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Report of the International Court of Justice

1 August 2008-31 July 2009

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Note

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Summary

1. The International Court of Justice, the 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 falls vacant. The next elections to fill such vacancies will be held in the last quarter of 2011.

2. The present composition of the Court is as follows: President: Hisashi Owada (Japan); Vice-President: Peter Tomka (Slovakia); Judges: Shi Jiuyong (China), Abdul G. Koroma (Sierra Leone), Awn Shawkat Al-Khasawneh (Jordan), Thomas Buergenthal (United States of America), Bruno Simma (Germany), Ronny Abraham (France), Kenneth Keith (New Zealand), Bernardo Sepúlveda-Amor (Mexico), Mohamed Bennouna (Morocco), Leonid Skotnikov (Russian Federation), Antônio Augusto Cançado Trindade (Brazil), Abdulqawi Ahmed Yusuf (Somalia) and Christopher Greenwood (United Kingdom).

3. The Registrar of the Court is Mr. Philippe Couvreur, of Belgian nationality. The Deputy-Registrar of the Court is Ms Thérèse de Saint Phalle, of American and French nationality.

4. The number of judges *ad hoc* chosen by States parties in cases during the period under review was 25, with the functions being carried out by 20 individuals (the same person is on occasion appointed to sit as judge *ad hoc* in more than one case).

5. The International Court of Justice is the only international court of a universal character with general jurisdiction. That jurisdiction is twofold.

6. 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 2009, 192 States were parties to the Statute of the Court and that 66 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. States may also submit a specific dispute to the Court by way of special agreement. Finally, a State, when submitting a dispute to the Court, may propose to found the Court's jurisdiction upon a consent yet to be given or

manifested by the State against which the application is made, in reliance on Article 38, paragraph 5, of the Rules of Court. If the latter State then accepts such jurisdiction, the Court has jurisdiction and this produces the situation known as *forum prorogatum*.

7. Secondly, the Court may also be consulted on any legal question, by the General Assembly or the Security Council and, on legal questions arising within the scope of their activities, by other organs of the United Nations and agencies so authorized by the General Assembly.

8. Over the past year, the number of cases pending before the Court has remained high. Four new contentious proceedings and one advisory proceeding were submitted to the Court: *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*; *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia* v. *Greece)*; *Jurisdictional Immunities of the State (Germany* v. *Italy)*; and *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)*. In October 2008, the United Nations General Assembly asked the Court for an advisory opinion on the unilateral declaration of independence by Kosovo. The Court handed down four judgments and two orders on requests for the indication of provisional measures. Further, it held hearings in the following four cases: *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)* (provisional measures); *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*; and *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)* (provisional measures). As at 31 July 2009 the number of contentious cases on the docket stood at 13[1].

9. The contentious cases come from the world over: currently, five are between European States, four others between Latin

[1] The Court delivered its Judgment in the case concerning the *Gabčikovo-Nagymaros Project (Hungary/Slovakia)* on 25 September 1997. The case nevertheless technically remains pending, given that, in September 1998, Slovakia filed in the Registry of the Court a request for an additional judgment. 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. The Parties have subsequently resumed negotiations over implementation of the 1997 Judgment and have informed the Court on a regular basis of the progress made. The Court also delivered its Judgment in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)* in December 2005. The case nevertheless technically remains pending, in the sense that the Parties could again turn to the Court to decide the question of reparation if they are unable to agree on this point.

American States, and two between African States, whilst two are of an intercontinental character. This regional diversity illustrates the Court's universality.

10. The subject-matter of these cases is extremely varied: territorial and maritime delimitation, environmental concerns, jurisdictional immunities of the State, violation of territorial integrity, racial discrimination, human rights violations, etc.

11. Cases referred to the Court are growing in factual and legal complexity. In addition, they frequently involve a number of phases as a result of preliminary objections by the respondents to jurisdiction or admissibility and of requests for the indication of provisional measures, which have to be dealt with as a matter of urgency.

12. During the period under review, the Republic of Georgia instituted proceedings before the Court on 12 August 2008 against the Russian Federation on the grounds of "its actions on and around the territory of Georgia" in breach of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD). In its Application, Georgia "also seeks to ensure that the individual rights" under the Convention "of all persons on the territory of Georgia are fully respected and protected". Georgia's Application was accompanied by a request for the indication of provisional measures, in order to preserve its "rights . . . under the International Convention on the Elimination of All Forms of Racial Discrimination . . . to protect its citizens against violent discriminatory acts by Russian armed forces, acting in concert with separatist militia and foreign mercenaries".

13. On 15 October 2008, the Court issued its Order on the request for the indication of provisional measures submitted by Georgia in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*. In its Order, the Court reminded the Parties of their duty to comply with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and indicated provisional measures concerning both Parties. The Court required them "within South Ossetia and Abkhazia and adjacent areas in Georgia, [to] refrain from any act of racial discrimination against persons, groups of persons or institutions, [to] abstain from sponsoring, defending or supporting racial discrimination by any persons or organizations, [to] do all in their power . . . to ensure, without distinction as to national or ethnic origin, [certain rights of persons protected by the CERD, and to] do all in their power to ensure that public authorities and public institutions under their control or influence do not engage

in acts of racial discrimination against persons, groups of persons or institutions". The Court ruled that "[b]oth Parties shall facilitate, and refrain from placing any impediment to, humanitarian assistance in support of the rights to which the local population are entitled under the International Convention on the Elimination of All Forms of Racial Discrimination". The Court also indicated that "[e]ach Party shall refrain from any 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". Finally, the Court ordered each Party to "inform [it] as to its compliance with the above provisional measures".

14. After a thorough analysis of the arguments of the Parties, the Court found that it had prima facie jurisdiction under Article 22 of CERD to deal with the case and could accordingly address the request for the indication of provisional measures submitted by Georgia. Having assessed the material before it, the Court considered it appropriate to indicate measures addressed to both Parties. The Court recalled that the provisional measures which it indicated had binding effect and thus created international legal obligations which both Parties were required to comply with. Finally, it stated that its decision in no way prejudged the question of the jurisdiction of the Court to deal with the merits of the case or any questions relating to the admissibility of the Application, or relating to the merits themselves, and that it left unaffected the right of the Governments of Georgia and the Russian Federation to submit arguments in respect of those questions.

15. On 17 November 2008, the former Yugoslav Republic of Macedonia instituted proceedings before the Court against Greece for what it describes as "a flagrant violation of its obligations under Article 11" of the Interim Accord signed by the Parties on 13 September 1995. By an Order of 20 January 2009, the Court fixed 20 July 2009 as the time-limit for the filing of a Memorial by the former Yugoslav Republic of Macedonia and 20 January 2010 as the time-limit for the filing of a Counter-Memorial by the Hellenic Republic in the case concerning *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia* v. *Greece)*.

16. On 18 November 2008 the Court rendered its Judgment on the preliminary objections raised by Serbia to the Court's jurisdiction and to the admissibility of Croatia's Application in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide*

(Croatia v. *Serbia)*. After examining the views of the Parties as well as of the Republic of Montenegro and considering the fundamental principle that no State may be subject to the Court's jurisdiction without its consent, the Court held that the Republic of Serbia was the sole Respondent in the case. The Court then addressed the first aspect of Serbia's first preliminary objection, namely the claim that it lacked the capacity to appear before the Court in the proceedings. From that examination, the Court found that, if it was not open to the FRY on the date when the Application was filed, it was from 1 November 2000, the date on which the FRY was admitted to the UN as a new Member and thus became a party to the Statute. However, the Court considered that it had to examine whether on that date the FRY was bound by Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 (Genocide Convention), on which Croatia bases the jurisdiction of the Court. The Court thus turned to the question of its jurisdiction *ratione materiae*, the second aspect of Serbia's first preliminary objection to the Court's jurisdiction. After careful consideration of the arguments of the Parties, the Court found that it had, on the date on which the proceedings were instituted by Croatia, jurisdiction to entertain the case on the basis of Article IX and that that situation continued at least until 1 November 2000. The Court having held that Serbia was a party to the Statute of the Court on 1 November 2000 and that it was bound by the Genocide Convention, including Article IX, on the date of the institution of proceedings and remained so bound at least until 1 November 2000, it rejected Serbia's first preliminary objection. The Court then considered Serbia's second preliminary objection, namely that "claims based on acts and omissions which took place prior to 27 April 1992", the date on which it came into existence as a State, were beyond the jurisdiction of the Court and inadmissible. In the view of the Court, the questions of jurisdiction and admissibility raised by Serbia's preliminary objection *ratione temporis* were inseparable from issues relating to the merits and did not possess an exclusively preliminary character. The Court finally examined Serbia's third preliminary objection, which was that "claims referring to submission to trial of certain persons within the jurisdiction of Serbia, providing information regarding the whereabouts of missing Croatian citizens and return of cultural property are beyond the jurisdiction of this Court and inadmissible". With regard to the submission of persons to trial, the Court noted that Croatia accepted that this submission was now moot in so far as, since the presentation of the Memorial, certain indicted persons had been transferred to the International Criminal Tribunal for the former Yugoslavia (ICTY). Croatia however insisted that there continued to be a dispute between

