Reports of Secretary-General. In response to General Assembly resolution 67/96 [YUN 2012, p. 1326], the Secretary-General in July submitted a report [A/68/226] on implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions. The report highlighted operational changes that occurred due to the shift in focus in the Security Council and its sanctions committees towards targeted sanctions; developments concerning the activities of the Assembly and the Economic and Social Council in the area of assistance to third States affected by the application of sanctions; and Secretariat arrangements related to assistance to such States.

Also in response to General Assembly resolution 67/96, the Secretary-General reported in July [A/68/181] on progress made in updating the *Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council*.

With respect to the *Repertory*, the Secretary-General concluded that the Assembly might wish to note the progress made in the preparation of *Repertory* studies and their posting on the Internet in English, French and Spanish; consider the recommendations of the Special Committee—including the increased use of the UN internship programme, expanded cooperation with academic institutions for the preparation of the studies and the sponsoring, on a voluntary basis and at no cost to the United Nations, of associate experts to assist in updating the publication; note the progress made towards the elimination of the backlog of the *Repertory* through use of the trust fund; and strongly encourage States to make additional contributions to it.

With regard to the *Repertoire*, the Secretary-General concluded that the Assembly might wish to note the progress made towards updating the publication and posting it in electronic form in all language versions on the UN website; call for voluntary contributions to the trust fund for the updating of the *Repertoire* and express appreciation for the contributions received; note with appreciation the sponsoring by Switzerland, on a voluntary basis, of an associate expert to assist in the preparation of the *Repertoire*, and encourage other States to consider providing such assistance.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/467], adopted **resolution 68/115** without vote [agenda item 84].

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499(XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Concerned about the special economic problems confronting certain States arising from the carrying-out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter to join in affording mutual assistance in carrying out the measures decided upon by the Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Mindful of the adoption of the revised working papers on the working methods of the Special Committee,

Taking note of the report of the Secretary-General, entitled "*Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council*",

Recalling paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,

Mindful of the decision of the Special Committee in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that might be taken at the high-level plenary meeting of the sixtieth session of the General Assembly in September 2005 that concerned the Charter and any amendments thereto,

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002, 58/80 of 9 December 2003 and 59/45 of 2 December 2004,

Recalling also its resolution 64/115 of 16 December 2009 and the document entitled "Introduction and implementation of sanctions imposed by the United Nations" annexed thereto,

Having considered the report of the Special Committee on the work of its session held in 2013,

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;

2. *Decides* that the Special Committee shall hold its next session from 18 to 26 February 2014;

3. *Requests* the Special Committee, at its session in 2014, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(*a*) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2014;

(*b*) To continue to consider, in an appropriate, substantive manner and framework, including the frequency of its consideration, the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General and the proposals submitted on the question;

(*c*) To keep on its agenda the question of the peaceful settlement of disputes between States;

(*d*) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the high-level plenary meeting of the sixtieth session of the General Assembly in September 2005 that concern the Charter and any amendments thereto;

(*e*) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency and utilization of resources with a view to identifying widely acceptable measures for future implementation;

4. *Invites* the Special Committee, at its session in 2014, to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

5. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

6. *Requests* the Special Committee to submit a report on its work to the General Assembly at its sixty-ninth session;

7. *Recognizes* the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, takes note that, consistent with Article 96 of the Charter, the Court's advisory jurisdiction may be requested by the General Assembly, the Security Council or other authorized organs of the United Nations and the specialized agencies, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;

8. *Commends* the Secretary-General for the progress made in the preparation of studies for the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

9. *Notes with appreciation* the contributions made by Member States to the Trust Fund for the updating of the *Repertoire*;

10. *Reiterates its call for* voluntary contributions to the Trust Fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog; voluntary contributions to the Trust Fund for the updating of the *Repertoire*; and the sponsoring, on a voluntary basis and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

11. *Calls upon* the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions;

12. *Notes with concern* that the backlog in the preparation of volume III of the *Repertory* has not been eliminated, and calls upon the Secretary-General to address that issue effectively and on a priority basis, while commending the Secretary-General for progress made in reducing the backlog;

13. *Reiterates* the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and, with regard to the *Repertoire*, calls upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report of 18 September 1952;

14. *Requests* the Secretary-General to submit to the General Assembly, at its sixty-ninth session, a report on both the *Repertory* and the *Repertoire*;

