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Fifty-eighth Session
Supplement No. 4 (A/58/4)

29 October 2003

Report of the International Court of Justice

1 August 2002-31 July 2003

Corrigendum

Mexico, contrary to what is stated in paragraph 54 of the present report, has not chosen Mr. Juan Manuel Gómez-Robledo to sit as judge ad hoc but has appointed him as agent, in the case concerning *Avena and Other Mexican Nationals (Mexico v. United States of America)*.

Paragraph 54 should thus read:

54. In the case concerning *Avena and Other Mexican Nationals (Mexico v. United States of America)*, Mexico chose Mr. Bernardo Sepúlveda to sit as judge ad hoc.

* Reissued for technical reasons.

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Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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Contents

I. SUMMARY

1. The International Court of Justice, principal judicial organ of the United Nations, consists of 15 Judges elected for a term of nine years by the General Assembly and the Security Council. Every three years one third of the seats fall vacant. The last elections to fill such vacancies were held on 21 October 2002. Sitting Judges Shi Jiuyong (China) and Abdul G. Koroma (Sierra Leone) were re-elected; Messrs Hisashi Owada (Japan), Bruno Simma (Germany) and Peter Tomka (Slovakia) were elected with effect from 6 February 2003.

2. On the latter date the Court, in its new composition, elected Mr. Shi Jiuyong as its President and Mr. Raymond Ranjeva as its Vice-President for a term of three years.

3. As from the 6 February 2003, the composition of the Court is consequently as follows: President: Shi Jiuyong (China); Vice-President: Raymond Ranjeva (Madagascar); Judges: Gilbert Guillaume (France); Abdul G. Koroma (Sierra Leone); Vladlen S. Vereshchetin (Russian Federation); Rosalyn Higgins (United Kingdom); Gonzalo Parra-Aranguren (Venezuela); Pieter H. Kooijmans (Netherlands); Francisco Rezek (Brazil); Awn Shawkat Al-Khasawneh (Jordan); Thomas Buergenthal (United States of America); Nabil Elaraby (Egypt); Hisashi Owada (Japan); Bruno Simma (Germany); Peter Tomka (Slovakia).

4. The Registrar of the Court, elected for a term of seven years on 10 February 2000, is Mr. Philippe Couvreur; the Deputy-Registrar, re-elected on 19 February 2001, also for a term of seven years, is Mr. Jean-Jacques Arnaldez.

5. Finally, it should be noted that, in line with the increase in the number of cases, the number of judges ad hoc chosen by States parties has also been increasing. It currently stands at 37, with these functions being carried out by 25 individuals (the same person is often appointed to sit as judge ad hoc in several different cases).

6. As the Assembly will be aware, the International Court of Justice is the only international court of a universal character with general jurisdiction. That jurisdiction is a dual one.

7. In the first place, the Court has to decide upon disputes freely submitted to it by States in the exercise of their sovereignty. In this respect, it should be noted that, as at 31 July 2003, 191 States were parties to the Statute of the Court and that 64 of them had deposited with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction in accordance with Article 36, paragraph 2, of the Statute. Further, some 300 bilateral or multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of their application or interpretation. Finally, States may submit a specific dispute to the Court by way of special agreement, as a number have done recently.

8. The Court may also be consulted on any legal question by the General Assembly or the Security Council, as well as by any other organ of the United Nations or by the specialized agencies having been so authorized by the General Assembly.

9. Over the past year, the number of cases pending before the Court has remained high. Whereas in the 1970s the Court had only one or two cases on its docket at any one time, between 1990 and 1997 this number varied between nine and 13. Since then the number of cases has exceeded 20. As of 31 July 2003, it stood at 25.

10. These cases come from all over the world, four being between African States, one between Asian States, 11 between European States and three between Latin American States, whilst six are of an intercontinental character.

11. Their subject-matter is extremely varied. Thus, the Court's docket traditionally contains cases concerning territorial disputes between neighbouring States seeking a determination of their land and maritime boundaries, or a decision as to which of them has sovereignty over particular areas. This is the position for four cases concerning, respectively, Nicaragua and Honduras, Nicaragua and Columbia, Benin and Niger, and Malaysia and Singapore. Another classic type of dispute is where a State complains of treatment suffered by one or more of its officials or nationals in another State (this is the position in the case between Guinea and the Democratic Republic of the Congo, in the case between Liechtenstein and Germany, the case between Mexico and the United States of America, and the case between the Republic of the Congo and France).

12. Other cases relate to events that have also come to the attention of the General Assembly or the Security Council. Thus the Court is seised of disputes between Libya and, respectively, the United States of America and the United Kingdom following the explosion of an American civil aircraft over Lockerbie in Scotland, while Iran has brought proceedings over the alleged destruction of oil platforms by the United States in 1987 and 1988. Bosnia and Herzegovina and Croatia have, in two separate cases, sought the condemnation of Serbia and Montenegro for violation of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. Serbia and Montenegro itself has brought proceedings against eight member States of NATO, challenging the legality of their action in Kosovo. Finally, the Democratic Republic of the Congo, in two separate cases, contends that it has been the victim of armed aggression on the part of Uganda and Rwanda, respectively.

13. This increase in the number and diversity of cases submitted to the Court needs, admittedly, to be qualified to take account of an element of linkage. Thus two sets of proceedings relate to the Lockerbie incident, while eight have as their subject-matter the action by NATO member States in Kosovo. However, each one of these proceedings still involves separate pleadings, which have to be translated and processed. Moreover, the legal problems that they raise are by no means always identical.

14. Furthermore, many cases have been rendered more complex as a result of preliminary objections by respondents to jurisdiction or admissibility, and of counter-claims and applications for permission to intervene, not to mention requests by applicants, and even sometimes respondents, for the indication of provisional measures, which have to be dealt with as a matter of urgency.

15. In two cases (between El Salvador and Honduras, and between Benin and Niger) the Court has, as requested by the Parties, formed a five-Member Chamber.

16. In the past year the Court handed down its Judgment in the case concerning Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening). The Court held, by thirteen votes to three, that the boundary between Cameroon and

Nigeria had been fixed by treaties concluded during the colonial period, whose validity it confirmed. In consequence the Court decided that, pursuant to the Anglo-German Agreement of 11 March 1913, sovereignty over Bakassi lay with Cameroon. Likewise, the Court determined, by fourteen votes to two, the boundary in the Lake Chad area in accordance with a Franco-British Exchange of Notes of 9 January 1931 and rejected Nigeria's claims in that area. The Court also unanimously defined with extreme precision the course of the land boundary between the two States in 17 other disputed sectors.

17. The Court then went on to determine the maritime boundary between the two States. It began by confirming the validity of the Yaoundé II and Maroua Declarations, whereby, in 1971 and 1975, the Heads of State of Cameroon and Nigeria had agreed the maritime boundary separating the territorial seas of the two States. Then, in regard to the maritime boundaries further out to sea, the Court adopted as the delimitation line the equidistance line between Cameroon and Nigeria, which appeared to it in this case to produce equitable results as between the two States.

18. Drawing upon the consequences of its determination of the land boundary, the Court held that each of the two States is under an obligation expeditiously and without condition to withdraw its administration and military and police forces from areas falling within the sovereignty of the other.

19. In the reasoning of its Judgment the Court also noted that the implementation of the Judgment would provide the Parties with a beneficial opportunity for co-operation. It took note of Cameroon's undertaking at the hearings that, "faithful to its traditional policy of hospitality and tolerance", it "will continue to afford protection to Nigerians living in the Bakassi Peninsula and in the Lake Chad area". Finally, the Court rejected each Party's State responsibility claims against the other.

20. In December 2002 the Court rendered Judgment in the case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia). Having found that the 1891 Convention between Great Britain and the Netherlands, on which Indonesia based its claim to sovereignty over the islands in dispute, could not be taken to establish a title to sovereignty, and that neither of the

Parties had obtained title to Ligitan and Sipadan by succession, the Court finally, on the basis of "effectivités" (activities evidencing an actual, continued exercise of authority over the islands, i.e., the intention and will to act as sovereign), concluded that the sovereignty over the islands belonged to Malaysia.

21. On 3 February 2003 followed the Judgment by which the Court rejected the revision of its Judgment of 11 July 1996 in the case concerning Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina). The Applicant had applied for such revision on 24 April 2001, subsequent to its admission to the United Nations, on 1 November 2000. The Court considered that that admission could not be regarded as a new fact within the meaning of Article 61 of its Statute, capable of founding a request for revision of the 1996 Judgment and that the facts invoked by the Applicant State in the final version of its argument - that it was not then a party to the Statute of the Court and that it was not bound by the Genocide Convention - did not exist in 1996, but were, in reality, legal consequences which the Applicant State sought to draw from facts subsequent to the Judgment it was asking to have revised, and which could neither be regarded as facts within the meaning of Article 61.

22. Two days after the above-mentioned decision on the request for revision, on 5 February 2003, the Court delivered an Order indicating provisional measures in the case concerning Avena and other Mexican Nationals (Mexico v. United States of America), which Mexico had on 9 January 2003 submitted to the Court with respect to a dispute concerning alleged violations of Articles 5 and 36 of the Vienna Convention on Consular Relations with respect to 54 Mexican nationals who have been sentenced to death in certain states of the United States of America. The Court indicated that the United States "shall take all measures necessary to ensure that [three of the Mexican nationals, who are at risk of execution in the month coming], are not executed pending final judgment" in the case; and that the United States "shall inform the Court of all measures taken in implementation of the Order".

23. On 17 June 2003, the Court issued another Order on a request for provisional measures, in the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France). When, on 9 December 2002, the Congo sought to institute proceedings in this case against France, it indicated that it proposed "to found the Court's jurisdiction, pursuant to Article 38, paragraph 5, of the Rules of Court, on the consent of the French Republic, which will certainly be given". On 11 April 2003 the French Republic informed the Court that it consented to the jurisdiction of the Court to entertain the Application filed by the Republic of the Congo. The Court consequently entered the case in its General List. The request for provisional measures which the Republic of the Congo had submitted on the same day that it filed the Application, became effective also by the acceptance of the Court's jurisdiction by France; the Court therefore immediately fixed time-limits for the proceedings concerning that request. In the Order of 17 June 2003, the Court found, however, that no risk of irreparable prejudice existed with regard to the rights claimed by the Applicant State, and rejected the Congo's request.

24. Over the course of the last year, 12 Orders were issued by the Court, the President or the Vice-President concerning the organization of the proceedings in current cases.

25. Until last year the Court has been able to proceed, or to begin to proceed, to the consideration of those cases which were ready for judgment without excessive delay. However, in a number of cases the written pleadings were completed during that year, and the judicial year 2002-2003 has consequently been particularly busy, as will be the case for the coming year.

26. Conscious of these problems, the Court had already in 1997 taken various measures to rationalize the work of the Registry, to make greater use of information technology, to improve its own working methods and to secure greater collaboration from the parties in relation to its procedures. An account of these various measures was set out in the report submitted to the General Assembly in response to Assembly resolution 52/161 of 15 December 1997 (see Appendix 1 to the Report of the Court for the period 1 August 1997 to 31 July 1998). These efforts have been continued. The Court has also taken steps to shorten and simplify proceedings. In December 2000, it revised its Rules. As of October 2001, it adopted various Practice Directions

(see pp. 98 and 99 of the previous Report). The Court welcomes the co-operation it has received from certain parties who have taken steps to reduce both the number and volume of written pleadings as well as the length of their oral arguments, and who in some cases provided the Court with their pleadings in both of its official languages. In April 2002, the Court reviewed again its working methods; they are subject to permanent re-examination.

27. In December 2001, the General Assembly approved the Court's budget for the present 2002-2003 biennium, and adopted all the recommendations of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) with regard to personnel requirements. As observed in the previous Report the General Assembly did not, however, approve all the other recommendations made by the ACABQ. This is particularly the case with regard to its recommendations concerning programme support. The reduction of the budget credits under this heading has created difficulties for the Court.

28. For the biennium 2004-2005, the Court has, in view of its ongoing and increased reliance upon advanced technology, requested the expansion of its Computerization Division from one to two professional officers; the necessity of having a professional with high IT-skills now appears to be essential in order to meet the demands of the General Assembly to enhance the use of modern technology. The Court further requested the conversion of five Law Clerk posts, to conduct research for the fifteen Members of the Court, from temporary to established posts, as well as the creation of two security posts, recommended by the United Nations Security Co-ordinator. In making these requests, which are presently under consideration by the Advisory Committee on Administrative and Budgetary Questions (ACABQ), the Court has restricted itself to proposals which are financially modest but also of the utmost significance for the implementation of key aspects of its work.

29. In conclusion, the International Court of Justice welcomes the increased confidence that States have shown in the Court's ability to resolve their disputes. The Court carried out its judicial tasks with care and determination during the 2002-2003 session. It will of course do the same during the year to come.

30. It will finally be noted, that, in conformity with the policy to reduce the volume of documentation submitted to the General Assembly, the Court has striven to reduce the size of its present Report, notably by summarizing, in Chapter V "Judicial Work of the Court", the history of each of the cases pending before it.

II. ORGANIZATION OF THE COURT

A. Composition

31. The present composition of the Court is as follows: President: Shi Jiuyong; Vice-President: Raymond Ranjeva; Judges: Gilbert Guillaume, Abdul G. Koroma, Vladlen S. Vereshchetin, Rosalyn Higgins, Gonzalo Parra-Aranguren, Pieter H. Kooijmans, Francisco Rezek, Awn Shawkat Al-Khasawneh, Thomas Buergenthal, Nabil Elaraby, Hisashi Owada, Bruno Simma and Peter Tomka.

32. On November 2002 the General Assembly and the Security Council re-elected Judges Shi Jiuyong and A. G. Koroma and elected Messrs H. Owada, B. Simma and P. Tomka as Members of the Court for a term of nine years beginning on 6 February 2003.

33. On 6 February 2003, the Court elected Judge Shi Jiuyong as President and Raymond Ranjeva as Vice-President of the Court, for a term of three years.

34. The Registrar of the Court is Mr. Philippe Couvreur. The Deputy-Registrar is Mr. Jean-Jacques Arnaldez.

35. In accordance with Article 29 of the Statute, the Court forms annually a Chamber of Summary Procedure, which is constituted as follows:

Members

President, Shi Jiuyong

Vice-President, R. Ranjeva

Judges, G. Parra-Aranguren, A. S. Al-Khasawneh and T. Buergenthal

Substitute Members

Judges, N. Elaraby and H. Owada.