Croatia and Serbia regarding persons who had not been submitted to trial either in Croatia or before the ICTY in respect of acts or omissions which were the subject of the proceedings. Serbia, for its part, asserted that Croatia had not shown that there were at that time persons charged with genocide, either by the ICTY or by the courts of Croatia, who were on the territory or within the control of Serbia. Whether that assertion is correct will be a matter for the Court to determine when it examines the claims of Croatia on the merits. The Court thus found that Serbia's objection had to be rejected. As to the provision of information on Croatian citizens who had been missing since 1991, and the return of cultural property, the Court noted that the question of whether these might constitute appropriate remedies was dependent upon the findings that the Court might make of breaches of the Convention by Serbia and was not a matter that might be the proper subject of a preliminary objection. Serbia's third preliminary objection therefore had to be rejected in its entirety. Having established its jurisdiction, the Court will consider the second preliminary objection, which it found to be not of an exclusively preliminary character, when it reaches the merits of the case.

17. On 23 December 2008, the Federal Republic of Germany instituted proceedings before the Court against the Italian Republic, alleging that "[t]hrough its judicial practice . . . Italy has infringed and continues to infringe its obligations towards Germany under international law". By an Order of 29 April 2009, the Court fixed 23 June 2009 as the time-limit for the filing of a Memorial by Germany and 23 December 2009 as the time-limit for the filing of a Counter-Memorial by Italy in the case concerning *Jurisdictional Immunities of the State (Germany* v. *Italy)*.

18. On 19 January 2009, the Court handed down its Judgment in the case concerning the *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*. The Court emphasized that, under Article 98 (2) of the Rules of Court, any request for interpretation submitted to it had to indicate "the precise point or points in dispute" as to the meaning and scope of the Judgment. It noted that Mexico "nonetheless remains very non-specific as to what the claimed dispute precisely is" and consequently observed that, "[w]hether in terms of meeting the requirements of Article 98 (2) of the Rules, or more generally, it could be argued that in the end Mexico has not established the existence of any dispute between itself and the United States", and that "Mexico did not specify that the obligation of the United States under the *Avena* Judgment was directly binding upon its organs,

subdivisions or officials, although this might be inferred from the arguments it presented". It also noted that "the *Avena* Judgment nowhere lays down or implies that the courts in the United States are required to give direct effect to paragraph 153 (9)". It observes that, according to its settled jurisprudence, a question which was not decided in an initial Judgment "cannot be submitted to it for interpretation" in the later Judgment. The Court concluded from this that it could not "accede to Mexico's Request for interpretation" of the *Avena* Judgment. The Court then turned to the three additional claims presented by Mexico, which took the view that by executing Mr. José Ernesto Medellín Rojas on 5 August 2008 without having provided him with the review and reconsideration required under the *Avena* Judgment, the United States had (1) breached the Order indicating provisional measures of 16 July 2008; (2) breached the *Avena* Judgment itself; and (3) that it must provide guarantees of non-repetition. On the first point, the Court found "that the United States did not discharge its obligation under the Court's Order of 16 July 2008, in the case of Mr. José Ernesto Medellín Rojas". The Court dismissed Mexico's second additional claim, noting that "the only basis of jurisdiction relied upon for this claim in the present proceedings is Article 60 of the Statute, and . . . that Article does not allow it to consider possible violations of the Judgment which it is called upon to interpret". Lastly, the Court reiterated that "its *Avena* Judgment remains binding and that the United States continues to be under an obligation fully to implement it"; taking note of the undertakings given by the United States of America in the proceedings, it dismissed the third of the additional claims.

19. On 3 February 2009, the Court rendered its Judgment in the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*. In its Judgment, the Court decided as follows that: "starting from Point 1, as agreed by the Parties in Article 1 of the 2003 State Border Régime Treaty, the line of the single maritime boundary delimiting the continental shelf and the exclusive economic zones of Romania and Ukraine in the Black Sea shall follow the 12-nautical-mile arc of the territorial sea of Ukraine around Serpents' Island until Point 2 (with co-ordinates 45° 03' 18.5" N and 30° 09' 24.6" E) where the arc intersects with the line equidistant from Romania's and Ukraine's adjacent coasts. From Point 2 the boundary line shall follow the equidistance line through Points 3 (with co-ordinates 44° 46' 38.7" N and 30° 58' 37.3" E) and 4 (with co-ordinates 44° 44' 13.4" N and 31° 10' 27.7" E) until it reaches Point 5 (with co-ordinates 44° 02' 53.0" N and 31° 24' 35.0" E). From Point 5 the maritime boundary line shall continue along the line equidistant from the opposite coasts of Romania and Ukraine in

a southerly direction starting at a geodetic azimuth of 185° 23' 54.5" until it reaches the area where the rights of third States may be affected." Nine sketch-maps were included in the Judgment. The Court noted that on the basis of its determination of what constituted the relevant coasts, the ratio for the coastal lengths between Romania and Ukraine was approximately 1:2.8. The Court further observed that the Parties held different views as to whether the south-western and south-eastern "triangles" (located between Romania and Bulgaria and between Ukraine and Turkey respectively) should be included in the relevant area. It noted that in both these triangles the maritime entitlements of Romania and Ukraine overlapped. The Court found that it was appropriate in the circumstances of the case to include both the south-western and the south-eastern triangles in its calculation of the relevant area. After examining at length the characteristics of each base point chosen by the Parties for the establishment of the provisional equidistance line, the Court decided to use the Sacalin Peninsula and the landward end of the Sulina dyke on the Romanian coast, and Tsyganka Island, Cape Tarkhankut and Cape Khersones on the Ukrainian coast. It considered it inappropriate to select any base points on Serpents' Island. It concluded that, in the context of the present case, Serpents' Island should have no effect on the delimitation, other than that stemming from the role of the 12-nautical-mile arc of its territorial sea. The delimitation line decided by the Court, for which neither the seaward end of the Sulina dyke nor Serpents' Island was taken as a base point, begins at Point 1 (the name given by the Court to the endpoint of the State border between the Parties which was fixed at the point of intersection where the territorial sea boundary of Romania meets that of Ukraine) and follows the 12-nautical-mile arc around Serpents' Island until it intersects with the line equidistant from Romania's and Ukraine's adjacent coasts; from there, it follows that line until it becomes affected by base points on the opposite coasts of Romania and Ukraine. From this turning point the delimitation line runs along the line equidistant from Romania's and Ukraine's opposite coasts. The Court held that the delimitation line follows the equidistance line in a southerly direction until the point beyond which the interests of third States may be affected.

20. On 19 February 2009, Belgium instituted proceedings before the Court against Senegal, on the grounds that a dispute exists "between the Kingdom of Belgium and the Republic of Senegal regarding Senegal's compliance with its obligation to prosecute" the former President of Chad, Hissène Habré, "or to extradite him to Belgium for the purposes of criminal proceedings". It also submitted a request for the indication of provisional

measures, in order to protect its rights pending the Court's Judgment on the merits.