15. *Also requests* the Secretary-General to brief the Special Committee at its next session on the information referred to in paragraph 12 of his report on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions;

16. *Further requests* the Secretary-General to submit to the General Assembly, at its sixty-ninth session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization", a report on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions;

17. *Decides* to include in the provisional agenda of its sixty-ninth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

UN Programme for the teaching and study of international law

In response to General Assembly resolution 67/91 [YUN 2012, p. 1328], the Secretary-General submitted an October report [A/68/521] on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which covered implementation of the Programme in 2013. Activities included the holding of the forty-ninth session of the International Law Seminar (Geneva, 8–26 July) and the convening of the International Law Fellowship Programme (The Hague, 24 June–2 August).

Lectures, seminars and study visits were organized by the UN Office of Legal Affairs (OLA). The Office organized regional courses in international law, including one for African lawyers (Addis Ababa, 1–26 April). Due to the increasing demand for international law training, OLA proposed to consider Ethiopia and Thailand as permanent venues for regional courses in international law for, respectively, Africa and Asia-Pacific; a host country agreement was also concluded with Uruguay in 2013 for the organization of the regional course for Latin America and the Caribbean. The United Nations Audiovisual Library of International Law, which launched a more user-friendly website in October, had been accessed by almost 1 million individuals and institutions in 193 Member States, including 520,000 new users since October 2012; it offered almost 300 lectures by eminent international law scholars and practitioners on a broad range of subjects relating to international law, and an extensive online collection of treaties, jurisprudence, publications, scholarly writings, training materials and law journals. OLA provided UN legal publications and training materials, upon request, to libraries, as well as academic and other training institutes in developing countries and continued disseminating them, together with other legal information, through the Internet. It also continued to research and collect legal materials and to prepare legal publications, and maintained 23 websites.

The report also provided guidelines and recommendations for the execution of the Programme of Assistance for the 2014–2015 biennium, and outlined administrative and financial implications of UN participation in the Programme during 2013 and 2014–2015.

The Advisory Committee on the Programme held its forty-eighth session on 8 and 10 October.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/463], adopted **resolution 68/110** without vote [agenda item 80].

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

The General Assembly,

Recalling its resolution 2099(XX) of 20 December 1965, in which the General Assembly established the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to contribute towards a better knowledge of international law as a means of strengthening international peace and security and promoting friendly relations and cooperation among States,

Reaffirming that the Programme of Assistance is a core activity of the United Nations and that it has provided the foundation for the efforts of the United Nations to promote a better knowledge of international law for nearly half a century,

Recognizing the major contribution of the Programme of Assistance to the teaching and dissemination of international law for the benefit of lawyers in all countries, legal systems and regions of the world for almost half a century,

Emphasizing the important contribution of the Programme of Assistance, in particular the United Nations Regional Courses in International Law and the United Nations Audiovisual Library of International Law, to the furtherance of United Nations rule of law programmes and activities,

Reaffirming that the increasing demand for international law training and dissemination activities creates new challenges for the Programme of Assistance,

Recognizing the importance of the Programme of Assistance effectively reaching its beneficiaries, including with regard to languages, while bearing in mind limitations on available resources,

Taking note with appreciation of the report of the Secretary-General on the implementation of the Programme of Assistance and the views of the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which are contained in the report,

Noting with concern that the activities of the Programme of Assistance, in particular the organization of the United Nations Regional Courses in International Law on a regular basis and the further development of the United Nations Audiovisual Library of International Law, cannot be sustained with the resources available under the current or the proposed programme budget, notwithstanding its resolutions 64/113 of 16 December 2009, 65/25 of 6 December 2010, 66/97 of 9 December 2011 and 67/91 of 14 December 2012,

Noting with regret that the United Nations Regional Course in International Law for Asia-Pacific for 2013 was cancelled owing to insufficient funds and that no United Nations Regional Course in International Law for Latin America and the Caribbean has been held in almost a decade,

Considering that international law should occupy an appropriate place in the teaching of legal disciplines at all universities,

Convinced that States, international and regional organizations, universities and institutions should be encouraged to give further support to the Programme of Assistance and to increase their activities to promote the teaching, study, dissemination and wider appreciation of international law, in particular those activities which are of special benefit to persons from developing countries,

Reaffirming that in the conduct of the Programme of Assistance it would be desirable to use as far as possible the resources and facilities made available by Member States, international and regional organizations, universities, institutions and others,