36. Following the election held on 6 February 2003, the Court's Chamber for Environmental Matters, which was established in 1993 pursuant to Article 26, paragraph 1, of the Statute, and whose mandate in its present composition runs to February 2006, is composed as follows:

President, Shi Jiuyong

Vice-President, R. Ranjeva

Judges, G. Guillaume, P. H. Kooijmans, F. Rezek, B. Simma and P. Tomka.

37. In the cases concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America), Libya chose Mr. Ahmed Sadek El-Kosheri to sit as judge ad hoc. In the former of the two cases, in which Judge Higgins recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge ad hoc. The latter has been sitting as such in the phase of the proceedings concerning jurisdiction and admissibility.

38. In the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Iran chose Mr. François Rigaux to sit as judge ad hoc.

39. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Bosnia and Herzegovina chose Sir Elihu Lauterpacht and Serbia and Montenegro Mr. Milenko Kreća to sit as judges ad hoc. Following the resignation of Sir Elihu Lauterpacht, Bosnia and Herzegovina chose Mr. Ahmed Mahiou to sit as judge ad hoc.

40. In the case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Slovakia, after Judge Tomka recused himself, chose Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

41. In the case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening), Cameroon chose Mr. Kéba Mbaye and Nigeria Mr. Bola A. Ajibola to sit as judges ad hoc.

42. In the case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Indonesia chose Mr. Mohamed Shahabuddeen and Malaysia Mr. Christopher G. Weeramantry to sit as judges ad hoc. Following the resignation of Mr. Shahabuddeen, Indonesia chose Mr. Thomas Franck to sit as judge ad hoc.

43. In the case concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Guinea chose Mr. Mohammed Bedjaoui and the DRC Mr. Auguste Mampuya Kanunk'a Tshiabo to sit as judges ad hoc. Following the resignation of Mr. Bedjaoui, Guinea chose Mr. Ahmed Mahiou to sit as judge ad hoc.

44. In the cases concerning the Legality of Use of Force (Serbia and Montenegro v. Belgium); (Serbia and Montenegro v. Canada); (Serbia and Montenegro v. France); (Serbia and Montenegro v. Germany); (Serbia and Montenegro v. Italy); (Serbia and Montenegro v. Netherlands); (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom), Serbia and Montenegro chose Mr. Milenko Kreća to sit as judge ad hoc; in the cases concerning (Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada) and (Serbia and Montenegro v. Italy), Belgium chose Mr. Patrick Duinslaeger, Canada Mr. Marc Lalonde and Italy Mr. Giorgio Gaja to sit as judges ad hoc. These have been sitting as such during the examination of Serbia and Montenegro's requests for the indication of provisional measures.

45. In the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), the Democratic Republic of the Congo chose Mr. Joe Verhoeven and Uganda Mr. James L. Kateka to sit as judges ad hoc.

46. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro), Croatia chose Mr. Budislav Vukas and Serbia and Montenegro Mr. Milenko Kreća to sit as judges ad hoc.

47. In the case concerning Certain Property (Liechtenstein v. Germany), Liechtenstein chose Mr. Ian Brownlie to sit ad judge ad hoc. After Mr. Brownlie's resignation, Liechtenstein chose Sir Franklin Berman. Judge Simma having recused himself, Germany chose Mr. Carl-August Fleischhauer to sit as judge ad hoc.

48. In the case concerning Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Nicaragua chose Mr. Giorgio Gaja and Honduras Mr. Julio González Campos to sit as judges ad hoc.

49. In the case concerning Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina), Yugoslavia chose Mr. Vojin Dimitrijević and Bosnia and Herzegovina Mr. Sead Hodžić to sit as judges ad hoc. After the resignation of Mr. Hodžić, Bosnia and Herzegovina chose Mr. Ahmed Mahiou to sit as judge ad hoc.

50. In the case concerning Territorial and Maritime Dispute (Nicaragua v. Colombia), Columbia chose Mr. Yves L. Fortier to sit as judge ad hoc.

51. In the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), the Democratic Republic of Congo chose Mr. Jean-Pierre Mavungu and Rwanda Mr. John Dugard to sit as judges ad hoc.

52. In the case concerning the Frontier Dispute (Benin/Niger), Benin chose Mr. Mohamed Bennouna and Niger Mr. Mohammed Bedjaoui to sit as judges ad hoc.

53. In the case concerning Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras), El Salvador chose Mr. Felipe H. Paolillo and Honduras Mr. Santiago Torres Bernárdez to sit as judges ad hoc.

54. In the case of Avena and Other Mexican Nationals (Mexico v. United States of America), Mexico chose Mr. Juan Manuel Gómez-Robledo to sit as judge ad hoc. Following the resignation of Mr. Gómez-Robledo, Mexico chose Mr. Bernardo Sepúlveda to sit as judge ad hoc.

55. In the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France), the Republic of the Congo chose Mr. Jean-Yves de Cara to sit as judge ad hoc.

B. Privileges and immunities

56. Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

57. In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (I.C.J. Acts and Documents No. 5, pp. 201-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps; the Dean, who ranks after the President, is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (ibid., pp. 207-213).

58. By resolution 90 (1) of 11 December 1946 (ibid., pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that

> "if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there",

and that

> "judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

59. The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

60. Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

III. JURISDICTION OF THE COURT

A. Jurisdiction of the Court in contentious cases

61. On 31 July 2003, the 191 States Members of the United Nations were parties to the Statute of the Court.

62. Sixty-four States have now made declarations (many with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Costa Rica, Cyprus, the Democratic Republic of the Congo, Denmark, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Ivory Coast, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, the Philippines, Poland, Portugal, Senegal, Serbia and Montenegro, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The declaration of Peru was deposited with the Secretary-General of the United Nations during the twelve months under review, on 7 July 2003. The texts of the declarations filed by the above States will appear in Chapter IV, Section II, of the next edition of the I.C.J. Yearbook.

63. Lists of treaties and conventions which provide for the jurisdiction of the Court will appear in Chapter IV, Section III, of the next edition of the I.C.J. Yearbook. There are currently in force approximately 100 such multilateral conventions and approximately 160 such bilateral conventions. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

B. Jurisdiction of the Court in advisory proceedings

64. In addition to the United Nations (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly), the following organizations are at present authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities:

International Labour Organization;

Food and Agriculture Organization of the United Nations;

United Nations Educational, Scientific and Cultural Organization;

International Civil Aviation Organization;

World Health Organization;

World Bank;

International Finance Corporation;

International Development Association;

International Monetary Fund;

International Telecommunication Union;

World Meteorological Organization;

International Maritime Organization;

World Intellectual Property Organization;

International Fund for Agricultural Development;

United Nations Industrial Development Organization;

International Atomic Energy Agency.

65. The international instruments that make provision for the advisory jurisdiction of the Court will be listed in Chapter IV, Section I, of the next edition of the I.C.J. Yearbook.

IV. FUNCTIONING OF THE COURT

A. Committees of the Court

66. The committees constituted by the Court to facilitate the performance of its administrative tasks are composed as follows:

(a) The Budgetary and Administrative Committee: the President (Chair), the Vice-President and Judges Guillaume, Koroma, Vereshchetin, Kooijmans and Al-Khasawneh.

(b) The Committee on Relations: Judges Parra-Aranguren (Chair), Rezek, Al-Khasawneh and Owada.

(c) The Library Committee: Judges Koroma (Chair), Kooijmans, Rezek, Buergenthal and Tomka.

(d) The Computerization Committee, under the Chairmanship of the Vice-President, is open to all interested Members of the Court.

67. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judges Higgins (Chair), Buergenthal, Elaraby, Owada, Simma and Tomka.

B. The Registry of the Court

68. The Court is the only principal organ of the United Nations to have its own administration (see Art. 98 of the Charter). The Registry is the permanent administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Arts. 22-29 of the Rules). Since the Court is both a judicial body and an international institution, the role of the Registry is both to provide judicial support and to act as an international secretariat. Thus its work is, on the one hand, judicial and diplomatic, while, on the other, it corresponds to that of the legal, administrative, financial, conference and information departments of an international organization. The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar and its duties are worked out in instructions drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The Instructions for the Registry were drawn up in October 1946. An organizational chart of the Registry is appended at page 25.

69. Registry officials are appointed by the Court on proposals by the Registrar or, for General Service staff, by the Registrar with the approval of the President. Short-term staff is

appointed by the Registrar. Working conditions are laid down in Staff Regulations adopted by the Court (see Art. 28 of the Rules of Court). Registry officials enjoy, generally, the same privileges and immunities as members of diplomatic missions in The Hague of comparable rank. They enjoy a status, remuneration and pension rights corresponding to those of secretariat officials of the equivalent category or grade.

70. Over the last 14 years, the Registry's workload, notwithstanding its adaptation to new technologies, has grown considerably following the substantial increase in the number of cases brought before the Court. As a result, the Court felt that it was necessary to establish a sub-committee, set up in 1997, to examine the Registry's working methods. In November 1997, the Sub-Committee on Rationalization presented a report containing observations and recommendations concerning work methods, management questions and the organizational scheme of the Registry. In particular, the Sub-Committee recommended that certain measures of decentralization and reorganization be implemented within the Registry. In December 1997, the Court accepted virtually all of the recommendations of the Sub-Committee on Rationalization, and these were subsequently implemented and communicated to the Advisory Committee on Administrative and Budgetary Questions (ACABQ). The General Assembly, in its resolution 54/249, adopted on 23 December 1999, while generally welcoming the measures taken by the Court, also noted

> "with concern that the resources proposed for the International Court of Justice are not proportionate with the workload envisaged and requests the Secretary-General to propose adequate resources for this section in the context of the proposed programme budget for the biennium 2002-2003, commensurate with its increased workload and the large backlog of volumes of Court documents".

71. In this same connection, in view of the fact that the impact of the increase in the Court's workload was most urgent in the Department of Linguistic Matters, in May 2000 the Court submitted a request for a supplementary budget for the biennium 2000/2001. In December 2000, the General Assembly approved a supplementary budget for the year 2001. In view of the continued large number of cases on its List, the Court further requested a substantial increase of its budget for the biennium 2002-2003.

72. In December 2001, the General Assembly approved the Court's budget for the biennium 2002-2003, adopting all of the proposals of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) concerning the Court's Registry staff. Thus, two new P-4 posts were created: one post for a Secretary of the Court within the Department of Legal Matters, and one post for an administrative and personnel officer. In addition, seven General Service posts were accorded to the Registry, which include two additional secretaries to judges, an administrative assistant to the administrative and personnel officer, a data-entry clerk within the Finance Division, an application support specialist within the Computerization Division, an archives assistant within the Archives Division, and a reading-room clerk for the Library of the Court. Seven additional General Service posts were created by way of redeployment of appropriations previously made for temporary assistance, which include four posts for stenotypists and three additional posts for secretaries to judges. Furthermore, three temporary General Service posts have been converted into established posts, namely, two posts for secretaries to judges, and one post for a clerk for the Court's website. Moreover, it should be noted that the 14 temporary posts made available in 2001 have been confirmed for the current biennium, that is: three P-4 translator posts, nine P-3 translator posts and two General Service administrative assistant posts. Finally, the total appropriation for general temporary assistance for this biennium has been calculated so as to permit funding for five full-time P-2 law clerk posts.

73. Accordingly, for the 2002-2003 biennium, the staffing chart for the Registry shows a total of 96 staff members as follows: 40 staff members in the administrator or higher category (of which 28 hold permanent posts and 12 temporary posts), 51 staff members in the General Service category (of which 49 hold permanent posts and 2 temporary posts), and 5 law clerks, financed under general temporary assistance.

The Registrar and Deputy-Registrar

74. The Registrar is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in

the Registry; he is present, in person or by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, in particular with the organs of the United Nations, with other international organizations and States and in the fields of information concerning the Court's activities and the Court's publications (official publications of the Court, press releases, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

75. The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence; he has since 1998 been entrusted with wider administrative responsibilities, including direct supervision of the Archives, Computerization and General Assistance Divisions.

76. The Registrar and the Deputy-Registrar, when acting for the Registrar, are, pursuant to the exchange of correspondence mentioned in paragraph 57 above, accorded the same treatment as Heads of Diplomatic Missions in The Hague.

The Registry's substantive divisions and units

Department of Legal Matters

77. This Department, composed of seven Professional and one General Service staff members, is responsible for all legal matters within the Registry. In particular, its task is to assist the Court in the exercise of its judicial functions. It prepares the minutes of meetings of the Court and acts as secretariat to the drafting committees, which prepare the Court's draft decisions, and also as secretariat to the Rules Committee. It carries out research in international law, examining previous legal and procedural decisions and prepares studies and notes for the Court and the

Registrar as required. It also prepares for signature by the Registrar all correspondence in pending cases and, more generally, diplomatic correspondence relating to the application of the Statute or the Rules of Court. It is also responsible for monitoring the headquarters agreements with the host country. Finally, the Department may be consulted on all legal questions relating to the terms of employment of Registry staff.

Department of Linguistic Matters

78. This Department, composed of 18 Professional staff members and one General Service member, is responsible for the translation of documents to and from the Court's two official languages. These documents include case pleadings and other communications from States parties, verbatim records of Court hearings, the Court's judgments, advisory opinions and orders, together with their drafts and working documents, judges' Notes, minutes of Court and committee meetings, internal reports, notes, studies, memos and directives, speeches by the President and judges to outside bodies, reports and communications to the Secretariat, etc. The Department also provides interpretation at private and public meetings of the Court and at meetings of the President and Court Members held with agents of the parties and other official visitors.

79. As a result, of the growth of the Department since the last biennium (cf. para. 71 of the previous report), recourse to outside translators has been substantially reduced. However, outside translation assistance is still necessary on occasion, in particular for Court hearings. Outside interpreters are also still regularly required, notably for Court hearings and deliberations.

Information Department

80. This Department, composed of two Professional (one of these positions is shared by two staff members, each working half-time) and one General Service staff members, plays an important part in the Court's external relations. Its duties consist of preparing all documents or sections of documents containing general information on the Court (in particular the Annual Report of the Court to the General Assembly, the sections concerning the Court in various United Nations documents, the Yearbook, and documents for the general public); arranging for the circulation of printed publications and public documents issued by the Court; encouraging and assisting the

press, radio and television to report on the work of the Court (in particular by preparing press releases); replying to all requests for information on the Court; keeping Members of the Court abreast of information in the press or on the Internet concerning pending or possible cases; organizing the public sittings of the Court and all other official events, including a large number of visits.