21. On 28 May 2009, the Court issued its Order on the request for the indication of provisional measures submitted by Belgium in the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)*. In its Order, the Court found 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". Having considered the arguments of the Parties, the Court concluded that it had prima facie jurisdiction under Article 30 of the Convention against Torture to entertain the case, and it considered that such jurisdiction was sufficient to enable it, if the circumstances so required, to indicate the provisional measures requested by Belgium. The Court observed that the possible departure of Mr. Habré from Senegalese territory would be likely to affect the rights which might be adjudged to belong to Belgium on the merits. It concluded that, from this point of view also, the provisional measures requested might be indicated if the circumstances so required. The Court recalled further that its power to indicate provisional measures would be exercised only if there was urgency, in the sense that there was a real and imminent risk that irreparable prejudice might be caused to the rights in dispute before the Court had given its final decision. It observed that Senegal had asserted on several occasions that it was not contemplating lifting the surveillance and control imposed on the person of Mr. Habré either before or after the funds pledged by the international community were made available to it for the organization of the judicial proceedings. The Court pointed out in particular that the Co-Agent of Senegal had solemnly declared, in response to a question put by a Member of the Court, that his Government would "not allow Mr. Habré to leave Senegal while the present case is pending before the Court". The Court also pointed out that the Co-Agent of Belgium had asserted at the hearings, in response to the same question put by a Member of the Court, that a "clear and unconditional" solemn declaration given by the Agent of Senegal, in the name of his Government, could be sufficient for Belgium to consider that its request for the indication of provisional measures no longer had any object. Taking note of the assurances given by Senegal, the Court found that the risk of irreparable prejudice to the rights claimed by Belgium was not apparent on the date of the Order, and concluded that there did not exist, in the circumstances of the case, any urgency to justify the indication of provisional measures by the Court. Having rejected Belgium's request for the indication of provisional measures, the Court emphasized

that this decision in no way prejudged the question of the jurisdiction of the Court to deal with the merits of the case or any questions relating to the admissibility of the Application, or relating to the merits themselves. It added that the decision also left unaffected Belgium's right to submit in the future a fresh request for the indication of provisional measures, based on new facts.

22. By an Order of 9 July 2009, the Court fixed 9 July 2010 as the time-limit for the filing of a Memorial by the Kingdom of Belgium and 11 July 2011 as the time-limit for the filing of a Counter-Memorial by the Republic of Senegal.

23. On 13 July 2009, the Court rendered its Judgment in the case concerning the *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*. As regards Costa Rica's navigational rights on the San Juan river under the 1858 Treaty, in that part where navigation is common, the Court ruled that Costa Rica has the right of free navigation on the San Juan river for purposes of commerce; that the right of navigation for purposes of commerce enjoyed by Costa Rica includes the transport of passengers; that the right of navigation for purposes of commerce enjoyed by Costa Rica includes the transport of tourists; that persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation are not required to obtain Nicaraguan visas; that persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation are not required to purchase Nicaraguan tourist cards; that the inhabitants of the Costa Rican bank of the San Juan river have the right to navigate on the river between the riparian communities for the purposes of the essential needs of everyday life which require expeditious transportation; that Costa Rica has the right of navigation on the San Juan river with official vessels used solely, in specific situations, to provide essential services for the inhabitants of the riparian areas where expeditious transportation is a condition for meeting the inhabitants' requirements; that Costa Rica does not have the right of navigation on the San Juan river with vessels carrying out police functions; that Costa Rica does not have the right of navigation on the San Juan river for the purposes of the exchange of personnel of the police border posts along the right bank of the river and of the re-supply of these posts, with official equipment, including service arms and ammunition. As regards Nicaragua's right to regulate navigation on the San Juan river, in that part where navigation is common, the Court found that Nicaragua has the right to require Costa Rican vessels and their passengers to stop at the first and last Nicaraguan post on their route along the San Juan river; that Nicaragua has the right to require persons travelling on the

San Juan river to carry a passport or an identity document; that Nicaragua has the right to issue departure clearance certificates to Costa Rican vessels exercising Costa Rica's right of free navigation but does not have the right to request the payment of a charge for the issuance of such certificates; that Nicaragua has the right to impose timetables for navigation on vessels navigating on the San Juan river; and that Nicaragua has the right to require Costa Rican vessels fitted with masts or turrets to display the Nicaraguan flag. As regards subsistence fishing, the Court found that fishing by the inhabitants of the Costa Rican bank of the San Juan river for subsistence purposes from that bank is to be respected by Nicaragua as a customary right. As regards Nicaragua's compliance with its international obligations under the 1858 Treaty, the Court found that Nicaragua is not acting in accordance with its obligations under the 1858 Treaty when it requires persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation to obtain Nicaraguan visas; that Nicaragua is not acting in accordance with its obligations under the 1858 Treaty when it requires persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation to purchase Nicaraguan tourist cards; and that Nicaragua is not acting in accordance with its obligations under the 1858 Treaty when it requires the operators of vessels exercising Costa Rica's right of free navigation to pay charges for departure clearance certificates. The Court rejected all the other submissions presented by Costa Rica and Nicaragua.

24. During the period under review, a request for an advisory opinion was also submitted to the Court. On 8 October 2008, the General Assembly of the United Nations adopted resolution A/RES/63/3 in which, referring to Article 65 of the Statute of the Court, it requested the Court to "render an advisory opinion on the following question: 'Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?'". The Request for an Advisory Opinion was transmitted to the Court by the Secretary-General of the United Nations in a letter dated 9 October 2008 which was filed with the Registry on 10 October 2008. In its Order dated 17 October 2008, the Court decided that "the United Nations and its Member States are considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion". It fixed 17 April 2009 as the time-limit within which written statements on the question could be presented to the Court and 17 July 2009 as the time-limit within which States and organizations having presented written statements could submit

written comments on the other statements. The Court also decided that "taking account of the fact that the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo of 17 February 2008 is the subject of the question submitted to the Court for an advisory opinion, the authors of the above declaration are considered likely to be able to furnish information on the question", and therefore decided "to invite them to make written contributions to the Court within the above time-limits". Thirty-five Member States of the United Nations filed written statements within the time-limit fixed by the Court. The authors of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo filed a written contribution within the same time-limit. The Court agreed to the filing after the expiry of the relevant time-limit of a written statement by the Bolivarian Republic of Venezuela, which submitted its statement on 24 April 2009. Fourteen UN Member States submitted written comments within the time-limit fixed by the Court. The authors of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo submitted a written contribution within the same time-limit.

25. The judicial year 2008-2009 was a busy one, six cases having been under deliberation at the same time, and the judicial year 2009-2010 will also be very full, due especially to the fact that seven new contentious proceedings and one request for an advisory opinion were filed with the Court in the period from 1 January 2008 to 31 July 2009. The Court has in particular already announced that it will hold three weeks of hearings, from 14 September to 2 October 2009, in the case concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)* and that public hearings on the question of the *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo (Request for Advisory Opinion)* will open on 1 December 2009.

26. This sustained level of activity on the part of the Court has been made possible by the Court's willingness to take a significant number of steps to increase its efficiency and thereby enable it to cope with the steady increase in its workload. After having in 2001 adopted its first practice directions for use by States appearing before it, the Court has regularly re-examined them and occasionally added to them as part of its ongoing review of its proceedings and working methods. Moreover, anxious to enhance its productivity, it has decided to hold, on a regular basis, meetings devoted to strategic planning of its work. It has set itself a particularly demanding schedule of hearings and deliberations, so that several cases can be under

consideration at the same time. This is how the Court has been able to clear its backlog of cases. States considering coming to the Court can now be confident that, as soon as they have finished their written exchanges, the Court will be able to move to the oral proceedings in a timely manner.