Reaffirming also the hope that, in appointing highly qualified lecturers for the seminars to be held within the framework of the fellowship programmes in international law, account would be taken of the need to secure the representation of major legal systems and balance among various geographical regions,

1. *Approves* the guidelines and recommendations contained in section III of the report of the Secretary-General to the General Assembly at its sixty-eighth session, in particular those designed to strengthen and revitalize the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law in response to the increasing demand for international law training and dissemination activities;

2. *Authorizes* the Secretary-General to carry out the activities specified in his report in 2014 and 2015;

3. *Also authorizes* the Secretary-General to award a minimum of one scholarship in 2014 and a minimum of one scholarship in 2015 under the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea;

4. *Further authorizes* the Secretary-General to continue and further develop the United Nations Audiovisual Library of International Law as a major contribution to the teaching and dissemination of international law around the world and to continue to finance this activity from provisions in the regular budget as well as, when necessary, from voluntary financial contributions, which would be received as a result of the requests set out in paragraphs 21 and 22 below;

5. *Expresses its appreciation* to the Secretary-General for the activities conducted under the Programme of Assistance and, in particular, for the efforts to strengthen, expand and enhance the international law training and dissemination activities within the framework of the Programme of Assistance in 2013;

6. *Requests* the Secretary-General to consider admitting, for participation in the various components of the Programme of Assistance, candidates from countries willing to bear the entire cost of such participation;

7. *Reiterates its request* to the Secretary-General in accordance with General Assembly resolution 67/91, in particular paragraph 7 thereof, to provide to the programme budget for the biennium 2014–2015 the resources necessary for the Programme of Assistance to ensure the continued effectiveness and further development of the Programme, in particular the organization of United Nations Regional Courses in International Law on a regular basis and the viability of the United Nations Audiovisual Library of International Law;

8. *Recognizes* the importance of the United Nations legal publications prepared by the Office of Legal Affairs of the Secretariat, and requests the Secretary-General to issue the publications referred to in his report in various formats, including hard copy publications, which are essential for developing countries;

9. *Notes with appreciation* the issuance of the *Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice 2008–2012*, volume XXX of the *Reports of International Arbitral Awards* and the *United Nations Juridical Yearbook 2012*;

10. *Reiterates its request* that the Secretary-General issue the next volume of the *United Nations Legislative Series* containing materials on the responsibility of States for internationally wrongful acts;

11. *Once again welcomes* the efforts undertaken by the Office of Legal Affairs to bring up to date the United Nations legal publications, commends, in particular, the Codification Division of the Office of Legal Affairs for its desktop publishing initiative, which has greatly enhanced the timely issuance of its legal publications and has made possible the preparation of legal training materials, and requests that the necessary materials be made available to ensure the continuation of this successful initiative;

12. *Encourages* the Office of Legal Affairs to continue to maintain and expand its websites listed in the annex to the report of the Secretary-General as an invaluable tool for the dissemination of international law materials as well as for advanced legal research;

13. *Encourages* the use of interns and research assistants for the preparation of materials for the United Nations Audiovisual Library of International Law;

14. *Commends* the Codification Division for the cost-saving measures undertaken with regard to the International Law Fellowship Programme to maintain the number of fellowships available for this comprehensive international law training programme;

15. *Expresses its appreciation* to the Hague Academy of International Law for the valuable contribution it continues to make to the Programme of Assistance, which has enabled candidates under the International Law Fellowship Programme to attend and participate in the Fellowship Programme in conjunction with courses at the Academy;

16. *Notes with appreciation* the contributions of the Hague Academy to the teaching, study, dissemination and wider appreciation of international law, and calls upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of support and a possible increase in their financial contributions, to enable the Academy to carry out its activities, particularly those relating to the summer courses, regional courses and programmes of the Centre for Studies and Research in International Law and International Relations;

17. *Welcomes* the efforts of the Codification Division to revitalize and conduct United Nations Regional Courses in International Law as an important training activity;

18. *Expresses its appreciation* to Ethiopia for hosting and to Thailand for agreeing to host the United Nations Regional Courses in International Law in 2013 and to Ethiopia, Thailand and Uruguay for agreeing to host the United Nations Regional Courses in International Law for Africa, for Asia-Pacific and, for the first time in almost a decade, for Latin America and the Caribbean in 2014 and 2015, and also expresses its appreciation to Costa Rica for its willingness to host this regional course in 2015;