Technical Divisions

Personnel Division

81. This Division, composed of one Professional and one General Service staff members is responsible for various duties related staff management and administration, including: planning and implementation of recruitment, placement, promotion, training and separation of staff. In administering staff, it ensures observance of Staff Regulations for the Registry, applicable United Nations Staff Regulations and Rules. As part of the recruitment exercise, the Divisions prepares vacancy announcements, reviews applications, arranges structured interviews for selection of candidates and prepares job offers for successful candidates, provides introduction, orientation and briefing to new staff members. The Divisions also administers and monitors staff entitlements and benefits, handles the relevant personnel actions, liaises with the Office of Human Resources Management (OHRM) and the United Nations Joint Staff Pension Fund (UNJSPF).

Finance Division

82. This Division, composed of two Professional and three General Service staff members, is responsible for financial matters. Its financial duties include inter alia: preparation of the budget; financial accounting and reporting; procurement and inventory control; vendor payments; payroll and payroll related operations (allowances/overtime), and travel.

Publications Division

83. This Division, composed of three Professional staff members, is responsible for preparation of layout, correction of proofs, study of estimates and choice of a printing firm in relation to the following official publications of the Court: (a) Reports of Judgments, Advisory Opinions and Orders; (b) Yearbooks; (c) Memorials, Pleadings and Documents (former

"Series C"); (d) Bibliography. It is also responsible for various other publications as instructed by the Court or the Registrar ("Blue Book" (handbook on the Court for the general public), "Background Notes on the Court", "White Book" (composition of the Court and the Registry)). Moreover, as the printing of the Court's publications is outsourced, the Division is also responsible for the preparation, conclusion and implementation of contracts with printers. (For the Court's publications, see Chapter VIII below.)

Documents Division — Library of the Court

84. Operating in close collaboration with the Peace Palace Library of the Carnegie Foundation, this Division, composed of two Professional and three General Service staff members, has as its main task the acquisition, conservation and classification of leading works on international law, as well as periodicals and other relevant documents; it also procures on request items not included in the catalogue of the Carnegie Library. It also receives United Nations publications, including the documents of its principal organs, which it has to index, classify and keep up to date. It prepares bibliographies for Members of the Court as required and compiles an annual bibliography of all publications concerning the Court. The Division also has to make good the lack of a reference service for translators.

Archives, Indexing and Distribution Division

85. This Division, composed of one Professional and five General Service staff members, is responsible for indexing and classifying all correspondence and documents received or sent by the Court, and for the subsequent retrieval of any such item on request. The duties of this Division include in particular the keeping of an up-to-date index of correspondence, incoming and outgoing, as well as of all documents, both official and other, held on file. It also maintains a card index, by name and subject, of minutes of the Court's meetings. Automation of the management and status of archives files, the final phase of automation and computerization of the Division is now in progress.

86. The Division also handles the despatch of official publications to Members of the United Nations, as well as to numerous institutions and private persons. It is also responsible for checking, distributing and filing all internal documents, some of which are strictly confidential.

Shorthand, Typewriting and Reproduction Division

87. This Division, composed of one Professional and nine General Service staff members, carries out all the typing work of the Registry and, as necessary, the reproduction of typed texts.

88. Other than actual correspondence, the Division is responsible in particular for the typing and reproduction of the following documents: translations of written pleadings and annexes, verbatim records of hearings and their translations, translations of judges' Notes and judges' amendments, judgments, advisory opinions and orders, translations of judges' opinions. In addition, it is responsible for checking documents and references, re-reading and page layout.

Judges' Secretaries

89. The work done by the 15 judges' secretaries is manifold and varied. As a general rule, the secretaries type Notes, amendments and opinions, as well as all correspondence of judges and judges ad hoc. They also check the references in Notes and opinions. They also provide judges with administrative assistance.

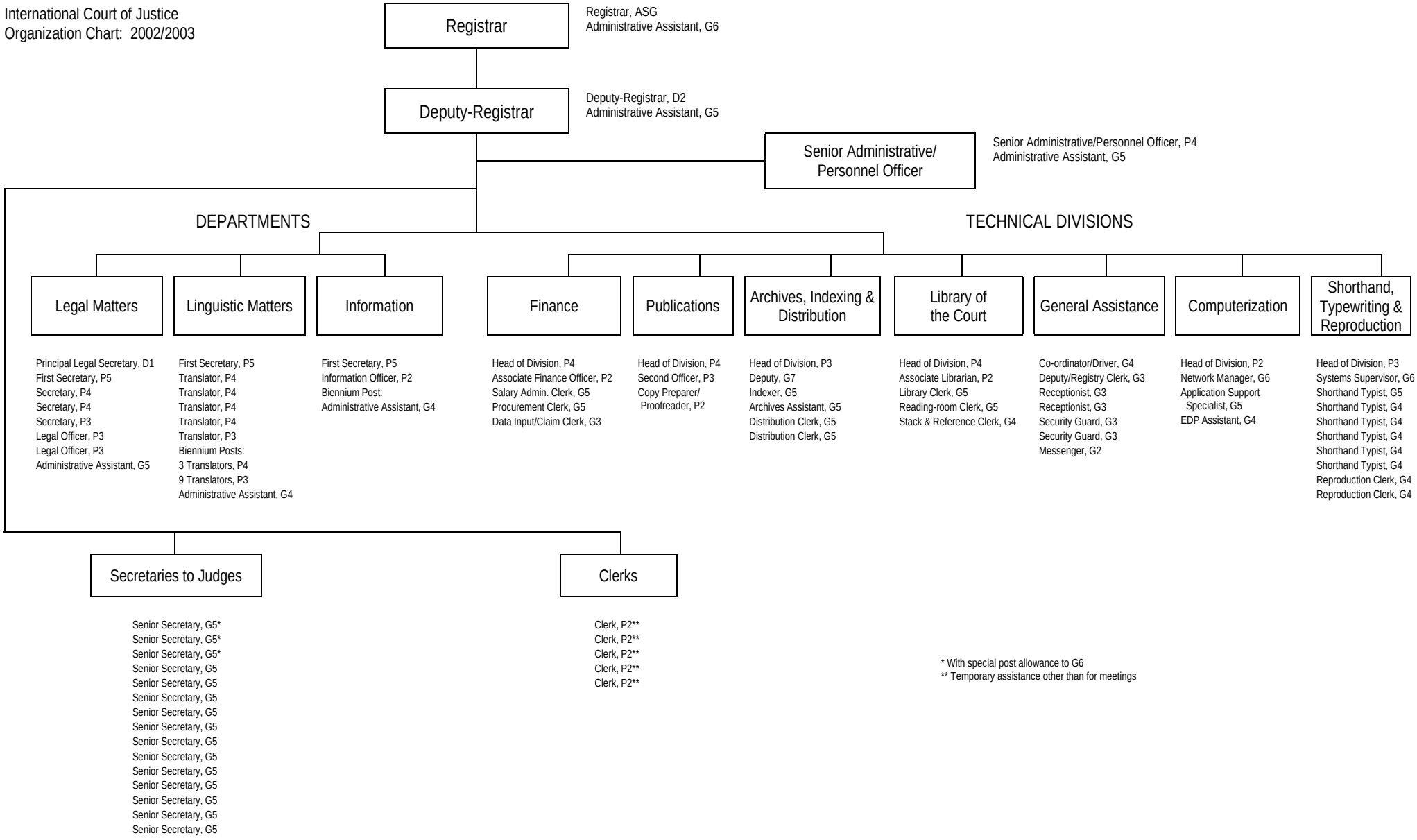
Computerization Division

90. The Computerization Division, composed of one Professional and three General Service staff members, is responsible for the efficient functioning and continued development of information technology at the Court. It is charged with the administration and functioning of the Court's local area networks and all other computer and technical equipment. It is also responsible for the implementation of new software and hardware projects, and assists and trains computer users in all aspects of information technology. Finally, the Computerization Division is responsible for the development and management of the ICJ web sites.

General Assistance Division

91. The General Assistance Division, composed of seven General Service staff members, provides general assistance to Members of the Court and Registry staff in regard to messenger, transport, reception and telephone services. It is also responsible for security.

International Court of Justice
Organization Chart: 2002/2003



* With special post allowance to G6
** Temporary assistance other than for meetings

C. Seat

92. The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

93. The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the Permanent Court of International Justice as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

94. An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946 and has undergone subsequent alterations. The agreement provides for the payment to the Carnegie Foundation of an annual contribution, which presently amounts to US$ 770,000.

D. Museum of the Court

95. On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions which occupy the Peace Palace) situated in the south wing of the Peace Palace.

96. Its collection presents an overview of the theme “Peace through Justice”, highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the subsequent construction of the Peace Palace as a seat for international justice; as well as the establishment and the functioning of the Permanent Court of International Justice and the present Court (different displays showcase the genesis of the United Nations; the Court and its Registry; the judges on the Bench, the provenance of judges and cases; the procedure of the Court; the world’s legal systems; the case law of the Court; prominent visitors).

V. JUDICIAL WORK OF THE COURT

97. During the period under review 28 contentious cases were pending, 25 of which remain so.

98. Over this period the Court was seised of four new cases: (a) Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras), (b) Avena and Other Mexican Nationals (Mexico v. United States of America), (c) Certain Criminal Proceedings in France (Republic of the Congo v. France) and (d) proceedings instituted by Malaysia and Singapore.

99. A request for the indication of provisional measures was made by the applicant State in the case concerning Avena and Other Mexican Nationals (Mexico v. United States of America) and in the case of Certain Criminal Proceedings in France (Republic of the Congo v. France).

100. In each of the cases concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro), and Territorial and Maritime Dispute (Nicaragua v. Colombia), the respondent State submitted preliminary objections to the jurisdiction of the Court and the admissibility of the Application.

101. The Court held public hearings in the cases concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina), Avena and Other Mexican Nationals (Mexico v. United States of America) and Certain Criminal Proceedings in France (Republic of the Congo v. France). It further held a great number of private meetings.

102. The Court rendered Judgments in the cases concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening),

Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia) and Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina). It made Orders on the requests for provisional measures in the cases concerning Avena and Other Mexican Nationals (Mexico v. United States of America) and Certain Criminal Proceedings in France (Republic of the Congo v. France).

103. The Court further made, in each of the cases concerning the Frontier Dispute (Benin/Niger) and Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras), an Order composing a chamber to treat of the case; in the same Order it fixed time-limits for the proceedings. It further made orders authorizing the submission of certain pleadings and fixing time-limits for their filing in the cases concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro), Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda) and Avena and Other Mexican Nationals (Mexico v. United States of America).

104. The President of the Court made Orders fixing or extending time-limits in the cases concerning Avena and Other Mexican Nationals (Mexico v. United States of America) and Certain Criminal Proceedings in France (Republic of the Congo v. France).

Cases before the Court

1., 2. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America)

105. On 3 March 1992, the Socialist People's Libyan Arab Jamahiriya filed two separate Applications instituting proceedings against the United Kingdom and the United States of America with regard to "dispute[s] ... concerning the interpretation or application of the Montreal Convention" of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

106. In its Applications, Libya referred to charges made by the Lord Advocate of Scotland and an American Grand Jury against two Libyan nationals suspected of having caused the destruction of Pan Am Flight 103 over the town of Lockerbie, Scotland, on 21 December 1988, in which 270 people died. Following these charges, the United Kingdom and the United States had demanded that Libya surrender the alleged offenders for trial either in Scotland or in the United States and had seised the Security Council of the United Nations. Libya maintained that, by doing so, the United Kingdom and the United States had breached their legal obligations under the Montreal Convention and had to cease those breaches. It added that the Montreal Convention was the only instrument applicable to the destruction of the Pan Am aircraft over Lockerbie, that there was no other convention concerning international criminal law in force which was applicable to such issues between itself and the United Kingdom, nor between itself and the United States, and that, in accordance with the Montreal Convention, it was entitled to try the alleged offenders itself.

107. On 3 March 1992, Libya also asked the Court to indicate provisional measures to prevent further action by the United Kingdom and the United States to compel it to surrender the alleged offenders before any examination of the merits of the cases. However, by Orders of 14 April 1992, the Court, referring to resolution 748 which had been adopted in the meantime by the Security Council under Chapter VII of the United Nations Charter, found that the circumstances were not such as to require the exercise of its power to indicate such measures.

108. By Orders of 19 June 1992 the Court fixed 20 December 1993 as the time-limit for the filing of Memorials by Libya and 20 June 1995 as the time-limit for the filing of Counter-Memorials by the United Kingdom and the United States.

109. After Libya had filed its Memorials within the prescribed time-limit, the United Kingdom and the United States, on 16 and 20 June 1995 respectively, filed preliminary objections to the Court's jurisdiction and to the admissibility of Libya's Applications. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After Libya had presented written statements of its observations and submissions on the preliminary objections within the time-limit of 22 December 1995 fixed by the Court, public sittings were held from 13 to 22 October 1997. In two separate Judgments of 27 February 1998 on the preliminary objections, the Court found that there existed disputes between the Parties concerning the interpretation or application of the Montreal Convention and that it had jurisdiction to hear the disputes on the basis of Article 14, paragraph 1, of the Montreal Convention, which concerns the settlement of disputes over the interpretation or application of the provisions of the Convention. The Court also found the Libyan claims admissible and stated that it was not appropriate, at that stage of the proceedings, to make a decision on the arguments of the United Kingdom and the United States that resolutions of the United Nations Security Council had rendered these claims without object.

110. By Orders dated 30 March 1998, the Court fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and of the United States. The time-limit was subsequently extended by the Senior Judge, Acting President of the Court, to 31 March 1999 at the request of the United Kingdom and of the United States. The Counter-Memorials were filed within the time-limit thus extended.

111. By Orders of 29 June 1999, the Court authorized the submission of Replies by Libya and Rejoinders by the United Kingdom and the United States, fixing 29 June 2000 as the time-limit for the filing of Libya's Replies. Libya's Replies were filed within the prescribed time-limit.

112. In its Orders of 29 June 1999, the Court had, however, fixed no date for the filing of the Rejoinders; the representatives of the respondent States had expressed the desire that no such date

be fixed at that stage of the proceedings, "in view of the new circumstances consequent upon the transfer of the two accused to the Netherlands for trial by a Scottish court".

113. Subsequently, by Orders of 6 September 2000, the President of the Court, taking account of the views of the Parties, fixed 3 August 2001 as the time-limit for the filing of the Rejoinder of the United Kingdom and the United States respectively. The Rejoinders were filed within the prescribed time-limit.