27. To sustain its efforts, the Court requested the creation of nine law clerk posts, an additional post for a senior official in the Department of Legal Matters and a temporary post of indexer/bibliographer in the Library of the Court for the 2008-2009 biennium. While the latter two posts were granted, for which the Court is grateful to the General Assembly, only three of the nine law clerk posts were approved. Yet they remain as necessary as ever in order to enable each Member of the Court to benefit from personalized legal support and thus to devote more time to reflection and deliberation. In this respect, it should be noted that the sustained pace of work of the Court, which has made it possible to ensure that States obtain justice without unacceptable delay, cannot be kept up without such assistance. Thus, as has been pointed out in recent years, it is surprising that the International Court of Justice, designated in the Charter as the principal judicial organ of the United Nations, is the *only* major international court or tribunal not to receive this form of assistance. In its budget submission for the 2010-2011 biennium, the Court has therefore reiterated its request for the creation of the six law clerk posts that have yet to be granted to it. Further, the Court wishes to note that the General Assembly has unfortunately not provided it with the means to create an effective Documents Division by merging the Library and the Archives Division. It has therefore re-submitted the request for a post reclassification, which, by itself, would make it possible to implement the merger for the sake of greater productivity.

28. In its budget submission for the 2010-2011 biennium, the Court has also requested the creation of a P-3 post of Special Assistant to the Registrar. The Registrar both acts as a secretary-general for the Court (the only principal organ of the United Nations not to be assisted by the Secretariat of the Organization) and provides it with judicial support, being responsible for relations with the parties, the proper organization of proceedings, the preparation of documents and assisting the Court in all aspects of its judicial activity. At present, to perform all of these tasks, the Registrar is aided only by an administrative assistant.

29. The Court has also requested a significant amount for the replacement and modernization of the audio-visual equipment in its historic courtroom, the Great Hall of Justice, and adjoining

rooms (including the Press Room), which will be entirely renovated in co-operation with the Carnegie Foundation, which owns the Peace Palace. The amount requested will also cover the installation of the most up-to-date information technology on the judges' bench, and on the tables occupied by the parties to cases; while all of the international tribunals have adopted this technology in recent years, the Court is still without it.

30. With regard to the revision of the pension scheme for its Members, the Court has noted with appreciation the introduction of a new mechanism whereby the pensions of sitting judges and of those judges and their family members already receiving pension payments will not be reduced in nominal terms. It is grateful to the General Assembly for its adoption of resolution 63/259 on 24 December 2008 by which it settled that issue. Nonetheless, the Court notes that, despite its repeated requests on this point, no mechanism is yet in operation to adjust pensions effectively for cost-of-living increases and fluctuations in the value of the United States dollar. It therefore foresees a further significant decline in the years ahead in the purchasing power of retired judges and their surviving spouses, in particular those residing in the euro-zone. The Court is counting on the understanding of the General Assembly quickly in taking the necessary action in this respect.

31. Finally, the Court will avail itself of the opportunity furnished by the submission of its Annual Report to the General Assembly to comment "on [the Court's] current role . . . in promoting the rule of law", as it was invited to do once again in resolution 63/128 adopted by the General Assembly on 11 December 2008. In February 2008, the Court completed the questionnaire received from the Codification Division of the United Nations Office of Legal Affairs to be used to prepare an inventory. In this connection, it should be kept in mind that the Court, as a court of justice and, moreover, the principal judicial organ of the United Nations, occupies a special position. The Court will recall once more this year that everything it does is aimed at promoting the rule of law: it hands down judgments and gives advisory opinions in accordance with its Statute, which is an integral part of the United Nations Charter, and it ensures the greatest possible global awareness of its decisions through its publications and its website, reorganized in 2007 to include the entire jurisprudence of the Court and its predecessor, the Permanent Court of International Justice. The Members of the Court, the Registrar and the Information Department regularly give presentations on the Court. Furthermore, it sees a very great number of visitors every year. Finally, the Court offers an internship programme enabling students from various

backgrounds to familiarize themselves with the institution and further their training in international law.

32. In conclusion, the International Court of Justice welcomes the reaffirmed confidence that States have shown in the Court's ability to resolve their disputes. The Court will give the same meticulous and impartial attention to cases coming before it in the forthcoming year as it has during the 2008-2009 session.

Chapter II
Organization of the Court

A. Composition

33. The present composition of the Court is as follows: President: Hisashi Owada; Vice-President: Peter Tomka; Judges: Shi Jiuyong, Abdul G. Koroma, Awn Shawkat Al-Khasawneh, Thomas Buergenthal, Bruno Simma, Ronny Abraham, Kenneth Keith, Bernardo Sepúlveda-Amor, Mohamed Bennouna, Leonid Skotnikov, Antônio Augusto Cançado Trindade, Abdulqawi Ahmed Yusuf and Christopher Greenwood..

34. The Registrar of the Court is Mr. Philippe Couvreur. The Deputy-Registrar is Ms Thérèse de Saint Phalle.

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

Members

President Owada
Vice-President Tomka
Judges Koroma, Buergenthal and Simma

Substitute Members

Judges Sepúlveda-Amor and Skotnikov.

36. In the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judge Tomka having recused himself under Article 24 of the Statute of the Court, Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge *ad hoc*.

37. In the case concerning *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*, Guinea chose Mr. Mohammed Bedjaoui and the Democratic Republic of the Congo 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*.

38. 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*.

39. In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide*

(Croatia v. *Serbia)*, Croatia chose Mr. Budislav Vukas and Serbia Mr. Milenko Kreća to sit as judges *ad hoc*.

40. In the case concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*, Nicaragua chose Mr. Mohammed Bedjaoui and Colombia Mr. Yves L. Fortier to sit as judges *ad hoc*. Following the resignation of Mr. Bedjaoui, Nicaragua chose Mr. Giorgio Gaja to sit as judge *ad hoc*.

41. 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*. Judge Abraham having recused himself under Article 24 of the Statute of the Court, France chose Mr. Gilbert Guillaume to sit as judge *ad hoc*.

42. In the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*, Romania chose Mr. Jean-Pierre Cot and Ukraine Mr. Bernard H. Oxman to sit as judges *ad hoc*.

43. In the case concerning *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*, Costa Rica chose Mr. Antônio Augusto Cançado Trindade and Nicaragua Mr. Gilbert Guillaume to sit as judges *ad hoc*. Following the election of Mr. Cançado Trindade as a Member of the Court, Costa Rica decided not to choose a new judge *ad hoc*.

44. In the case concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*, Argentina chose Mr. Raúl Emilio Vinuesa and Uruguay Mr. Santiago Torres Bernárdez to sit as judges *ad hoc*.

45. In the case concerning *Maritime Dispute (Peru* v. *Chile)*, Peru chose Mr. Gilbert Guillaume and Chile Mr. Francisco Orrego Vicuña to sit as judges *ad hoc*.

46. In the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*, Georgia chose Mr. Giorgio Gaja to sit as judge *ad hoc*.

47. In the case concerning *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia* v. *Greece)*, the former Yugoslav Republic of Macedonia chose Mr. Budislav Vukas and Greece Mr. Emmanuel Roucounas to sit as judges *ad hoc*.

48. In the case concerning *Jurisdictional Immunities of the State (Germany* v. *Italy)*, Italy chose Mr. Giorgio Gaja to sit as judge *ad hoc*.

49. In the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)*, Belgium choose

Mr. Philippe Kirsch and Senegal Mr. Serge Sur to sit as judges *ad hoc*.

B. Privileges and immunities

50. 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."

51. 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, the Members of the Court enjoy, generally, 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. 6*, pp. 204-211 and pp. 214-217).

52. By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 210-215), the General Assembly approved the agreements 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."

53. In the same resolution the General Assembly recommended that the authorities of Members of the United Nations 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.

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

Chapter III
Jurisdiction of the Court

A. Jurisdiction of the Court in contentious cases

55. On 31 July 2009, the 192 States Members of the United Nations were parties to the Statute of the Court.

56. Sixty-six 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, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Senegal, Slovakia, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The texts of the declarations filed by the above States can be found on the Court's website (www.icj-cij.org).

57. Lists of treaties and conventions which provide for the jurisdiction of the Court can also be found on the Court's website. There are currently in force some 300 multilateral and bilateral conventions providing for the jurisdiction of the Court.

B. Jurisdiction of the Court in advisory proceedings

58. In addition to United Nations organs (General Assembly and Security Council — which are authorized to request advisory opinions of the Court "on any legal question" — 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 Organisation

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

59. A list of the international instruments that make provision for the advisory jurisdiction of the Court is available on the Court's website.