19. *Expresses its appreciation* to the African Union for the valuable contribution it continues to make to the United Nations Regional Course in International Law for Africa, which has enabled participants to attend and participate in the Regional Course and the lectures at the African Union;

20. *Once again encourages* the Codification Division to cooperate with the African Institute of International Law, dedicated to offering higher learning and research in international law needed for the development of Africa, in the implementation of the relevant activities under the Programme of Assistance;

21. *Requests* the Secretary-General to continue to publicize the Programme of Assistance and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme or otherwise to assist in its implementation and possible expansion;

22. *Reiterates its request* to Member States and interested organizations, institutions and individuals to make voluntary contributions, inter alia, for the International Law Fellowship Programme and the United Nations Audiovisual Library of International Law;

23. *Urges*, in particular, all Member States and interested organizations, institutions and individuals to make voluntary contributions for the United Nations Regional Courses in International Law organized by the Codification Division as an important complement to the International Law Fellowship Programme, thus alleviating the burden on prospective host countries and making it possible to conduct the Regional Courses on a regular basis;

24. *Expresses its appreciation* to those Member States that have made voluntary contributions to support the Programme of Assistance;

25. *Requests* the Secretary-General to report to the General Assembly at its sixty-ninth session on the implementation of the Programme of Assistance in 2014 and, following consultations with the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, to submit recommendations regarding the Programme in subsequent years;

26. *Concludes* that voluntary contributions have not proven to be an adequate method for funding activities of the Programme of Assistance specified in the report of the Secretary-General and in General Assembly resolution 67/91, in particular the United Nations Regional Courses in International Law and the United Nations Audiovisual Library of International Law, and that, consequently, there is a need to provide more reliable funding for those activities, taking into account the conclusion of the Advisory Committee at its forty-eighth session;

27. *Decides* to include in the provisional agenda of its sixty-ninth session the item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law".

Host country relations

At five meetings held in New York (31 January, 30 April, 31 July, 7 October, 1 November), the 19-member Committee on Relations with the Host Country considered the following aspects of relations between the UN diplomatic community and the United States, the host country: entry visas issued by the host country; exemption from taxes; the question of the security of missions and the safety of personnel; host country activities to assist members of the UN community; transportation, the use of motor vehicles, parking and related issues; and other matters. The recommendations and conclusions on those items, approved by the Committee at its 1 November meeting, were incorporated into its report [A/68/26]. The Committee expressed appreciation for the host country's efforts to maintain appropriate conditions for delegations and missions accredited to the United Nations and anticipated that all issues raised at its meetings would be settled in a spirit of cooperation and in accordance with international law.

Noting the importance of the observance of privileges and immunities, the Committee emphasized the

need to solve, through negotiations, problems that might arise in that regard for the normal functioning of accredited delegations and missions. It urged the host country to continue to take appropriate action, such as the training of police, security, customs and border control officers, with a view to maintaining respect for diplomatic privileges and immunities. In case of violations, the Committee urged the host country to ensure that such cases were investigated and remedied, in accordance with applicable law. Considering that the security of missions and the safety of their personnel were indispensable for their effective functioning, the Committee appreciated the host country's efforts to that end and anticipated that the host country would continue to take all measures necessary to prevent any interference with the missions' functioning.

The Committee noted that the missions continued to implement the Parking Programme for Diplomatic Vehicles, in force since 2002 [YUN 2002, p. 1338]. It would remain seized of the matter to ensure its proper implementation in a manner that was fair, non-discriminatory, effective and therefore consistent with international law. It also requested that the host country continue to bring to the attention of New York City officials reports about other problems experienced by permanent missions or their staff, in order to improve the conditions for their functioning and to promote compliance with international norms concerning diplomatic privileges and immunities.

The Committee anticipated that the host country would enhance its efforts to ensure the issuance, in a timely manner, of entry visas to representatives of Member States to travel to New York on official UN business, and noted that a number of delegations had requested shortening the time frame applied by the host country for issuance of entry visas, since the existing time frame posed difficulties for the full-fledged participation of Member States in UN meetings. The Committee urged the host country to remove the remaining travel restrictions for personnel of certain missions and staff members of the Secretariat of certain nationalities. It also stressed the importance of permanent missions, their personnel and Secretariat personnel meeting their financial obligations.