3. Oil Platforms (Islamic Republic of Iran v. United States of America)

114. On 2 November 1992 the Islamic Republic of Iran filed an Application instituting proceedings against the United States of America in respect of a dispute concerning the destruction of three Iranian oil platforms. In its Application the Islamic Republic founded the jurisdiction of the Court on Article XXI, paragraph 2, of the Iran/United States Treaty of Amity, Economic Relations and Consular Rights, signed at Tehran on 15 August 1955 and which entered into force on 16 June 1957. Iran alleged that the destruction caused by a number of warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. Iran referred in particular to Article I of the Treaty which provides: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran." It also referred to Article X, paragraph 1, which provides: "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation." At the end of its Application, the Islamic Republic accordingly requested the Court to adjudge and declare that "in attacking and destroying the oil platforms referred to in the [above-mentioned] Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic"; that "in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X (1), and international law"; and that "the United States [was] under an obligation to make reparations to the Islamic Republic for the

violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings."

115. By Orders of 4 December 1992 and 3 June 1993, the President of the Court fixed and extended the time-limits for the filing of the Memorial of Iran and of the Counter-Memorial of the United States. Iran's Memorial was filed within the extended time-limit of 8 June 1993.

116. On 16 December 1993, within the time-limit fixed for the filing of its Counter-Memorial, the United States of America filed a preliminary objection to the Court's jurisdiction; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After the filing by Iran of a written statement on the preliminary objection within the time-limit of 1 July 1994 fixed by the Court's Order of 18 January 1994, public hearings were held from 16 to 24 September 1996. By a Judgment of 12 December 1996, the Court rejected the preliminary objection and found that it had jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by Iran under Article X, paragraph 1, of that Treaty.

117. Within the time-limit of 23 June 1997 fixed by the Court's Order of 16 December 1996, the United States of America filed its Counter-Memorial together with a counter-claim, requesting the Court to adjudge and declare that "in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-88 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran [had] breached its obligations to the United States under Article X of the 1955 Treaty", and that "the Islamic Republic of Iran [was] accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

118. By a letter of 2 October 1997 Iran informed the Court of its position that the counter-claim as formulated by the United States did not meet the requirements of Article 80, paragraph 1, of the Rules of Court. After each Party had filed written observations, the Court, by an Order of 10 March 1998, found that the counter-claim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings.

119. Iran filed a Reply within the extended time-limit of 10 March 1999 and the United States of America filed a Rejoinder within the extended time-limit of 23 March 2001. Iran was moreover authorized to file an additional pleading relating solely to the counter-claim and did so within the time-limit of 24 September 2001, as fixed by the Vice-President of the Court.

120. Public hearings on the merits of the case were held from 17 February to 7 March 2003. At the conclusion of those hearings the Parties presented their final submissions to the Court.

121. The Islamic Republic of Iran requested the Court to adjudge and declare:

"1. That in attacking and destroying on 19 October 1987 and 18 April 1988 the oil platforms referred to in Iran's Application, the United States breached its obligations to Iran under Article X, paragraph 1, of the Treaty of Amity, and that the United States bears responsibility for the attacks; and

2. That the United States is accordingly under an obligation to make full reparation to Iran for the violation of its international legal obligations and the injury thus caused in a form and amount to be determined by the Court at a subsequent stage of the proceedings, the right being reserved to Iran to introduce and present to the Court in due course a precise evaluation of the reparation owed by the United States; and

3. Any other remedy the Court may deem appropriate."

and, with respect to the counter-claim of the United States of America:

"That the United States counter-claim be dismissed."

122. The United States of America requested the Court to adjudge and declare:

"(1) That the United States did not breach its obligations to the Islamic Republic of Iran under Article X, paragraph 1, of the 1955 Treaty between the United States and Iran; and

(2) That the claims of the Islamic Republic of Iran are accordingly dismissed."

and, with respect to its counter-claim, that the Court adjudge and declare:

"(1) Rejecting all submissions to the contrary, that, in attacking vessels in the Gulf with mines and missiles and otherwise engaging in military actions that were dangerous and detrimental to commerce and navigation between the territories of the United States and the Islamic Republic of Iran, the Islamic Republic of Iran breached its obligations to the United States under Article X, paragraph 1, of the 1955 Treaty; and

(2) That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for its breach of the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

123. At the time of the preparation of this report, the Court was deliberating its Judgment.

4. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)

124. On 20 March 1993, Bosnia and Herzegovina filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"). As the basis of the jurisdiction of the Court, Bosnia and Herzegovina invoked Article IX of that Convention.

125. In its Application, Bosnia and Herzegovina, among other claims, requested the Court to adjudge and declare that Serbia and Montenegro, through its agents and surrogates, "has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina", that it had to cease immediately this practice of so-called "ethnic cleansing" and pay reparations.

126. On 20 March 1993 Bosnia and Herzegovina also submitted a request for provisional measures. Public hearings were held on 1 and 2 April 1993, and by an Order dated 8 April 1993 the Court indicated that Serbia and Montenegro "should immediately . . . take all measures within its power to prevent commission of the crime of genocide" and that both Serbia and Montenegro and Bosnia and Herzegovina "should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute . . . or render it more difficult of solution". The Court limited its provisional measures to requests falling within the jurisdiction conferred on it by the Genocide Convention.

127. On 27 July 1993 Bosnia and Herzegovina filed a second request for provisional measures, followed on 10 August 1993 by a request for provisional measures of Serbia and Montenegro. Public hearings were held on 25 and 26 August 1993, and by an Order dated 13 September 1993 the Court reaffirmed the measures indicated earlier, adding that they should be immediately and effectively implemented.

128. On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects".

129. The Memorial of Bosnia and Herzegovina was filed within the extended time-limit of 15 April 1994.

130. On 26 June 1995, within the extended time-limit for the deposit of its Counter-Memorial, Serbia and Montenegro filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After Bosnia and Herzegovina had filed a written statement on the preliminary objections within the time-limit of 14 November 1995 fixed by the Court' s Order of 14 July 1995, public hearings were held between 29 April and 3 May 1996. On 11 July 1996, the Court delivered its Judgment, rejecting the objections of Serbia and Montenegro; finding that, on the basis of Article IX of the Genocide Convention, it had jurisdiction to deal with the case; dismissing the additional basis of jurisdiction invoked by Bosnia and Herzegovina; and finding that the Application was admissible.

131. In the Counter-Memorial filed on 22 July 1997, Serbia and Montenegro submitted counter-claims requesting the Court to adjudge and declare that "Bosnia and Herzegovina [was] responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina" and that it "ha[d] the obligation to punish the persons held responsible" for these acts. It also asked the Court to rule that "Bosnia and Herzegovina [was] bound to take necessary measures so that the said acts would not be repeated in future" and "to eliminate all consequences of the violation of the obligations established by the . . . [Genocide] Convention".

132. By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

133. After each Party had filed written observations, the Court, by an Order of 17 December 1997, held that Serbia and Montenegro's counter-claims were "admissible as such" and that they formed "part of the current proceedings" in the case; the Court also directed the Parties to submit further written pleadings on the merits of their respective claims and fixed time-limits for the filing of a Reply by Bosnia and Herzegovina and of a Rejoinder by Serbia and Montenegro. Those time-limits having been extended at the request of each of the Parties, the Reply of Bosnia and Herzegovina was eventually filed on 23 April 1998 and the Rejoinder of Serbia and Montenegro on 22 February 1999. In these pleadings, each of the Parties contested the allegations made by the other.

134. Since then several exchanges of letters have taken place concerning new procedural difficulties in the case.

135. By an Order of 10 September 2001 the President of the Court placed on record the withdrawal by Serbia and Montenegro of the counter-claims submitted by that State in its Counter-Memorial. The Order was made after Serbia and Montenegro had informed the Court that it intended to withdraw its counter-claims and Bosnia and Herzegovina had indicated to the latter that it had no objection to that withdrawal.

5. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

136. On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system.

137. In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> (a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the

Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;

(b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);

(c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

138. Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within the respective time-limits of 2 May 1994, 5 December 1994 and 20 June 1995, as fixed by the Court or its President.

139. Hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčíkovo-Nagymaros Project, by virtue of Article 66 of the Rules of Court.

140. In its Judgment of 25 September 1997, the Court found that both Hungary and Slovakia had breached their legal obligations. It called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

141. On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Such an additional Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

142. In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended

that on 5 March 1998 Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

143. As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

144. Hungary filed a written statement of its position on the request for an additional Judgment made by Slovakia within the time-limit of 7 December 1998 fixed by the President of the Court.

145. The Parties subsequently have resumed negotiations and have informed the Court on a regular basis of the progress in them.

6. Land and Maritime Boundary between Cameroon and Nigeria
(Cameroon v. Nigeria: Equatorial Guinea intervening)

146. On 29 March 1994 the Republic of Cameroon filed an Application instituting proceedings against the Federal Republic of Nigeria in a dispute concerning the question of sovereignty over the peninsula of Bakassi, and requesting the Court to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975.

147. As a basis for the jurisdiction of the Court, the Application refers to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accept that jurisdiction as compulsory.

148. On 6 June 1994 Cameroon filed in the Registry of the Court an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as relating essentially "to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad", while also asking the Court to specify definitively the frontier between Cameroon and

Nigeria from Lake Chad to the sea. Cameroon further requested the Court to join the two Applications "and to examine the whole in a single case".

149. By an Order of 16 June 1994, the Court noted that Nigeria had no objection to the Additional Application being treated as an amendment to the initial Application, and accordingly fixed 16 March 1995 as the time-limit for the filing of a Memorial by Cameroon and 18 December 1995 as the time-limit for the filing of a Counter-Memorial by Nigeria. The Memorial of Cameroon was filed within the time-limit thus prescribed.

150. On 13 December 1995, within the time-limit for the filing of its Counter-Memorial, Nigeria raised preliminary objections to the jurisdiction of the Court and to the admissibility of Cameroon's claims. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court) and the President of the Court fixed 15 May 1996 as the time-limit within which Cameroon had to present a written statement of its observations and submissions on those preliminary objections. That statement was filed within the time-limit thus prescribed.

151. On 12 February 1996, Cameroon requested the Court to indicate provisional measures after "serious armed incidents" had taken place between Cameroonian and Nigerian forces in the Bakassi Peninsula. Public hearings were held between 5 and 8 March 1996 and, on 15 March 1996, the Court made an Order, stating , inter alia, that "both Parties should ensure that no action of any kind, and particularly no action by their armed forces, is taken which might prejudice the rights of the other in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before it".

152. After public hearings had been held from 2 to 11 March 1998, the Court, on 11 June 1998, delivered its Judgment whereby it rejected seven of the preliminary objections raised by Nigeria and declared that an eighth one would have to be dealt with during the proceedings on the merits of the dispute. It further declared that it had jurisdiction in the case and found that Cameroon's Application of 29 March 1994, as amended by the Additional Application of 6 June 1994, was admissible. This Judgment formed the object of a request for interpretation by

Nigeria, which, in separate proceedings, was declared inadmissible by a Judgment of 25 March 1999.

153. By an Order of 30 June 1998, the Court, after ascertaining the views of the Parties, fixed 31 March 1998 as the time-limit for the filing of the Counter-Memorial of Nigeria. At the request of Nigeria this time-limit was extended to 31 May 1999 by an Order of 3 March 1999.

154. Nigeria's Counter-Memorial was filed within the time-limit thus extended. It contained counter-claims, specified in Part VI. At the end of each section dealing with a particular sector of the frontier, the Nigerian Government asked the Court to declare that the incidents referred to "engage the international responsibility of Cameroon, with compensation in the form of damages, if not agreed between the parties, then to be awarded by the Court in a subsequent phase of the case".

155. By an Order of 30 June 1999, the Court ruled that those counter-claims were "admissible as such and form[ed] part of the current proceedings". It decided that Cameroon should submit a Reply and Nigeria a Rejoinder, relating to the claims of both Parties, and fixed the time-limits for those pleadings at 4 April 2000 and 4 January 2001 respectively.

156. On 30 June 1999, Equatorial Guinea filed an Application for permission to intervene in the case, pursuant to Article 62 of the Statute, stating that the purpose of its intervention would be "to protect [its] legal rights in the Gulf of Guinea by all legal means" and "to inform the Court of Equatorial Guinea's legal rights and interests so that these may remain unaffected as the Court proceeds to address the question of the maritime boundary between Cameroon and Nigeria". Equatorial Guinea made it clear that it did not seek to intervene in those aspects of the proceedings that relate to the land boundary between Cameroon and Nigeria, nor to become a party to the case. The Court fixed 16 August 1999 as the time-limit for the filing of written observations by Cameroon and Nigeria on Equatorial Guinea's Application. In their written observations, filed within the time-limit thus prescribed, neither Cameroon nor Nigeria objected to the request for permission to intervene being granted.

157. By an Order of 21 October 1999, the Court authorized Equatorial Guinea to intervene in the case "to the extent, in the manner and for the purposes set out in its Application for permission to intervene". It fixed 4 April 2001 as the time-limit for the filing of a written statement by Equatorial Guinea and 4 July 2001 as the time-limit for the filing of written observations by Cameroon and by Nigeria on that statement. Those documents were filed within the time-limits thus prescribed.

158. In the above-mentioned Order of 30 June 1999, whereby it had found that the counter-claims submitted by Nigeria were admissible, the Court, after indicating that it considered it necessary for Cameroon to file a Reply and for Nigeria to file a Rejoinder, relating to the claims of both Parties, had added the following:

> "it is necessary moreover, in order to ensure equality between the Parties, to reserve the right of Cameroon to present, within a reasonable period of time, its views in writing a second time on the Nigerian counter-claims, in an additional pleading which may be the subject of a subsequent Order".

Upon a request by Cameroon and after Nigeria had indicated that it had no objection, the Court, by a further Order of 20 February 2001, authorized the submission by Cameroon of such an additional pleading. It decided that the additional pleading, which would relate solely to the counter-claims submitted by Nigeria, should be filed no later than 4 July 2001. This pleading was filed within the time-limit thus prescribed.

159. Public hearings were held from 18 February to 21 March 2002. Pursuant to the Court's Order of 21 October 1999, permitting Equatorial Guinea to intervene in the case, that State presented its observations to the Court during the course of the hearings.