Chapter IV
Functioning of the Court

A. Committees

60. The committees constituted by the Court to facilitate the performance of its administrative tasks met a number of times during the period under review; they are composed as follows:

(a) Budgetary and Administrative Committee: President Owada (Chair), Vice-President Tomka, and Judges Keith, Sepúlveda-Amor, Bennouna, Yusuf and Greenwood;

(b) Library Committee: Judge Buergenthal (Chair), and Judges Simma, Abraham, Bennouna and Cançado Trindade.

61. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judge Al-Khasawneh (Chair), Judges Abraham, Keith, Skotnikov, Cançado Trindade and Greenwood.

B. Registry

62. 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. 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 (see 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 annexed to this Report.

63. 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 are appointed by the Registrar. Working conditions are laid down in the Staff

Regulations adopted by the Court (see Art. 28 of the Rules). 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.

64. Over the last 20 years, the Registry's workload, notwithstanding the adoption of new technologies, has grown considerably following the substantial increase in the number of cases brought before the Court.

65. Taking into account the creation of four Professional posts and of one biennium General Service post in the previous budget, the Registry has at present 105 posts: 51 posts in the Professional category and above (of which 39 are established posts and 12 biennium posts), and 54 in the General Service category (of which 51 are established and three biennium posts).

66. In accordance with the views expressed by the General Assembly, a performance appraisal system was established for Registry staff, effective 1 January 2004.

1. The Registrar and Deputy-Registrar

67. The Registrar is the regular channel of communications to and from the Court and in particular effects all communications, notifications and transmissions of documents required by the Statute or by the Rules. The Registrar performs, among others, the following tasks: *(a)* he keeps the 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; *(b)* he is present in person, or represented by the Deputy-Registrar, at meetings of the Court and of Chambers, and is responsible for the preparation of minutes of such meetings; *(c)* he makes arrangements for such provision or verification of translations and interpretations into the official languages of the Court (French and English), as the Court may require; *(d)* he signs all judgments, advisory opinions and orders of the Court as well as the minutes; *(e)* 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; *(f)* he assists in maintaining the Court's external relations, in particular with other organs of the United Nations and with other international organizations and States, and is responsible for information concerning the Court's activities and for the Court's publications; and *(g)* 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 International Military Tribunal).

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

69. The Registrar and the Deputy-Registrar, when acting for the Registrar, are, pursuant to the exchange of correspondence mentioned in paragraph 51 above, accorded the same privileges and immunities as Heads of Diplomatic Missions in The Hague.

2. Substantive divisions and units of the Registry

Department of Legal Matters

70. The Department of Legal Matters, composed of eight posts in the Professional category and one in the General Service category, is responsible, under the direct supervision of the Registrar, 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 judicial and procedural precedents, 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

71. The Department of Linguistic Matters, currently composed of 17 posts in the Professional category and one in the General Service category, is responsible for the translation of documents to and from the Court's two official languages and provides linguistic support to judges. The Court works equally in its two

official languages at all stages of its activity. Documents translated include case pleadings and other communications from States parties, verbatim records of hearings, draft judgments, advisory opinions and orders, together with their various working documents, judges' notes, their opinions, minutes of Court and committee meetings, internal reports, notes, studies, memorandums 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, as required, at meetings held by the President and Members of the Court with agents of the parties and other official visitors.

72. Following the creation, in 2000, of 12 posts in the Department, recourse to outside translators has been substantially reduced. However, in view of the increase in the Court's workload, the requirements for temporary assistance for meetings have begun to rise again. The Department nevertheless does its best to make use of home translation (less expensive than bringing freelance translators in to work in the Registry) and remote translation (performed by other linguistic departments within the United Nations system). For Court hearings and deliberations, outside interpreters are used; however, in order to reduce costs, achieve greater flexibility in the event of changes to the Court's schedule and ensure more effective synergy between the various tasks of the Department, it has been decided to train a number of translators who so wish in interpreting.

Information Department

73. The Information Department, composed of three posts in the Professional category and one in the General Service category, plays an important part in the Court's external relations. Its duties consist of replying to requests for information on the Court, preparing all documents containing general information on the Court (in particular the Annual Report of the Court to the General Assembly, the *Yearbook*, and handbooks for the general public), and encouraging and assisting the media to report on the work of the Court (in particular by preparing press releases and developing new communication aids, especially audio-visual ones). The Department gives presentations on the Court (to diplomats, lawyers, students and others) and is responsible for keeping the Court's website up to date. Its duties extend to internal communication as well.

74. The Information Department is also responsible for organizing the public sittings of the Court and all other official

events, in particular a large number of visits, including those by distinguished guests. It then serves as a protocol office.

3. Technical Divisions

Administrative and Personnel Division

75. The Administrative and Personnel Division, currently composed of one post in the Professional category and ten in the General Service category, is responsible for various duties related to staff management and administration, including planning and implementation of recruitment, appointment, promotion, training and separation of staff. In administering staff, it ensures observance of the Staff Regulations for the Registry and of those United Nations Staff Regulations and Rules which the Court determines to be applicable. As part of its recruitment tasks, the Division prepares vacancy announcements, reviews applications, arranges interviews for the selection of candidates and prepares contracts for successful candidates, and handles the intake of new staff members. The Division also administers staff entitlements and various benefits, handles the relevant personnel actions and liaises with the Office of Human Resources Management and the United Nations Joint Staff Pension Fund.

76. The Administrative and Personnel Division is also responsible for procurement, inventory control and, in liaison with the Carnegie Foundation, building-related matters. It has certain security responsibilities and also oversees the General Assistance Division, which, under the responsibility of a co-ordinator, provides general assistance to Members of the Court and Registry staff in regard to messenger, transport, reception and telephone services.

Finance Division

77. The Finance Division, composed of two posts in the Professional category and three in the General Service category, is responsible for financial matters. Its financial duties include in particular preparation of a draft budget, financial accounting and reporting, vendor payments, payroll and payroll-related operations (allowances/overtime) and travel.

Publications Division

78. The Publications Division, composed of three posts in the Professional category, is responsible for the preparation of manuscripts, proofreading and correction of proofs, study of estimates and choice of printing firms in relation to the following official publications of the Court: *(a)* Reports of Judgments, Advisory Opinions and Orders; *(b)* Pleadings, Oral Arguments, Documents; *(c)* Acts and Documents concerning the Organization of the Court; *(d)* Bibliographies; and *(e)* Yearbooks. It is also responsible for various other publications as instructed by the Court or the Registrar. 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, including control of all invoices. (For more information on the Court's publications, see Chapter VII below.)

Documents Division — Library of the Court

79. The Documents Division, composed of two posts in the Professional category and four in the General Service category, has as its main task acquiring, conserving, classifying and making available the leading works on international law, as well as a significant number of periodicals and other relevant documents. The Division prepares bibliographies for Members of the Court on cases brought before the Court, and other bibliographies as required. It also assists the translators with their reference needs. The Division provides access to an increasing number of databases and online resources in partnership with the United Nations System Electronic Information Acquisition Consortium (UNSEIAC), as well as to a comprehensive collection of electronic documents of interest to the Court. The Division has acquired integrated software for managing the collection and the Division's operations and will shortly launch an online catalogue accessible to all Members of the Court and Registry staff. The Division operates in close collaboration with the Peace Palace Library of the Carnegie Foundation.

80. The Division is also responsible for the Archives of the Nuremberg International Military Tribunal (including paper documents, gramophone records, films and some objects). A conservation and digitization plan for these archives is about to be completed.

Information Technology Division

81. The Information Technology Division, composed of two posts in the Professional category and three in the General Service category, 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 Division is responsible for the technical development and management of the Court's website.

Archives, Indexing and Distribution Division

82. The Archives, Indexing and Distribution Division, composed of one post in the Professional category and five in the General Service category, 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 incoming and outgoing correspondence, as well as of all documents, both official and otherwise, held on file. It is also responsible for checking, distributing and filing all internal documents, some of which are strictly confidential. The Division now has a computerized system for managing both internal and external documents.