The Committee expressed concern over the difficulties experienced by some permanent missions in obtaining suitable banking services, which affected those missions' ability to perform their functions, and welcomed the host country's efforts to facilitate the opening of bank accounts for permanent missions with other financial institutions.

The Committee reiterated its appreciation to the representative of the United States Mission in charge of host country affairs, to the Host Country Affairs Section of the United States Mission to the United Nations and the Office of Foreign Missions, as well as to those local entities, in particular the New York City Commission for the United Nations, Consular Corps and Protocol, that contributed to its efforts to help accommodate the needs, interests and requirements of the diplomatic community and to promote mutual understanding between the diplomatic community and the people of the City of New York.

Communication. The Committee had before it a letter from Cuba addressed to the Chair of the Committee on Relations with the Host Country [A/C.154/404] regarding an incident that involved some 30 demonstrators taking photos and videos of the Cuban Mission building, blocking the Mission's security cameras and projecting lights and images onto the Mission's walls. At the meeting on 30 April, the host country responded that the police had arrived on the scene five minutes after the emergency call was made but found no demonstrators outside the Cuban Mission or in its environs. In the host country's view, the police response had been rapid, appropriate and satisfactory, and the incident was subsequently discussed with the Cuban Mission to ensure future coordination of the response by host country authorities during impromptu demonstrations.

GENERAL ASSEMBLY ACTION

On 16 December [meeting 68], the General Assembly, on the recommendation of the Sixth Committee [A/68/474], adopted **resolution 68/120** without vote [agenda item 166].

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations, the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations and the responsibilities of the host country,

Recalling also that, in accordance with paragraph 7 of General Assembly resolution 2819(XXVI) of 15 December 1971, the Committee should consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. *Endorses* the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 71 of its report;

2. *Considers* that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which is an issue of great

importance, are in the interest of the United Nations and all Member States, requests the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions, and urges the host country to continue to take appropriate action, such as training of police, security, customs and border control officers, with a view to maintaining respect for diplomatic privileges and immunities and if violations occur to ensure that such cases are properly investigated and remedied, in accordance with applicable law;

3. *Notes* the problems experienced by some Permanent Missions to the United Nations in connection with the implementation of the Parking Programme for Diplomatic Vehicles, and notes that the Committee shall remain seized of the matter, with a view to continuing to maintain the proper implementation of the Parking Programme in a manner that is fair, non-discriminatory, effective and therefore consistent with international law;

4. *Requests* the host country to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities, and in this regard notes the long-standing positions of affected States, of the Secretary-General and of the host country;

5. *Notes* the concerns expressed by some delegations concerning the denial and delay of entry visas to representatives of Member States;

6. *Also notes* that the Committee anticipates that the host country will continue to enhance its efforts to ensure the issuance of entry visas to representatives of Member States pursuant to article IV, section 11, of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, in a timely manner, to enable travel to New York on United Nations business and that the Committee anticipates that the host country will continue to enhance efforts, including visa issuance, to facilitate the participation of representatives of Member States in other United Nations meetings, as appropriate;

7. *Further notes* that a number of delegations have requested shortening the time frame applied by the host country for issuance of entry visas to representatives of Member States since the time frame poses difficulties for the full-fledged participation of Member States in United Nations meetings;

8. *Notes with concern* the difficulties that continue to be experienced by some Permanent Missions to the United Nations in obtaining suitable banking services, and welcomes the continued efforts of the host country to facilitate the opening of bank accounts for those Permanent Missions;

9. *Expresses its appreciation* for the efforts made by the host country, and hopes that the issues raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

10. *Affirms* the importance of the Committee being in a position to fulfil its mandate and meet on short notice to deal with urgent and important matters concerning the relations between the United Nations and the host country, and in that connection requests the Secretariat and the Committee on Conferences to accord priority to requests from the Committee on Relations with the Host Country for conference-servicing facilities for meetings of that Committee that must be held while the General Assembly and its Main Committees are meeting, without prejudice to the requirements of those bodies and on an "as available" basis;

11. *Requests* the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

12. *Requests* the Committee to continue its work in conformity with General Assembly resolution 2819(XXVI);

13. *Decides* to include in the provisional agenda of its sixty-ninth session the item entitled "Report of the Committee on Relations with the Host Country".