160. On 10 October 2002, the Court delivered its Judgment on the merits of the case, the operating paragraph of which reads as follows:

> "For these reasons,
>
> The COURT,
>
> I. (A) By fourteen votes to two,
>
> Decides that the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in the Lake Chad area is delimited by the Thomson-Marchand

Declaration of 1929-1930, as incorporated in the Henderson-Fleuriau Exchange of Notes of 1931;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judge Koroma; Judge ad hoc Ajibola;

(B) By fourteen votes to two,

Decides that the line of the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in the Lake Chad area is as follows:

From a tripoint in Lake Chad lying at 14° 04' 59"9999 longitude east and 13° 05' latitude north, in a straight line to the mouth of the River Ebeji, lying at 14° 12' 12" longitude east and 12° 32' 17" latitude north; and from there in a straight line to the point where the River Ebeji bifurcates, located at 14° 12' 03" longitude east and 12° 30' 14" latitude north;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judge Koroma; Judge ad hoc Ajibola;

II. (A) By fifteen votes to one,

Decides that the land boundary between the Republic of Cameroon and the Federal Republic of Nigeria is delimited, from Lake Chad to the Bakassi Peninsula, by the following instruments:

(i) from the point where the River Ebeji bifurcates as far as Tamnyar Peak, by paragraphs 2 to 60 of the Thomson-Marchand Declaration of 1929-1930, as incorporated in the Henderson-Fleuriau Exchange of Notes of 1931;

(ii) from Tamnyar Peak to pillar 64 referred to in Article XII of the Anglo-German Agreement of 12 April 1913, by the British Order in Council of 2 August 1946;

(iii) from pillar 64 to the Bakassi Peninsula, by the Anglo-German Agreements of 11 March and 12 April 1913;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judges ad hoc Mbaye, Ajibola;

AGAINST: Judge Koroma;

(B) Unanimously,

Decides that the aforesaid instruments are to be interpreted in the manner set out in paragraphs 91, 96, 102, 114, 119, 124, 129, 134, 139, 146, 152, 155, 160, 168, 179, 184 and 189 of the present Judgment;

III. (A) By thirteen votes to three,

Decides that the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in Bakassi is delimited by Articles XVIII to XX of the Anglo-German Agreement of 11 March 1913;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judges Koroma, Rezek; Judge ad hoc Ajibola;

(B) By thirteen votes to three,

Decides that sovereignty over the Bakassi Peninsula lies with the Republic of Cameroon;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judges Koroma, Rezek; Judge ad hoc Ajibola;

(C) By thirteen votes to three,

Decides that the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in Bakassi follows the thalweg of the Akpakorum (Akwayafe) River, dividing the Mangrove Islands near Ikang in the way shown on map TSGS 2240, as far as the straight line joining Bakassi Point and King Point;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judges Koroma, Rezek; Judge ad hoc Ajibola;

IV. (A) By thirteen votes to three,

Finds, having addressed Nigeria's eighth preliminary objection, which it declared in its Judgment of 11 June 1998 not to have an exclusively preliminary character in the circumstances of the case, that it has jurisdiction over the claims submitted to it by the Republic of Cameroon regarding the delimitation of the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria, and that those claims are admissible;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judges Oda, Koroma; Judge ad hoc Ajibola;

(B) By thirteen votes to three,

Decides that, up to point G below, the boundary of the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria takes the following course:

(a) starting from the point of intersection of the centre of the navigable channel of the Akwayafe River with the straight line joining Bakassi Point and King Point as referred to in point III (C) above, the boundary follows the "compromise line" drawn jointly at Yaoundé on 4 April 1971 by the Heads of State of Cameroon and Nigeria on British Admiralty Chart 3433 (Yaoundé II Declaration) and passing through 12 numbered points, whose co-ordinates are as follows:

	Longitude	Latitude
point 1:	8° 30' 44" E,	4° 40' 28" N
point 2:	8° 30' 00" E,	4° 40' 00" N
point 3:	8° 28' 50" E,	4° 39' 00" N
point 4:	8° 27' 52" E,	4° 38' 00" N
point 5:	8° 27' 09" E,	4° 37' 00" N
point 6:	8° 26' 36" E,	4° 36' 00" N
point 7:	8° 26' 03" E,	4° 35' 00" N
point 8:	8° 25' 42" E,	4° 34' 18" N
point 9:	8° 25' 35" E,	4° 34' 00" N
point 10:	8° 25' 08" E,	4° 33' 00" N
point 11:	8° 24' 47" E,	4° 32' 00" N
point 12:	8° 24' 38" E,	4° 31' 26" N;

(b) from point 12, the boundary follows the line adopted in the Declaration signed by the Heads of State of Cameroon and Nigeria at Maroua on 1 June 1975 (Maroua Declaration), as corrected by the exchange of letters between the said Heads of State of 12 June and 17 July 1975; that line passes through points A to G, whose co-ordinates are as follows:

	Longitude	Latitude
point A:	8° 24' 24" E,	4° 31' 30" N
point A1:	8° 24' 24" E,	4° 31' 20" N
point B:	8° 24' 10" E,	4° 26' 32" N
point C:	8° 23' 42" E,	4° 23' 28" N
point D:	8° 22' 41" E,	4° 20' 00" N
point E:	8° 22' 17" E,	4° 19' 32" N

point F: 8° 22' 19" E, 4° 18' 46" N

point G: 8° 22' 19" E, 4° 17' 00" N;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judges Koroma, Rezek; Judge ad hoc Ajibola;

(C) Unanimously,

Decides that, from point G, the boundary line between the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria follows a loxodrome having an azimuth of 270° as far as the equidistance line passing through the midpoint of the line joining West Point and East Point; the boundary meets this equidistance line at a point X, with co-ordinates 8° 21' 20" longitude east and 4° 17' 00" latitude north;

(D) Unanimously,

Decides that, from point X, the boundary between the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria follows a loxodrome having an azimuth of 187° 52' 27";

V. (A) By fourteen votes to two,

Decides that the Federal Republic of Nigeria is under an obligation expeditiously and without condition to withdraw its administration and its military and police forces from the territories which fall within the sovereignty of the Republic of Cameroon pursuant to points I and III of this operative paragraph;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mbaye;

AGAINST: Judge Koroma; Judge ad hoc Ajibola;

(B) Unanimously,

Decides that the Republic of Cameroon is under an obligation expeditiously and without condition to withdraw any administration or military or police forces which may be present in the territories which fall within the sovereignty of the Federal Republic of Nigeria pursuant to point II of this operative paragraph. The Federal Republic of Nigeria has the same obligation in respect of the territories which fall within the sovereignty of the Republic of Cameroon pursuant to point II of this operative paragraph;

(C) By fifteen votes to one,

Takes note of the commitment undertaken by the Republic of Cameroon at the hearings that, "faithful to its traditional policy of hospitality and tolerance", it "will continue to afford protection to Nigerians living in the [Bakassi] Peninsula and in the Lake Chad area";

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judges ad hoc Mbaye, Ajibola;

AGAINST: Judge Parra-Aranguren;

(D) Unanimously,

Rejects all other submissions of the Republic of Cameroon regarding the State responsibility of the Federal Republic of Nigeria;

(E) Unanimously,

Rejects the counter-claims of the Federal Republic of Nigeria."

161. Judge Oda appended a declaration to the Judgment of the Court; Judge Ranjeva a separate opinion; Judge Herczegh a declaration; Judge Koroma a dissenting opinion; Judge Parra-Aranguren a separate opinion; Judge Rezek a declaration; Judge Al-Khasawneh and Judge ad hoc Mbaye a separate opinion; and Judge ad hoc Ajibola a dissenting opinion.

7. Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)

162. On 2 November 1998 Indonesia and Malaysia jointly notified the Court of a Special Agreement, which was signed between them on 31 May 1997 at Kuala Lumpur and entered into force on 14 May 1998 with regard to their dispute concerning sovereignty over Pulau Ligitan and Pulau Sipadan, two islands in the Celebes Sea.

163. In the Special Agreement, the Parties requested the Court "to determine on the basis of the treaties, agreements and any other evidence furnished by [them], whether sovereignty over Pulau Ligitan and Pulau Sipadan belong[s] to the Republic of Indonesia or to Malaysia". They further expressed the wish to settle their dispute "in the spirit of friendly relations existing between [them] as enunciated in the 1976 Treaty of Amity and Co-operation in Southeast Asia" and declared in advance that they would "accept the Judgment of the Court . . . as final and binding upon them".

164. Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within the respective time-limits of 2 November 1999, 2 August 2000 and 2 March 2001, fixed or extended by the Court or its President.

165. On 13 March 2001 the Philippines filed an Application for permission to intervene in the case. In its Application, the Philippines stated that it wished to intervene in the proceedings in order

> "to preserve and safeguard [its Government's] historical and legal rights . . . arising from its claim to dominion and sovereignty over the territory of North Borneo, to the extent that these rights are affected, or may be affected, by a determination of the Court of the question of sovereignty over Pulau Ligitan and Pulau Sipadan; . . . to inform the . . . Court of the nature and extent of [those] rights"[; and] to appreciate more fully the indispensable role of the . . . Court in comprehensive conflict prevention".

The Philippines made it clear that it did not seek to become a party to the case. In their written observations, filed within the time-limit fixed by the Court, Indonesia and Malaysia objected to the Application for permission to intervene by the Philippines. After public hearings had been held from 25 to 29 June 2001, the Court, on 23 October 2001, delivered its Judgment, by which it rejected the request of the Philippines for permission to intervene.

166. Public hearings on the merits were held from 3 to 12 June 2002. On 17 December 2002, the Court delivered its Judgment on the merits of the case, the operating paragraph of which reads as follows:

> "For these reasons,
>
> THE COURT,
>
> By sixteen votes to one,
>
> Finds that sovereignty over Pulau Ligitan and Pulau Sipadan belongs to Malaysia.
>
> IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Weeramantry;
>
> AGAINST: Judge ad hoc Franck."

167. Judge Oda appended a declaration to the Judgment of the Court and Judge ad hoc Franck a dissenting opinion.

8. Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)

168. On 28 December 1998 the Republic of Guinea filed an Application instituting proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

169. According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaïre Shell, Zaïre Mobil and Zaïre Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaïre and Africacontainers-Zaïre.

170. As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998 and the declaration of the Democratic Republic of the Congo of 8 February 1989.

171. Guinea filed its Memorial within the time-limit as extended by the Court. On 3 October 2002, within the time-limit as extended for the deposit of its Counter-Memorial, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

172. By an Order of 7 November 2002 the Court fixed 7 July 2003 as the time-limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time-limit thus fixed.

9.-16. Legality of Use of Force (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom)

173. On 29 April 1999 Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) filed Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom and United States of America "for violation of the obligation not to use force".

174. In its Applications, Serbia and Montenegro pointed out that the above-mentioned States had committed "acts ... by which [they] have violated [their] international obligation[s] banning the use of force against another State, not to intervene in the internal affairs of [that State]" and "not to violate [its] sovereignty"; "[their] obligation[s] to protect the civilian population and civilian objects in wartime [and] to protect the environment"; "[their] obligation[s] relating to free navigation on international rivers"; "[their] obligation[s] regarding fundamental human rights and freedoms"; and "[their] obligation[s] not to use prohibited weapons [and] not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". Serbia and Montenegro requested the Court to adjudge and declare inter alia that the States referred to above were "responsible for the violation of the above[-mentioned] international obligations" and that they were "obliged to provide compensation for the damage done".

175. As a basis for the jurisdiction of the Court, Serbia and Montenegro referred, in the Applications against Belgium, Canada, Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Genocide Convention; and, in the Applications against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

176. On the same day, Serbia and Montenegro also submitted a request for the indication of provisional measures in each of these cases.

177. After public hearings on the requests for the indication of provisional measures had been held between 10 and 12 May 1999, the Court, on 2 June 1999, delivered eight Orders, by which, in the cases (Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada),

(Serbia and Montenegro v. France), (Serbia and Montenegro v. Germany), (Serbia and Montenegro v. Italy), (Serbia and Montenegro v. Netherlands), (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom), the Court, having found that it had no prima facie jurisdiction, rejected the requests for the indication of provisional measures submitted by Serbia and Montenegro and reserved the subsequent procedure for further decision. In the cases of (Serbia and Montenegro v. Spain) and (Serbia and Montenegro v. United States of America), the Court — having found that it manifestly lacked jurisdiction to entertain Serbia and Montenegro's Application and that, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appeared certain that the Court would not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice — rejected Serbia and Montenegro's requests for the indication of provisional measures and ordered that those cases be removed from the List.

178. After the Memorial of Serbia and Montenegro, in each of the eight cases maintained on the Court's List, had been filed within the prescribed time-limit of 5 January 2000, each of the respondent States (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised, on 5 July 2000, within the time-limit for the filing of its Counter-Memorial, certain preliminary objections of lack of jurisdiction and inadmissibility; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

179. In each of the cases, a written statement by Serbia and Montenegro on the preliminary objections raised by the respondent State concerned was filed on 20 December 2002, within the time-limit as extended by the Court's Order of 20 March 2002.

17. Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)

180. On 23 June 1999 the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU".

181. In its Application, the Democratic Republic of the Congo contended that "such armed aggression . . . ha[d] involved inter alia violation of the sovereignty and territorial integrity of the [Democratic Republic of the Congo], violations of international humanitarian law and massive human rights violations". The Democratic Republic of the Congo sought "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought "compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it], in respect of which the [Democratic Republic of the Congo] reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed".

182. The Democratic Republic of the Congo invoked as basis for the Court's jurisdiction the declarations whereby both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

183. Taking into account the agreement of the Parties, the Court, by an Order of 21 October 1999, fixed 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Democratic Republic of the Congo was filed within the time-limit thus prescribed.

184. On 19 June 2000 the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of ... Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

185. Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000. At a public sitting held on 1 July 2000, the Court rendered its Order, by

which it unanimously found that both Parties must, "forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve"; "forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000"; and "forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law".

186. Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999, Uganda filed its Counter-Memorial. The Counter-Memorial contained three counter-claims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an Order of 29 November 2001 the Court found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both Parties, and fixed 29 May 2002 as the time-limit for the filing of the Reply and 29 November 2002 for the Rejoinder. Further, in order to ensure strict equality between the Parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Uganda counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed within the time-limit fixed. By an Order of 7 November 2002, the Court extended the time-limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time-limit. The Rejoinder was filed within the time-limit as thus extended.

187. By an Order of 29 January 2003, the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time-limit for its filing. That written pleading was filed within the time-limit fixed.

188. The Court has fixed 10 November 2003 as the date for the opening of the hearings.

18. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)

189. On 2 July 1999 the Republic of Croatia filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) for violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide alleged to have been committed between 1991 and 1995.

190. In its Application, Croatia contended that "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, [Serbia and Montenegro] is liable for the 'ethnic cleansing' of Croatian citizens from these areas . . . as well as extensive property destruction — and is required to provide reparation for the resulting damage". Croatia went on to state that "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority ... [Serbia and Montenegro] engaged in conduct amounting to a second round of 'ethnic cleansing'".

191. Accordingly, Croatia requested the Court to adjudge and declare that Serbia and Montenegro "has breached its legal obligations" to Croatia under the Genocide Convention and that it "has an obligation to pay to . . . Croatia, in its own right and as parens patriae for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".