83. The Archives, Indexing and Distribution Division also handles the dispatch of the Court's official publications to Members of the United Nations, as well as to numerous institutions and individuals.

Text Processing and Reproduction Division

84. The Text Processing and Reproduction Division is composed of one post in the Professional category and nine in the General Service category. It carries out all the typing work of the Registry and, as necessary, the reproduction of typed texts.

85. The Division is responsible in particular for the typing and reproduction of the following documents in addition to correspondence proper: translations of written pleadings and annexes; verbatim records of hearings and their translations; the translations of judges' notes and judges' amendments to draft

judgments; and the translations of judges' opinions. It is also responsible for the typing and reproduction of the Court's judgments, advisory opinions and orders. In addition, it is responsible for checking documents and references, reviewing and page layout.

Law clerks and the Special Assistant to the President

86. The President of the Court is aided by a special assistant who is administratively attached to the Department of Legal Matters. Officially, the law clerks, eight associate legal officers in all, are also members of the Registry staff. After consulting with the Registrar, the Court has put in place an arrangement, which will be evaluated in 2009, whereby seven of them are directly assigned to work for Members of the Court (other than the President, who already has a personal assistant) and judges *ad hoc* individually, while the eighth is assigned to work in the Registry, under its responsibility, on legal questions of interest to the judges as a whole.

87. The law clerks carry out research for the Members of the Court and the judges *ad hoc*, and work under their responsibility, but may be called upon as required to provide temporary support to the Department of Legal Matters, especially in specific case-related matters. Generally, the law clerks are supervised by a Co-ordination and Training Committee made up of certain Members of the Court and senior Registry staff.

Judges' Secretaries

88. 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 assist the judges in the management of their work diary and in the preparation of relevant papers for meetings, as well as in dealing with visitors and enquiries.

Senior Medical Officer

89. Since the spring of 2009, the Registry has employed a senior medical officer on a one-quarter-time basis, paid out of the temporary assistance appropriation. The medical officer undertakes day-to-day clinical duties, advises the Registry on

medical and health matters, and performs information, prevention and co-ordination tasks with outside partners.

C. Seat

90. The seat of the Court is established at The Hague; 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).

91. The Court occupies premises in the Peace Palace at The Hague. 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 and provides, in exchange, for the payment to the Carnegie Foundation of an annual contribution. That contribution was increased pursuant to supplementary agreements approved by the General Assembly in 1951 and 1958, as well as a subsequent amendment. On 22 December 2007, the General Assembly approved a further amendment to the supplementary agreement of 1958, applicable for a five-year period beginning on 1 July 2006. Pursuant to that amendment, the annual contribution to the Carnegie Foundation amounts to €1,211,973 for 2009.

D. Peace Palace Museum

92. On 17 May 1999, the Secretary-General of the United Nations inaugurated the museum created by the International Court of Justice and situated in the south wing of the Peace Palace. The museum, which is run by the Carnegie Foundation, presents an overview of the theme “Peace through Justice”.

Chapter V
Judicial work of the Court

A. General overview

93. During the period under review, 16 contentious cases and one advisory procedure were pending; 13 contentious cases and one advisory procedure remain so on 31 July 2009.

94. During this period, four new contentious cases were submitted to the Court: *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*; *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia* v. *Greece)*; *Jurisdictional Immunities of the State (Germany* v. *Italy)* and *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)*.

95. In the same period, a request for an advisory opinion was submitted to the Court by the General Assembly concerning the question of the *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo*.

96. The Court held public hearings in the following cases: *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)* (provisional measures); *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*; and *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)* (provisional measures).

97. The Court rendered judgment on the preliminary objections to jurisdiction and admissibility raised by the Respondent in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)* and judgment on the merits in the three following cases: *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*; *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*; and *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*.

98. In the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*, the Court made an Order on the request for the indication of provisional measures submitted by Georgia. The Court also issued an Order on the request for the indication of provisional measures submitted by Belgium in the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)*.

99. The Court made Orders fixing time-limits for the submission of written pleadings in the following cases: *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*; *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*; *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia* v. *Greece)*; *Jurisdictional Immunities of the State (Germany* v. *Italy);* and *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)*.

100. The Court also issued an Order organizing the proceedings in relation to the request for an advisory opinion on the question of the *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo*.

101. Lastly, the Court revised Practice Directions III and VI and adopted new Practice Direction XIII.

B. Pending contentious proceedings during the period under review

1. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

102. 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 (see Annual Report 1992-1993 *et seq.*).

103. In its Judgment of 25 September 1997, the Court found that both Hungary and Slovakia had breached their legal obligations.

It called upon 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.

104. 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.

105. 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.

106. The Parties have subsequently resumed negotiations and have informed the Court on a regular basis of the progress made. The case remains pending.

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

107. On 28 December 1998, the Republic of Guinea instituted proceedings against the Democratic Republic of the Congo by filing an "Application for purposes of diplomatic protection", in which it requested the Court to find that "the Democratic Republic of the Congo is guilty of serious breaches of international law committed upon the person of a Guinean national", Ahmadou Sadio Diallo (see Annual Report 1998-1999 *et seq.*).

108. On 24 May 2007, the Court rendered a Judgment declaring Guinea's Application to be admissible in so far as it concerned protection of Mr. Diallo's rights as an individual and of his direct rights as *associé* in Africom-Zaire and Africontainers-Zaire, but inadmissible in so far as it concerned protection of Mr. Diallo in respect of alleged violations of the rights of Africom-Zaire and Africontainers-Zaire.

109. By an Order of 27 June 2007, the Court fixed 27 March 2008 as the time-limit for the filing of a Counter-Memorial by the Democratic Republic of the Congo. The Counter-Memorial was filed within the time-limit thus fixed. By an Order of 5 May 2008, the Court authorized the submission of a Reply by Guinea and a Rejoinder by the Democratic Republic of the Congo. It fixed 19 November 2008 and 5 June 2009 as the respective time-limits for the filing of those written pleadings.

Those pleadings were filed within the time-limits thus fixed. The case is therefore ready for hearing.

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

110. 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 Organization of African Unity" (see Annual Report 1998-1999 *et seq.*).

111. Public hearings on the merits of the case were held from 11 to 29 April 2005.

112. In the Judgment which it rendered on 19 December 2005 (see Annual Report 2005-2006), the Court found in particular that the Parties were under obligation to one another to make reparation for the injury caused; it decided that, failing agreement between the Parties, the question of reparation would be settled by the Court. It reserved for this purpose the subsequent procedure in the case.

113. The Parties recently informed the Court of the progress made in the negotiations between them in order to settle the question of reparation, as referred to in points (6) and (14) of the operative clause of the Judgment and paragraphs 260, 261 and 344 of the reasoning of the Judgment.

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

114. On 2 July 1999, Croatia instituted proceedings before the Court against Serbia (then known as the Federal Republic of Yugoslavia) with respect to a dispute concerning alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide committed between 1991 and 1995.

115. In its Application, Croatia contended, *inter alia*, that, "[b]y 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 was liable for "ethnic cleansing" committed against Croatian citizens, "a form of genocide which resulted in large numbers of Croatian citizens being displaced,

killed, tortured, or illegally detained, as well as extensive property destruction".

116. Accordingly, Croatia requested the Court to adjudge and declare that Serbia had "breached its legal obligations" to Croatia under the Genocide Convention and that it had "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".

117. As basis for the Court's jurisdiction, Croatia invoked Article IX of the Genocide Convention, to which, it claims, both States are parties.

118. By an Order of 14 September 1999, the Court fixed 14 March 2000 and 14 September 2000 as the respective time-limits for the filing of a Memorial by Croatia and a Counter-Memorial by Serbia. These time-limits were twice extended, by Orders of 10 March 2000 and 27 June 2000. Croatia filed its Memorial within the time-limit as extended by the latter Order.

119. On 11 September 2002, within the time-limit for the filing of its Counter-Memorial as extended by the Order of 27 June 2000, Serbia raised certain preliminary objections on jurisdiction and admissibility. Pursuant to Article 79 of the Rules of Court, the proceedings on the merits were suspended. Croatia filed a written statement of its observations and submissions on Serbia's preliminary objections on 25 April 2003, within the time-limit fixed by the Court.