192. As a basis for the jurisdiction of the Court, Croatia invoked Article IX of the Genocide Convention, to which, it stated, both Croatia and Serbia and Montenegro are parties.

193. On 14 March 2001, within the time-limit as extended by the Court, Croatia filed its Memorial. On 11 September 2002, within the extended time-limit for the filing of its Counter-Memorial, Serbia and Montenegro filed certain preliminary objections to jurisdiction and admissibility. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). On 29 April 2003, within the time-limit fixed by the Court's Order of 14 November 2002, Croatia filed a written statement of its observations and submissions on the preliminary objections raised by Serbia and Montenegro.

19. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

194. On 8 December 1999 the Republic of Nicaragua filed an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

195. In its Application, Nicaragua stated inter alia that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", while Honduras' position was said to be that

> "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river".

196. According to Nicaragua, "the position adopted by Honduras . . . has brought repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further stated that "diplomatic negotiations have failed".

197. Nicaragua therefore requested the Court "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and

relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

198. As a basis for the Court's jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which, it stated, both Nicaragua and Honduras are parties, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

199. By an Order of 21 March 2000 the Court fixed 21 March 2001 and 21 March 2002 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Honduras. Those pleadings were duly filed within the prescribed time-limits.

200. Copies of the pleadings and documents annexed have been made available to the Governments of Colombia and of Jamaica, at their respective requests.

201. By an Order of 13 June 2002, the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras and fixed the following time-limits for the filing of these pleadings: 13 January 2003 for the Reply, and 13 August 2003 for the Rejoinder. The Reply of Nicaragua was filed within the time-limit thus fixed.

20. Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina)

202. On 24 April 2001, the Federal Republic of Yugoslavia (now known as Serbia and Montenegro) filed an Application for revision of the Judgment delivered by the International Court of Justice on 11 July 1996 in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections.

203. In that Judgment (see above, para. 130), the Court rejected the preliminary objections raised by Yugoslavia and found that it had jurisdiction to deal with the case on the basis of

Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, dismissing the additional bases of jurisdiction invoked by Bosnia and Herzegovina. The Court further found that the Application filed by Bosnia and Herzegovina was admissible.

204. Yugoslavia based its Application for revision on Article 61 of the Statute of the Court, which provides in its first paragraph that

> "An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence."

205. In its Application, Yugoslavia contended the following:

> "The admission of the FRY to the United Nations as a new Member on 1 November 2000 is certainly a new fact. It can also be demonstrated, and the Applicant submits, that this new fact is of such a nature as to be a decisive factor regarding the question of jurisdiction *ratione personae* over the FRY.
>
> After the FRY was admitted as a new Member on 1 November 2000, dilemmas concerning its standing have been resolved, and it has become an unequivocal fact that the FRY did not continue the personality of the SFRY, was not a Member of the United Nations before 1 November 2000, was not a State party to the Statute, and was not a State party to the Genocide Convention ...
>
> The admission of the FRY to the United Nations as a new Member clears ambiguities and sheds a different light on the issue of the membership of the FRY in the United Nations, in the Statute and in the Genocide Convention."

Yugoslavia further stated that, according to the official listing of 8 December 2000, *"Yugoslavia"* had been listed as a Member of the United Nations since 1 November 2000 and that *"the explanatory note makes it clear that this is a reference to the FRY"*. Yugoslavia concluded that "this is a new fact of such a nature to be a decisive factor, unknown to both the Court and to the Applicant at the time when the Judgment of 11 July 1996 was given".

206. In its oral pleadings, Yugoslavia did not invoke its admission to the United Nations in November 2000 as a decisive "new fact", within the meaning of Article 61 of the Statute, capable of founding its request for revision of the 1996 Judgment. Yugoslavia claimed that this admission "as a new Member" as well as the Legal Counsel's letter of 8 December 2000 inviting it "to take treaty actions if it wished to become a party to treaties to which the former Yugoslavia was a party" were

"events which ... revealed the following two decisive facts:

(1) the FRY was not a party to the Statute at the time of the Judgment; and

(2) the FRY did not remain bound by Article IX of the Genocide Convention continuing the personality of the former Yugoslavia".

It was on the basis of these two "facts" that, in its oral argument, Yugoslavia ultimately founded its request for revision.

207. Copies of the pleadings have been made available to the Government of Croatia, at its request.

208. On 3 December 2001, within the time-limit fixed by the Court for this purpose, Bosnia and Herzegovina filed written observations on the admissibility of the Application for revision made by Yugoslavia. In its observations, Bosnia and Herzegovina contended that the conditions set under Article 61 of the Statute of the Court were not met in this instance; it consequently requested the Court "to adjudge and declare that the Application for Revision of the Judgment of 11 July 1996, submitted by ... Yugoslavia ... [was] not admissible".

209. Public hearings were held on the question of the admissibility of the Application for revision from 4 to 7 November 2002. On 3 February 2003, the Court delivered its Judgment, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

By ten votes to three,

Finds that the Application submitted by the Federal Republic of Yugoslavia for revision, under Article 61 of the Statute of the Court, of the Judgment given by the Court on 11 July 1996, is inadmissible.

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Ranjeva, Herczegh, Koroma, Parra-Aranguren, Al-Khasawneh, Buergenthal, Elaraby; Judge ad hoc Mahiou;

AGAINST: Judges Vereshchetin, Rezek; Judge ad hoc Dimitrijević."

210. Judge Koroma appended a separate opinion to the Judgment; Judge Vereshchetin a dissenting opinion; Judge Rezek a declaration; Judge ad hoc Mahiou a separate opinion; and Judge ad hoc Dimitrijević a dissenting opinion.

21. Certain Property (Liechtenstein v. Germany)

211. On 1 June 2001 Liechtenstein filed an Application instituting proceedings against Germany relating to a dispute concerning "decisions of Germany, in and after 1998, to treat certain property of Liechtenstein nationals as German assets having been 'seized for the purposes of reparation or restitution, or as a result of the state of war' — i.e., as a consequence of World War II —, without ensuring any compensation for the loss of that property to its owners, and to the detriment of Liechtenstein itself".

212. In its Application, Liechtenstein requested the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requested "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

213. As a basis for the Court's jurisdiction, Liechtenstein invoked Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

214. By an Order of 28 June 2001, the Court fixed 28 March 2002 and 27 December 2002, respectively, as the time-limits for the filing of a Memorial by Liechtenstein and of a Counter-Memorial by Germany. The Memorial was filed within the time-limit thus fixed.

215. On 27 June 2002, Germany filed certain preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). Liechtenstein filed a written statement of its observations and submissions with regard to the preliminary objections raised by Germany, within the time-limit of 15 November 2002, as fixed by the President of the Court. Following the filing of that document, the case is now ready for hearing.

22. Territorial and Maritime Dispute (Nicaragua v. Colombia)

216. On 6 December 2001 Nicaragua filed an Application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

217. In its Application, Nicaragua requested the Court to adjudge and declare:

> "First, that ... Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);
>
> Second, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary."

218. Nicaragua further indicated that it "reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title". It also "reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua".

219. As a basis for the Court's jurisdiction, Nicaragua invoked Article 36, paragraph 2, of the Statute of the Court and Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which both Nicaragua and Colombia are parties.

220. Copies of the pleadings and documents annexed have been made available to the Government of Honduras, at its request.

221. By an Order of 26 February 2002, the Court fixed 28 April 2003 and 28 June 2004 as the time-limits for the filing of a Memorial by Nicaragua and of a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus fixed.

222. On 21 July 2003, Colombia filed preliminary objections to the jurisdiction of the Court. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court).

23. Frontier Dispute (Benin/Niger)

223. On 3 May 2002 Benin and Niger jointly notified the Court of a Special Agreement, which was signed between them on 15 June 2001 in Cotonou and entered into force on 11 April 2002.

224. Under Article 1 of that Special Agreement, the Parties agreed to submit their boundary dispute to a Chamber to be formed by the Court; they also agreed that pursuant to Article 26, paragraph 2, of the Statute of the Court, and that each of them would choose a judge ad hoc.

225. Article 2 of the Special Agreement stated the subject-matter of the dispute in the following terms:

> "The Court is requested to:
>
> (a) determine the course of the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector;
>
> (b) specify which State owns each of the islands in the said river, and in particular Lété Island;
>
> (c) determine the course of the boundary between the two States the River Mekrou sector."

226. Finally, Article 10 contained a "special undertaking" as follows:

> "Pending the judgment of the Chamber, the Parties undertake to preserve peace, security and quiet among the peoples of the two States."

227. By an Order of 27 November 2002, the Court, after its President had been informed of the view of the Parties on the composition of the chamber and had reported to it, decided to accede to the request of both Parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges ad hoc chosen by the Parties, as follows: President Guillaume, Judges Ranjeva and Kooijmans, and Judges ad hoc Bedjaoui (chosen by Niger) and Bennouna (chosen by Benin).

228. The Court further fixed 27 August 2003 as the time-limit for the filing of a Memorial by each Party.

24. Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)

229. On 28 May 2002, the Democratic Republic of the Congo filed an Application instituting proceedings against Rwanda in respect of a dispute concerning:

> "massive, serious and flagrant violations of human rights and of international humanitarian law" resulting "from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant breach of the sovereignty and territorial integrity of the [latter], as guaranteed by the United Nations and OAU Charters".

230. In its Application, the DRC stated that Rwanda has been guilty of "armed aggression" from August 1998 to the present day. According to it, that aggression has resulted in "large-scale human slaughter" in South Kivu, Katanga Province and the Eastern Province, "rape and sexual assault of women", "assassinations and kidnapping of political figures and human rights activists", "arrests, arbitrary detentions, inhuman and degrading treatment", "systematic looting of public and private institutions, seizure of property belonging to civilians", "human rights violations committed by the invading Rwandan troops and their 'rebel' allies in the major towns in the East" of the DRC, and "destruction of fauna and flora" of the country.

231. In consequence, the Democratic Republic of the Congo requested the Court to adjudge and declare that by violating the human rights which are the goal pursued by the United Nations through the maintenance of international peace and security, Rwanda had violated and was violating the United Nations Charter as well as Articles 3 and 4 of the OAU Charter; that it further had violated a number of instruments protecting human rights; that, by shooting down a Boeing 727 owned by Congo Airlines on 9 October 1998 in Kindu, thereby causing the death of 40 civilians, Rwanda had also violated certain conventions concerning international civil aviation; and that, by engaging in killing, slaughter, rape, throat-slitting, and crucifying, Rwanda was guilty of genocide against more than 3,500,000 Congolese, including the victims of the recent massacres in the city of Kisangani, and had violated the sacred right to life provided for in certain instruments

protecting human rights as well as the Genocide Convention. It further asked the Court to adjudge and declare that all Rwandan armed forces should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

232. In its Application the Democratic Republic of the Congo, in order to found the jurisdiction of the Court, relied on a number of compromissory clauses in treaties.

233. On the same day, 28 May 2002, the Democratic Republic of the Congo submitted a request for the indication of provisional measures. Public hearings on the request for provisional measures were held on 13 and 14 June 2002. On 10 July 2002, the Court delivered its Order, by which, having found that it had no prima facie jurisdiction, it rejected the request of the Democratic Republic of the Congo. The Court, in that Order, also rejected the submissions by the Rwandese Republic seeking the removal of the case from the Court's List.

234. By an Order of 18 September 2002, the Court decided, in accordance with Article 79, paragraphs 2 and 3 of the revised Rules of Court, that the written pleadings would first be addressed to the questions of the jurisdiction of the Court and the admissibility of the Application and fixed 20 January 2003 as the time-limit for the Memorial of Rwanda and 20 may 2003 for the Counter-Memorial of the Democratic Republic of the Congo. Those pleadings were filed within the time-limits thus fixed.

25. Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras)

235. On 10 September 2002, El Salvador filed an Application for revision of the Judgment delivered on 11 September 1992 by the Chamber of the Court in the case concerning Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening). El Salvador indicated that "the sole purpose of the application is to seek revision of the course of the boundary decided by the Court for the sixth disputed sector of the land boundary between El Salvador and Honduras". El Salvador based its Application for revision on Article 61, paragraph 1, of the Statute of the Court, the text of which is reproduced in paragraph 204 above.

236. In the Application El Salvador alleged that from the reasons given by the Chamber to establish the boundary line in the sixth sector, the following could be inferred:

> "(1) That a decisive factor in dismissing El Salvador's claim to a boundary along the old and original riverbed was the lack of evidence of an avulsion of the Goascorán River during the colonial period, and
>
> (2) That a decisive factor that persuaded the Chamber to accept Honduras's claim to a land boundary that follows the current course of the Goascorán, purported to be the course of the river at the time of independence in 1821, was the chart and the descriptive report of the Gulf of Fonseca that Honduras presented and that were supposedly drawn in 1796, as part of the expedition of the brigantine El Activo."

237. El Salvador claimed that it had obtained scientific, technical, and historical evidence which "demonstrates that the old course of the Goascorán River debouched in the Gulf of Fonseca at the Estero 'La Cutú', and that the river abruptly changed course in 1762". It contended that this evidence, "which was not available to the Republic of El Salvador prior to the date of the Judgment, can be classified, for purposes of the revision, as a new fact, with a character such that it lays the case open to revision".

238. El Salvador further claimed that "in the six months prior to making [its] application, [it] obtained cartographic and documentary evidence demonstrating the unreliability of the documents that form the backbone of the Chamber's ratio decidendi. A new chart and a new report from the expedition of the brig El Activo have been discovered".

239. El Salvador concluded that:

> "For purposes of this revision, we have, then, a second new fact, whose implications for the Judgment have to be considered once the Application for revision is admitted. Because the evidentiary value of the 'Carta Esférica' and the report of the El Activo expedition is in question, the use of the Saco negotiations (1880-1884) for corroborative purposes becomes worthless, a problem compounded by what the Republic of El Salvador considers to be the Chamber's erroneous assessment of those negotiations. In reality, far from reinforcing each other, the El Activo documents and the Saco documents contradict each other."

240. According to El Salvador the following assertions can be made on the basis of the scientific and historical evidence now available: "(a) that the present-day course of the Goascorán River was not the course of the river in 1880-1884, much less in 1821; (b) that the old riverbed

was the recognized boundary; and (c) that this riverbed was north of the Bay of La Unión, whose entire coastline belonged to the Republic of El Salvador".

241. For all these reasons, El Salvador requested the Court:

"(a) To proceed to form the Chamber that will hear the application for revision of the Judgment, bearing in mind the terms that El Salvador and Honduras agreed upon in the Special Agreement of 24 May 1986;

(b) To declare the application of the Republic of El Salvador admissible on the grounds of the existence of new facts of such a character as to lay the case open to revision under Article 61 of the Statute of the Court; and

(c) Once the application is admitted, to proceed to the revision of the Judgment of 11 September 1992, so that a new Judgment will determine the boundary line in the sixth disputed sector of the land frontier between El Salvador and Honduras to be as follows:

> 'Starting from the old mouth of the Goascorán river in the inlet known as the La Cutú Estuary situated at latitude 13° 22' 00" N and longitude 87° 41' 25" W, the frontier follows the old course of the Goascorán river for a distance of 17,300 meters as far as the place known as the Rompición de los Amates situated at latitude 13° 26' 29" N and longitude 87° 43' 25" W, which is where the Goascorán river changed its course.'"

242. By an Order of 27 November 2002, the Court, after its President had been informed of the view of the Parties on the composition of the chamber and had reported to it, decided to accede to the request of both Parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges ad hoc chosen by the Parties, as follows: President Guillaume, Judges Rezek and Buergenthal, and Judges ad hoc Torres Bernárdez (chosen by Honduras) and Paolillo (chosen by El Salvador).

243. The Court further fixed 1 April 2003 as the time-limit for the filing of written observations by Honduras on the admissibility of the Application for revision. Those observations were deposited within the time-limit thus prescribed.

244. The Chamber has fixed 8 September 2003 as the date for the opening of the hearings on the admissibility of the request for revision.

26. Avena and Other Mexican Nationals (Mexico v. United States of America)

245. On 9 January 2003, the United Mexican States instituted proceedings before the Court against the United States of America in a dispute concerning alleged violations of Articles 5 and 36 of the Vienna Convention on Consular Relations of 24 April 1963 with respect to 54 Mexican nationals who have been sentenced to death in the States of California, Texas, Illinois, Arizona, Arkansas, Florida, Nevada, Ohio, Oklahoma and Oregon.

246. In its Application, Mexico maintained that the 54 cases illustrate the systemic nature of the United States violation of its obligation under Article 36 of the Vienna Convention to inform nationals of Mexico of their right to consular assistance and to provide relief adequate to redress such violation. Mexico claimed that, in at least 49 of these cases, it has found no evidence that the competent United States authorities attempted to comply with Article 36 before Mexico's nationals were tried, convicted, and sentenced to death. It further noted that in four cases some attempt apparently was made to comply with Article 36, but that the authorities still failed to provide the required notification "without delay"; and that in one case the detained national was informed of his rights to consular notification and access in connection with immigration proceedings, but not in connection with pending capital charges. In the Application each case, catalogued by state, is then briefly described.

247. Accordingly, Mexico asked the Court to adjudge and declare:

"(1) that the United States, in arresting, detaining, trying, convicting, and sentencing the 54 Mexican nationals on death row described in this Application, violated its international legal obligations to Mexico, in its own right and in the exercise of its right of consular protection of its nationals, as provided by Articles 5 and 36, respectively of the Vienna Convention;

(2) that Mexico is therefore entitled to restitutio in integrum;

(3) that the United States is under an international legal obligation not to apply the doctrine of procedural default, or any other doctrine of its municipal law, to preclude the exercise of the rights afforded by Article 36 of the Vienna Convention;

(4) that the United States is under an international legal obligation to carry out in conformity with the foregoing international legal obligations any future detention of or criminal proceedings against the 54 Mexican nationals on death row or any other Mexican national in its territory, whether by a constituent, legislative, executive, judicial or other power, whether that power holds a superior or a

subordinate position in the organization of the United States, and whether that power's functions are international or internal in character;

(5) that the right to consular notification under the Vienna Convention is a human right;

and that, pursuant to the foregoing international legal obligations,

(1) the United States must restore the status quo ante, that is, re-establish the situation that existed before the detention of, proceedings against, and convictions and sentences of, Mexico's nationals in violation of the United States international legal obligations;

(2) the United States must take the steps necessary and sufficient to ensure that the provisions of its municipal law enable full effect to be given to the purposes for which the rights afforded by Article 36 are intended;

(3) the United States must take the steps necessary and sufficient to establish a meaningful remedy at law for violations of the rights afforded to Mexico and its nationals by Article 36 of the Vienna Convention, including by barring the imposition, as a matter of municipal law, of any procedural penalty for the failure timely to raise a claim or defence based on the Vienna Convention where competent authorities of the United States have breached their obligation to advise the national of his or her rights under the Convention; and

(4) the United States, in light of the pattern and practice of violations set forth in this Application, must provide Mexico a full guarantee of the non-repetition of the illegal acts."

248. In its Application Mexico invoked as a basis for the Court's jurisdiction Article I of the Vienna Convention's Optional Protocol concerning the Compulsory Settlement of Disputes, which provides that "disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice".

249. "In view of the extreme gravity and immediacy of the threat that authorities in the United States will execute a Mexican citizen in violation of obligations the United States owes to [it]", Mexico also filed, on 9 January 2003, an urgent request for the indication of provisional measures, asking that, pending final judgment in the case, the Court indicate that the United States take all measures necessary to ensure that no Mexican national be executed and that no execution dates be set for any Mexican national; that the United States report to the Court the actions it has taken in that respect; and that it ensure that no action is taken that might prejudice the rights of the United Mexican States or its nationals with respect to any decision this Court may render on the merits of the case.

250. At the hearings held on 21 January 2003, Mexico confirmed its request for the indication of provisional measures, while the United States asked the Court to reject that request and not to indicate any such measures.

251. On 5 February 2003, the Court unanimously adopted an Order indicating provisional measures. In that Order, it decided that the United States of America should take "all measures necessary" to ensure that Mr. César Roberto Fierro Reyna, Mr. Roberto Moreno Ramos and Mr. Osvaldo Torres Aguilera, of Mexican nationality, are not executed pending a final judgment of the Court; that the United States of America should inform the Court of all measures taken in implementation of that Order; and that the Court would remain seised of the matters which formed the subject of the Order until it had rendered its final judgment.

252. By a separate Order, also dated 5 February 2003, the Court, taking into account the views of the Parties, fixed 6 June 2003 as the time-limit for the filing of a Memorial by Mexico and 6 October 2003 as the time-limit for the filing of a Counter-Memorial by the United States of America. By an Order of 22 May 2003, the President of the Court, at the joint request of the Parties, extended these time-limits to 20 June 2003 for the Memorial of Mexico and to 3 November 2003 for the Counter-Memorial of the United States. The Memorial was filed within the time-limit thus extended.

253. The Court has fixed 15 December 2003 as the date for the opening of the hearings.

27. Certain Criminal Proceedings in France (Republic of the Congo v. France)

254. On 9 December 2002, the Republic of the Congo filed an Application by which it sought to institute proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Mr. Denis Sassou Nguesso, the Congolese Minister of the Interior, Mr. Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating

judge of the Meaux tribunal de grande instance issued a warrant for the President of the Republic of the Congo to be examined as witness.

255. The Republic of the Congo contended that by "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country", France violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

256. In its Application, the Republic of the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which will certainly be given". In accordance with this provision, the Application by the Republic of the Congo was transmitted to the French Government and no action was taken in the proceedings.

257. By a letter dated 8 April 2003 and received on 11 April 2003 in the Registry, the French Republic stated that it "consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that "Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case".

258. The Application of the Republic of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux tribunal de grande instance".

259. Taking into account the consent given by France and in accordance with Article 74, paragraph 3, of the Rules of Court, the President of the Court fixed 28 April 2003 as the date for the opening of the public hearings on the request for the indication of a provisional measure submitted by the Republic of the Congo.

260. After those hearings had been held, from 28 to 29 April 2003, the President of the Court, on 17 June 2003, read the Order, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

By fourteen votes to one,

Finds that the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge ad hoc de Cara."

261. Judges Koroma and Vereshchetin appended a joint separate opinion to the Order, and Judge ad hoc de Cara a dissenting opinion.

262. By an Order of 11 July 2003, the President of the Court fixed 11 December 2003 as the time-limit for the Memorial of the Republic of the Congo and 11 May 2004 as the time-limit for the Counter-Memorial of France.

28. Proceedings instituted by Malaysia and Singapore

263. On 24 July 2003 Malaysia and Singapore jointly notified the Court of a Special Agreement which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003.

264. In Article 2 of that Special Agreement, the Parties requested the Court

"to determine whether sovereignty over:

(a) Pedra Branca/Pulau Batu Puteh;

(b) Middle Rocks;

(c) South Ledge,

belongs to Malaysia or the Republic of Singapore".

265. In Article 6, the Parties "agree to accept the Judgment of the Court . . . as final and binding upon them".

266. The Parties further set out their views on the procedure to be followed. These will be taken into account by the Court when fixing time-limits for the filing of written pleadings.

VI. VISITS

A. Visits of the Secretary-General of the United Nations

267. On 22 November 2002, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan made an official visit to the Court. He was received by the President and Members of the Court and had a private exchange of views with them in the Court's Deliberation Room.

268. The Secretary-General also paid a courtesy visit to the President of the Court on 10 March 2003.

B. Official visit of a Head of State

Visit of the President of the United Mexican States

269. On 28 January 2003, Mr. Vicente Fox Quesada, President of the United Mexican States, was received by the Court. At a solemn sitting organized in the Great Hall of Justice and attended by the diplomatic corps and representatives of the Dutch authorities, the International Criminal Tribunal for the former Yugoslavia, the Iran-United States Claims Tribunal, the Permanent Court of Arbitration and other international institutions located in The Hague, the President of the Court made a speech, to which the President of the United Mexican States replied.

270. President Guillaume recalled that Mexico "has always been, and continues to be, an avid proponent of the pacific settlement of international disputes". "It was", he said, "the only Latin American State to participate in 1899 in the Hague [Peace] Conference" and had readily submitted a number of disputes to arbitral tribunals in the late nineteenth and early twentieth centuries. President Guillaume observed that Mexico had accepted the compulsory jurisdiction of the International Court of Justice as early as 28 October 1947 by the deposit of a declaration with the United Nations Secretary-General. "I am pleased to note today that that declaration is still in force", President Guillaume stated, adding that Mexico had, moreover, chosen "some of its most eminent jurists to sit as judges at the Court", namely Judges Fabela, Córdova and Padilla Nervo.

271. President Fox, for his part, stressed that "the Mexican people believes and will always believe in the immense power of law", adding that his country "had pleaded in various international fora in favour of an increase in the sums allocated to the Court in order to allow the latter to continue effectively to fulfil its mission". "Mexico will pursue its efforts in this respect", he declared. Turning to the issue of the proliferation of international tribunals, the Mexican President stated that he was of the opinion that it could jeopardize the unity of international law. "Mexico believes that a study should be undertaken in order to avoid a paradoxical situation in which forum choice and lack of consistency in decisions might aggravate disputes between States rather than resolve them." In this regard the President stated that in Mexico's view the Court, as principal judicial organ of the United Nations, "has a role to play in ensuring unity in the law. Other international courts should take account of the Court's jurisprudence, thus promoting unity in the law in the settlement of the cases which they hear."

C. Other visits

272. During the period under review, the President and Members of the Court, the Registrar and officials of the Registry received further a great number of visits of, inter alia, members of government, diplomats, parliamentary delegations, presidents and members of judicial bodies, as well as other high officials.

273. A great number of groups of scholars and academics, lawyers and legal professionals, as well as others, were also received.

VII. TWENTIETH ANNIVERSARY OF THE OPENING FOR SIGNATURE OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 1982

274. On 9 and 10 December 2002, the Court participated in New York in the celebration of the twentieth anniversary of the opening for signature of the United Nations Convention on the Law of the Sea. Since the President of the Court, Judge Gilbert Guillaume, was prevented from attending by other commitments, Judge Raymond Ranjeva conveyed the Court's message of congratulation to the United Nations General Assembly and to the States parties to the Montego Bay Convention.

275. Judge Ranjeva stressed the importance of the Montego Bay Convention, which represented the culmination of 20 years of efforts to codify and develop the law of the sea. He furthermore drew attention to the Court's role as one of the means available for the settlement of disputes arising from the Convention, pursuant to Article 287, paragraph 1.

276. This celebration provided the Court with an opportunity to give a brief account of its work in matters concerning the law of the sea, in particular maritime delimitation and freedom of navigation. The Court pointed out that such matters have always constituted, and continue to constitute, a significant proportion of its judicial work. Its jurisprudence has thus consolidated this field of the law and provided States with greater legal certainty.

VIII. ADDRESSES, LECTURES AND PUBLICATIONS ON THE WORK OF THE COURT

277. During the period covered by this report, the President of the Court made a declaration to the press after the reading of the Judgment in the case concerning Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening); the purpose of his declaration was to explain the Court's Judgment.

278. On 29 October 2002, the President made a declaration before the United Nations Security Council, in a private session, on "The Maintenance of international peace and security, the International Court of Justice and the Security Council." On the same day, he made a declaration at the 37th plenary meeting of the fifty-seventh session of the General Assembly on the occasion of the presentation of the Court's Annual Report, and, on 30 October 2002, he addressed the Sixth Committee of the General Assembly on the human rights and environmental law aspects of the Court's case law. On 4 December 2002 the President gave an address at the ceremonial sitting held on the occasion of the fiftieth anniversary of the Court of Justice of the European Communities in Luxembourg. On 15 July 2003, the President addressed the United Nations International Law Commission, during its fifty-fifth session (second part), which was held at Geneva.

279. In order to promote better understanding of the Court and its role within the United Nations, the President, Members of the Court, the Registrar and members of the Registry staff gave a large number of speeches and presentations, at a wide range of venues: The Catholic University of Louvain (Belgium); the University of Bello Horizonte, Minas Geraïs (Brazil); the Conference of Ambassadors of France, Paris; the Colloquium of the Ministry of Education and Research, Paris; and the Colloquium of the Société Française de Droit International on the "Juridictionalisation du droit international", Lille (France); the Colloquium of Indemer on "The Law of Maritime Delimitation" (Monaco); the Joint Seminar of the Romanian Ministry of Foreign Affairs and the T.M.C. Asser Institute on "Nicolae Titulescu", The Hague (The Netherlands); the Annual Conference of the Asian African Legal Consultative Organization, Seoul (Republic of Korea); the Moscow Friendship of Peoples University (Russian Federation); the Swiss Federal Department of Foreign Affairs, Berne; and the Colloquium of the Société Française de Droit

International on “The Practice of International Law”, Geneva (Switzerland); and Columbia University, New York (United States of America).