120. Public hearings on the preliminary objections on jurisdiction and admissibility were held from 26 to 30 May 2008 (see Annual Report 2007-2008).

121. On 18 November 2008, the Court rendered its Judgment on the preliminary objections. The operative paragraph of the Judgment reads as follows:

"For these reasons,

The Court,

(1) By ten votes to seven,

Rejects the first preliminary objection submitted by the Republic of Serbia in so far as it relates to its capacity to participate in the proceedings instituted by the Application of the Republic of Croatia;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Buergenthal, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna; *Judge* ad hoc Vukas;

AGAINST: *Judges* Ranjeva, Shi, Koroma, Parra-Aranguren, Owada, Skotnikov; *Judge* ad hoc Kreća;

(2) By twelve votes to five,

Rejects the first preliminary objection submitted by the Republic of Serbia in so far as it relates to the jurisdiction *ratione materiae* of the Court under Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide to entertain the Application of the Republic of Croatia;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judge* ad hoc Vukas;

AGAINST: *Judges* Ranjeva, Shi, Koroma, Parra-Aranguren; *Judge* ad hoc Kreća;

(3) By ten votes to seven,

Finds that subject to paragraph 4 of the present operative clause the Court has jurisdiction to entertain the Application of the Republic of Croatia;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Buergenthal, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna; *Judge* ad hoc Vukas;

AGAINST: *Judges* Ranjeva, Shi, Koroma, Parra-Aranguren, Owada, Skotnikov; *Judge* ad hoc Kreća;

(4) By eleven votes to six,

Finds that the second preliminary objection submitted by the Republic of Serbia does not, in the circumstances of the case, possess an exclusively preliminary character;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Buergenthal, Owada, Simma, Abraham, Keith, Sepúlveda-Amor, Bennouna; *Judge* ad hoc Vukas;

AGAINST: *Judges* Shi, Koroma, Parra-Aranguren, Tomka, Skotnikov; *Judge* ad hoc Kreća;

(5) By twelve votes to five,

Rejects the third preliminary objection submitted by the Republic of Serbia.

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna; *Judge* ad hoc Vukas;

AGAINST: *Judges* Shi, Koroma, Parra-Aranguren, Skotnikov; *Judge* ad hoc Kreća."

122. Vice-President Al-Khasawneh appended a separate opinion to the Judgment; Judges Ranjeva, Shi, Koroma and Parra-Aranguren appended a joint declaration to the Judgment; Judges Ranjeva and Owada appended dissenting opinions to the Judgment; Judges Tomka and Abraham appended separate opinions to the Judgment; Judge Bennouna appended a declaration to the Judgment; Judge Skotnikov appended a dissenting opinion to the Judgment; Judge *ad hoc* Vukas appended a separate opinion to the Judgment; Judge *ad hoc* Kreća appended a dissenting opinion to the Judgment.

123. By an Order of 20 January 2009, the President of the Court fixed 22 March 2010 as the time-limit for the filing of the Counter-Memorial of Serbia.

5. *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*

124. 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.

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

> "First, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andrés 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."

126. 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 Andrés 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".

127. As basis for the Court's jurisdiction, Nicaragua invokes Article XXXI of the Pact of Bogotá, to which both Nicaragua and Colombia are parties, as well as the declarations of the two States recognizing the compulsory jurisdiction of the Court.

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

129. Copies of the pleadings and documents annexed were requested by the Governments of Honduras, Jamaica, Chile, Peru, Ecuador, Venezuela and Costa Rica by virtue of Article 53, paragraph 1, of the Rules of Court. Pursuant to that same provision, the Court, after ascertaining the views of the Parties, acceded to those requests.

130. On 21 July 2003, within the time-limit set by Article 79, paragraph 1, of the Rules of Court, Colombia raised preliminary objections to the jurisdiction of the Court.

131. On 13 December 2007, the Court rendered its Judgment, in which it found that Nicaragua's Application was admissible in so far as it concerned sovereignty over the maritime features claimed by the Parties other than the islands of San Andrés, Providencia and Santa Catalina, and in respect of the maritime delimitation between the Parties.

132. By an Order of 11 February 2008, the President of the Court fixed 11 November 2008 as the time-limit for the filing of the Counter-Memorial of Colombia. The Counter-Memorial was filed within the time-limit thus fixed.

133. By an Order of 18 December 2008, the Court directed Nicaragua to submit a Reply and Colombia a Rejoinder, and fixed 18 September 2009 and 18 June 2010 as the respective time-limits for the filing of those written pleadings.

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

134. On 9 December 2002, the Congo filed an Application instituting 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, Denis Sassou Nguesso, the Congolese Minister of the Interior, 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* had issued a warrant for the President of the Republic of the Congo to be examined as witness.

135. 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 had 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 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 had violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

136. In its Application, 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 w[ould] certainly be given". In accordance with that provision, the Application by the Congo was transmitted to the French Government and no further action was taken in the proceedings at that stage.

137. By a letter dated 8 April 2003 and received in the Registry on 11 April 2003, France 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, d[id] not constitute a basis of jurisdiction for the Court in the present case".

138. The Application 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*".

139. Public hearings were held on the request for the indication of a provisional measure from 28 to 29 April 2003. In its Order of 17 June 2003, the Court declared that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

140. The Memorial of the Congo and the Counter-Memorial of France were filed within the time-limits fixed by the Order of 11 July 2003.

141. By an Order of 17 June 2004, the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the Congo and a Rejoinder by France, and fixed the time-limits for the filing of those pleadings. Following four successive requests for extensions to the time-limit for filing the Reply, the President of the Court fixed the time-limits for the filing of the Reply by the Congo and the Rejoinder by France as 11 July 2006 and 11 August 2008, respectively. Those pleadings were filed within the time-limits thus extended. The case is therefore ready for hearing.

7. *Maritime delimitation in the Black Sea (Romania* v. *Ukraine)*

142. On 16 September 2004, Romania filed an Application instituting proceedings against Ukraine in respect of a dispute concerning "the establishment of a single maritime boundary between the two States in the Black Sea, thereby delimiting the continental shelf and the exclusive economic zones appertaining to them" (see Annual Report 2004-2005).

143. The Memorial of Romania and the Counter-Memorial of Ukraine were filed within the time-limits fixed by the Order of 19 November 2004. By an Order of 30 June 2006, the Court authorized the filing of a Reply by Romania and a Rejoinder by Ukraine, and fixed 22 December 2006 and 15 June 2007 as the respective time-limits for the filing of those pleadings. Romania filed its Reply within the time-limit set. By an Order of

8 June 2007, the Court extended to 6 July 2007 the time-limit for the filing of the Rejoinder by Ukraine. The Rejoinder was duly filed within the time-limit thus extended.

144. Public hearings were held from 2 to 19 September 2008.

145. On 3 February 2009, the Court rendered its Judgment, of which the operative paragraph reads as follows:

"For these reasons,

THE COURT,

Unanimously,

Decides that starting from Point 1, as agreed by the Parties in Article 1 of the 2003 State Border Régime Treaty, the line of the single maritime boundary delimiting the continental shelf and the exclusive economic zones of Romania and Ukraine in the Black Sea shall follow the 12-nautical-mile arc of the territorial sea of Ukraine around Serpents' Island until Point 2 (with co-ordinates 45° 03' 18.5" N and 30° 09' 24.6" E) where the arc intersects with the line equidistant from Romania's and Ukraine's adjacent coasts. From Point 2 the boundary line shall follow the equidistance line through Points 3 (with co-ordinates 44° 46' 38.7" N and 30° 58' 37.3" E) and 4 (with co-ordinates 44° 44' 13.4" N and 31° 10' 27.7" E) until it reaches Point 5 (with co-ordinates 44° 02' 53.0" N and 31° 24' 35.0" E). From Point 5 the maritime boundary line shall continue along the line equidistant from the opposite coasts of Romania and Ukraine in a southerly direction starting at a geodetic azimuth of 185° 23' 54.5" until it reaches the area where the rights of third States may be affected."