280. The subjects that were covered included: the work of the Court, its past and future role; peace and international security; international law and foreign policy; terrorism and international justice; international law and public opinion and other related subjects.

281. Articles and studies have been published on the following topics among others: the Court at the beginning of the twenty-first century; the Court at a new stage of its development; the ICJ, the ECJ, and the integrity of international law; the departure of a Member of the Court; Low-tide elevations in international law, and the relationship between international and national law in the practice of the Court.

IX. PUBLICATIONS AND DOCUMENTS OF THE COURT

282. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, and to the major law libraries of the world. The sale of those publications is organized chiefly by the Sales and Marketing Sections of the United Nations Secretariat, which are in contact with specialized booksellers and distributors throughout the world. A catalogue published in English and French is distributed free of charge. The most recent edition of the catalogue, in both languages, is from June 1999. A revised and updated version of the catalogue is scheduled to appear in the second half of 2003.

283. The publications of the Court consist of several series, three of which are published annually: Reports of Judgments, Advisory Opinions and Orders (published in separate fascicles and as a bound volume), a Yearbook (in the French version: Annuaire) and a Bibliography of works and documents relating to the Court. I.C.J. Reports 2001, all fascicles of which have already appeared, is due to appear in the second half of 2003, as soon as the Index has been printed. Certain of the fascicles for the year 2002 were also published and the others are in preparation. The Yearbook and Annuaire for the period 2001-2002 are still in preparation; they are due to be published in the second half of 2003. In the Bibliography series three volumes have been published during the reporting period (Nos. 50, 51 and 52).

284. The Court also prepares bilingual printed versions of the instruments instituting proceedings in a case before it (Applications instituting proceedings, Special Agreements) as well as Requests for an Advisory Opinion. In the period under review three Applications have been received, one of which has already been published, while the other two are in final stages of preparation. During the last week of the period under review, a Special Agreement was received. It will be published in due course.

285. Before the termination of a case, the Court may, pursuant to Article 53 of the Rules of Court, and after ascertaining the views of the parties, make the pleadings and annexed documents available on request to the Government of any State entitled to appear before the Court. The Court may also, having ascertained the views of the parties, make copies of those pleadings and

documents accessible to the public on or after the opening of the oral proceedings. The written pleadings in each case (in the format in which the Parties produce them) are published by the Court after the end of the proceedings, under the title Pleadings, Oral Arguments, Documents. The annexes to the pleadings and the correspondence in cases are published now only exceptionally, only as far as they are essential for the understanding of the decisions taken by the Court. The following documents have been published or are at various stages of production in the reporting period: Frontier Dispute (Burkina Faso/Republic of Mali) (4 vols.); Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (1 published, 3 in final stages); Certain Phosphate Lands in Nauru (Nauru v. Australia) (2 printed, 1 in final stage); and Maritime Delimitation between Guinea-Bissau and Senegal (1 vol. published). Also in preparation: Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway) (3 vols.); Aerial Incident of 10 August 1999 (Pakistan v. India) (1 vol.).

286. In the series Acts and Documents concerning the Organization of the Court, the Court also publishes the instruments governing its functioning and practice. The latest edition, No. 5, was published in 1989 and has been reprinted since that date, most recently in 1996. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. Unofficial Arabic, Chinese, German, Russian and Spanish translations of the Rules (without the amendments of 5 December 2000) are also available.

287. The Court distributes press releases, background notes and a handbook in order to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The fourth edition of the handbook, published on the occasion of the Court's 50th Anniversary, appeared in May and July 1997 in French and English respectively. The English version having run out of stock, a new edition is under preparation. Arabic, Chinese, Russian and Spanish translations of the handbook published on the occasion of the 40th Anniversary of the Court were issued in 1990. Copies of that edition of the handbook in each of those languages are still available. Arabic, Chinese, Dutch, English, French, Russian and Spanish editions of a general information booklet on the Court, produced in

co-operation with the Department of Public Information of the United Nations, and intended for the general public, have also been published.

288. In order to increase and expedite the availability of I.C.J. documents and reduce communication costs, the Court launched a website on the Internet on 25 September 1997, both in English and French. It features the full text of the Court's Judgments, Advisory Opinions and Orders since 1971 (posted on the day they are delivered); summaries of past decisions; most of the relevant documents in pending cases (Application or Special Agreement; written pleadings (without annexes) as soon as they become accessible to the public, and oral pleadings); unpublished pleadings for earlier cases; press releases; some basic documents (United Nations Charter and the Statute and Rules of the Court); declarations recognizing as compulsory the jurisdiction of the Court and a list of treaties and other agreements relating to that jurisdiction; general information on the Court's history and procedure; and biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: http://www.icj-cij.org.

289. In addition to the website and in order to offer a better service to individuals and institutions interested in its work, the Court in June 1998 set up three new electronic mail (e-mail) addresses to which comments and inquiries can be sent. They are: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and documents) and mail@icj-cij.org (other requests and comments). An e-mail notification system for press releases posted on the Court's website was put into operation on 1 March 1999.

X. FINANCES OF THE COURT

A. Method of covering expenditure

290. Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

291. States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute, a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

292. If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations.

293. The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization. Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat), bank interest, etc., are also recorded as United Nations income.

B. Drafting of the budget

294. In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. This preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself.

295. When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions (ACABQ)

and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations.

C. Financing of appropriations and accounts

296. The Registrar is responsible for executing the budget, with the assistance of the Head of the Finance Division. The Registrar has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget. He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority. In accordance with a decision of the Court, adopted on the recommendation of the Sub-Committee on Rationalization, the Registrar now communicates every three months a statement of accounts to the Administrative and Budgetary Committee of the Court.

297. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly and, periodically, by the auditors of the Secretariat of the United Nations. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations.

D. Budget of the Court for the biennium 2002-2003

298. As indicated above, at page 7, the General Assembly adopted all the proposals of the ACABQ concerning the Court's Registry Staff. It imposed, however, across-the-board cuts on all United Nations organs, pro rata to their respective budgets, in the field of programme support. With respect to the Court, these cuts resulted in a global reduction of the budget as proposed by the ACABQ, to the amount of US$621,100. The cuts were made in the following appropriations within the Registry's budget: travel, general operating expenses, consultants, furniture and equipment, contractual services, supplies and material; they also affected the vacancy rate (6.5 per cent for Professionals and 3.1 per cent for General Service). The above cuts are reflected in the figures given below.

Budget for 2002-2003

Programme 181: Members of the Court	
181-130: Education Grants	129,600
181-141: Travel to Court sessions/Home Leave	370,600
181-191: Pensions	2,536,600
181-242: Travel on official business	35,800
181-390: Emoluments	4,849,400
	7,922,000

Programme 182: The Registry	
182-010: Posts	7,087,400
182-020: Temporary assistance for meetings	1,112,800
182-030: General Temporary Assistance	938,700
182-040: Consultants	23,400
182-050: Overtime	93,800
182-070: Temporary posts for the biennium	1,690,800
182-100: Common staff costs	3,163,300
182-113: Representation allowance	7,200
182-242: Official travel	40,100
182-450: Hospitality	14,000
	14,171,500

Programme 800: Programme Support	
800-330: External Translation	191,400
800-340: Printing	467,200
800-370: Data processing services	187,700
800-410: Rental/maintenance of premises	1,815,900
800-430: Rental of furniture and equipment	33,900
800-440: Communications	271,000
800-460: Maintenance of furniture & equipment	144,700
800-490: Miscellaneous services	16,700
800-500: Supplies & materials	215,300
800-530: Library books & supplies	101,300
800-600: Furniture & equipment	153,900
800-621: Acquisition of office automation equipment	145,800
800-622: Replacement of office automation equipment	62,800
800-640: Transportation Equipment	21,500
	3,829,100
TOTAL	25,922,600

XI. EXAMINATION BY THE GENERAL ASSEMBLY OF THE PREVIOUS REPORT OF THE COURT

299. At the 37th plenary meeting of the fifty-seventh session of the General Assembly, held on 29 October 2002, at which the Assembly took note of the report of the Court for the period from 1 August 2001 to 31 July 2002, the President of the Court, Judge Gilbert Guillaume, addressed the General Assembly on the role and functioning of the Court (A/57/PV.32).

300. "[The] increase in work-rate presupposed that the Court and its Registry be accorded additional resources", he stated. "In this regard I am bound to thank this Assembly for its response to my urgent appeal to you from this same podium one year ago". The Court's budget for the biennium 2002-2003 was increased to 11,436,000 US dollars per year, President Guillaume noted with satisfaction, even though this increase was not as great as the Court would have wished. He hoped that the General Assembly would continue "to support [the Court] in years to come".

301. President Guillaume then recalled that the Court's docket "remain[ed] extremely full and [its] activity sustained". He emphasized that, while continuing to recruit new staff, "the Court has been making efforts to upgrade its IT network and has continued to develop its internet site", and had made several improvements to its procedures with a view to expediting the handling of cases.

302. The Court had already sought to reduce the length of written and oral proceedings, "inter alia by amending Articles 79 and 80 of its Rules in order to speed up consideration of preliminary objections and to clarify the conditions for dealing with counter-claims". The Court has also circulated to parties a certain number of Practice Directions, again aimed at reducing the quantity and length of written pleadings and the duration of hearings. Moreover, as President Guillaume stressed in his speech, it has continued to simplify its own deliberations.

303. These various measures had already borne fruit in new cases. Thus the case concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium) was decided in 16 months, while requests for the indication of provisional measures have been dealt with in extremely brief periods.

A particularly busy judicial year

304. President Guillaume stated that, during the period under review in the Report (1 August 2001-31 July 2002), the Court had once again witnessed an increase in the number of cases on its List, despite its intense and sustained judicial activity. In all, while receiving three new cases during this period, the Court has given final decisions on the merits in two difficult cases, as well as ruling on an application for permission to intervene and on the admissibility of various counter-claims. It has also dealt with a request for the indication of provisional measures. President Guillaume explained that these had been important decisions.

305. The judicial year just ended, President Guillaume stated, has inter alia been marked by a Judgment, rendered on 14 February 2002, settling a dispute between the Democratic Republic of the Congo and Belgium concerning an international arrest warrant issued on 11 April 2000 by the Belgian judicial authorities against Mr. Yerodia Ndombasi, who was at the time the Congo's Foreign Minister. In that Judgment the Court held that the issue of the warrant and its international circulation had constituted a violation by Belgium of the immunity from criminal jurisdiction and inviolability enjoyed by Foreign Ministers under customary international law.

306. The Judgment thereby settled a major issue of current interest, one which it was addressing for the first time: namely the question of the immunity from jurisdiction of Ministers for Foreign Affairs. In this regard the Court held that "the functions of the Minister for Foreign Affairs are such that, throughout the duration of his or her office, he or she when abroad enjoys full immunity from criminal jurisdiction and inviolability. That immunity and . . . inviolability protect the individual concerned against any act of authority of another State which would hinder him or her in the performance of his or her duties", irrespective of the offence with which such individual is charged. The Court made it clear, however, that immunity does not signify impunity, President Guillaume observed, citing examples given by the Court.

307. In regard to international peace and security, the President recalled that the Court had also handed down a number of decisions in the course of the year 2001 concerning the African Great Lakes region. It had inter alia to examine a request for the indication of provisional measures

by the Democratic Republic of the Congo against Rwanda. By an Order of 10 July 2002 the Court rejected the request on grounds of lack of prima facie jurisdiction. At the same time it dismissed Rwanda's submissions seeking to have the case removed from the List on grounds of manifest lack of jurisdiction. The Court took the opportunity to observe that there is a fundamental distinction between the question of acceptance by a State of the Court's jurisdiction and that of the compatibility of certain acts with international law. Whether or not States accept the jurisdiction of the Court, they are bound to comply with the United Nations Charter and remain responsible for acts attributable to them which are in breach of international law.

308. Finally, the President presented the main points of the Court's most recent Judgment in the case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening). The Court held that the boundary between Cameroon and Nigeria had been fixed by treaties concluded during the colonial period, whose validity it confirmed. In consequence the Court decided, by thirteen votes to three, that, pursuant to the Anglo-German Agreement of 11 March 1913, sovereignty over Bakassi lay with Cameroon. Likewise, the Court, by fourteen votes to two, determined the boundary in the Lake Chad area in accordance with a Franco-British Exchange of Notes of 9 January 1931 and rejected Nigeria's claims in that area. The Court also unanimously defined, with extreme precision, the course of the land boundary between the two States in 17 other disputed sectors. The Court then went on to determine the maritime boundary between the two States.

309. Evoking the upcoming biennium (2002-2003), the President of the Court announced that several cases would be ready for hearing in 2003. He added: "We are planning, in the course of the next few weeks, to deliver our Judgment on the merits in the case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia). And at the beginning of this coming month we shall be holding hearings on the request submitted by the Federal Republic of Yugoslavia for revision of the Court's Judgment of 11 July 1996, in which we had found that we had jurisdiction to hear the Application by Bosnia and Herzegovina based on the Convention on the Prevention and Punishment of the Crime of Genocide. We hope", said President Guillaume, "to

decide this case also before 6 February 2003, when the new composition of the Court will take effect, pursuant to the vote on 21 October last."

Helping the poorest States to get access to the Court

310. President Guillaume again made a plea for easier access of the poorest States to the Court, reminding the Assembly of the existence of the special Trust Fund set up by the United Nations Secretary-General in 1989 to provide assistance to States unable to afford the full expense of proceedings initiated before the Court by way of a Special Agreement.

311. "[This] Trust Fund has undoubtedly played a useful role, but", regretted the President, "that role has been a limited one. It is . . . a matter of some surprise that, since the Fund's creation, only four States have approached it, one of which in fact decided not to draw on the sums promised because of the complexity of the procedures involved. It seemed to the Court", explained the President, "that these procedures could be simplified, and we note that the Secretary-General has been kind enough to take action in this regard." The President appealed again "to those States able to do so to increase the resources available to the Fund".

312. "The Court", concluded the President, "today plays an important role in the prevention and resolution of international disputes. Peace between Nations cannot be assured by the work of the Court alone, but the Court can make a substantial contribution in this regard, and we are delighted to see more and more States bringing their disputes to us."

313. Following the presentation of the Court's report by its President, the representatives of Costa Rica, Peru, Cameroon, Malaysia, the Russian Federation, Japan, Mexico, Singapore, Mongolia, Guatemala and the Republic of Korea made statements.

314. More comprehensive information on the work of the Court during the period under review will be found in the I.C.J. Yearbook 2002-2003, to be issued in due course.

SHI Jiuyong,
President of the International
Court of Justice.

The Hague, 4 August 2003.