8. *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*

146. On 29 September 2005, Costa Rica filed an Application instituting proceedings against Nicaragua in a dispute concerning the navigational and related rights of Costa Rica on the San Juan River (see Annual Report 2005-2006).

147. Costa Rica filed its Memorial and Nicaragua its Counter-Memorial within the time-limits fixed by the Order of 29 November 2005.

148. Copies of the pleadings and documents annexed were requested by the Government of Colombia. Pursuant to Article 53, paragraph 1, of the Rules of Court, after ascertaining the views of the Parties and taking account of those views as expressed, the Court decided not to accede to that request.

149. By an Order of 9 October 2007, the Court authorized the submission of a Reply by Costa Rica and a Rejoinder by Nicaragua. Those pleadings were filed within the prescribed time-limits.

150. Public hearings were held from 2 to 12 March 2009.

151. On 13 July 2009 the Court rendered its Judgment, of which the operative paragraph reads as follows:

"For these reasons,

THE COURT,

(1) As regards Costa Rica's navigational rights on the San Juan river under the 1858 Treaty, in that part where navigation is common,

(a) Unanimously,

Finds that Costa Rica has the right of free navigation on the San Juan river for purposes of commerce;

(b) Unanimously,

Finds that the right of navigation for purposes of commerce enjoyed by Costa Rica includes the transport of passengers;

(c) Unanimously,

Finds that the right of navigation for purposes of commerce enjoyed by Costa Rica includes the transport of tourists;

(d) By nine votes to five,

Finds that persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation are not required to obtain Nicaraguan visas;

IN FAVOUR: *President* Owada; *Judges* Shi, Buergenthal, Abraham, Keith, Bennouna, Cançado Trindade, Yusuf, Greenwood;

AGAINST: *Judges* Koroma, Al-Khasawneh, Sepúlveda-Amor, Skotnikov; *Judge* ad hoc Guillaume;

(e) Unanimously,

Finds that persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation are not required to purchase Nicaraguan tourist cards;

(f) By thirteen votes to one,

Finds that the inhabitants of the Costa Rican bank of the San Juan river have the right to navigate on the river between the riparian communities for the purposes of the essential needs of everyday life which require expeditious transportation;

IN FAVOUR: *President* Owada; *Judges* Shi, Koroma, Al-Khasawneh, Buergenthal, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood;

AGAINST: *Judge* ad hoc Guillaume;

(g) By twelve votes to two,

Finds that Costa Rica has the right of navigation on the San Juan river with official vessels used solely, in specific situations, to provide essential services for the inhabitants of the riparian areas where expeditious transportation is a condition for meeting the inhabitants' requirements;

IN FAVOUR: *President* Owada; *Judges* Shi, Koroma, Al-Khasawneh, Buergenthal, Abraham, Keith, Sepúlveda-Amor, Bennouna, Cançado Trindade, Yusuf, Greenwood;

AGAINST: *Judge* Skotnikov; *Judge* ad hoc Guillaume;

(h) Unanimously,

Finds that Costa Rica does not have the right of navigation on the San Juan river with vessels carrying out police functions;

(i) Unanimously,

Finds that Costa Rica does not have the right of navigation on the San Juan river for the purposes of the exchange of personnel of the police border posts along the right bank of the river and of the re-supply of these posts, with official equipment, including service arms and ammunition;

(2) As regards Nicaragua's right to regulate navigation on the San Juan river, in that part where navigation is common,

(a) Unanimously,

Finds that Nicaragua has the right to require Costa Rican vessels and their passengers to stop at the first and last Nicaraguan post on their route along the San Juan river;

(b) Unanimously,

Finds that Nicaragua has the right to require persons travelling on the San Juan river to carry a passport or an identity document;

(c) Unanimously,

Finds that Nicaragua has the right to issue departure clearance certificates to Costa Rican vessels exercising Costa Rica's right of free navigation but does not have the right to request the payment of a charge for the issuance of such certificates;

(d) Unanimously,

Finds that Nicaragua has the right to impose timetables for navigation on vessels navigating on the San Juan river;

(e) Unanimously,

Finds that Nicaragua has the right to require Costa Rican vessels fitted with masts or turrets to display the Nicaraguan flag;

(3) As regards subsistence fishing,

By thirteen votes to one,

Finds that fishing by the inhabitants of the Costa Rican bank of the San Juan river for subsistence purposes from that bank is to be respected by Nicaragua as a customary right;

IN FAVOUR: *President* Owada; *Judges* Shi, Koroma, Al-Khasawneh, Buergenthal, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood; *Judge* ad hoc Guillaume;

AGAINST: *Judge* Sepúlveda-Amor;

(4) As regards Nicaragua's compliance with its international obligations under the 1858 Treaty,

(a) By nine votes to five,

Finds that Nicaragua is not acting in accordance with its obligations under the 1858 Treaty when it requires persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation to obtain Nicaraguan visas;

IN FAVOUR: *President* Owada; *Judges* Shi, Buergenthal, Abraham, Keith, Bennouna, Cançado Trindade, Yusuf, Greenwood;

AGAINST: *Judges* Koroma, Al-Khasawneh, Sepúlveda-Amor, Skotnikov; *Judge* ad hoc Guillaume;

(b) Unanimously,

Finds that Nicaragua is not acting in accordance with its obligations under the 1858 Treaty when it requires persons travelling on the San Juan river on board Costa Rican vessels exercising Costa Rica's right of free navigation to purchase Nicaraguan tourist cards;

(c) Unanimously,

Finds that Nicaragua is not acting in accordance with its obligations under the 1858 Treaty when it requires the operators

of vessels exercising Costa Rica's right of free navigation to pay charges for departure clearance certificates;

(5) Unanimously,

Rejects all other submissions presented by Costa Rica and Nicaragua."

152. Judges Sepúlveda-Amor and Skotnikov appended separate opinions to the Judgment; Judge *ad hoc* Guillaume appended a declaration to the Judgment.

9. *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*

153. On 4 May 2006, Argentina filed an Application instituting proceedings against Uruguay concerning alleged breaches by Uruguay of obligations incumbent upon it under the Statute of the River Uruguay, a treaty signed between the two States on 26 February 1975 (hereinafter "the 1975 Statute") for the purpose of establishing the joint machinery necessary for the optimum and rational utilization of that part of the river which constitutes their joint boundary.

154. In its Application, Argentina charged the Government of Uruguay with having unilaterally authorized the construction of two pulp mills on the River Uruguay without complying with the obligatory prior notification and consultation procedures under the 1975 Statute. Argentina claims that these mills pose a threat to the river and its environment, are likely to impair the quality of the river's waters and to cause significant transboundary damage to Argentina.

155. As basis for the Court's jurisdiction, Argentina cited the first paragraph of Article 60 of the 1975 Statute, which provides that any dispute concerning the interpretation or application of that Statute which cannot be settled by direct negotiations may be submitted by either party to the Court.

156. Argentina's Application was accompanied by a request for the indication of provisional measures, whereby Argentina asked that Uruguay be ordered to suspend the authorizations for construction of the mills and all building works pending a final decision by the Court, to co-operate with Argentina with a view to protecting and conserving the aquatic environment of the River Uruguay, and to refrain from taking any further unilateral action with respect to construction of the two mills incompatible with the 1975 Statute, and from any other action which might aggravate the dispute or render its settlement more difficult.

157. Public hearings on the request for the indication of provisional measures were held on 8 and 9 June 2006. By an Order of 13 July 2006, the Court found that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

158. On 29 November 2006, Uruguay in turn submitted a request for the indication of provisional measures on the grounds that, from 20 November 2006, organized groups of Argentine citizens had blockaded a "vital international bridge", that this action was causing it considerable economic prejudice and that Argentina had taken no action to end the blockade. Concluding its request, Uruguay requested the Court to order Argentina to take "all reasonable and appropriate steps . . . to prevent or end the interruption of transit between Uruguay and Argentina, including the blockading of bridges or roads between the two States"; to abstain "from any measure that might aggravate, extend or make more difficult the settlement of this dispute"; and to abstain "from any other measure which might prejudice the rights of Uruguay in dispute before the Court". Public hearings were held on 18 and 19 December 2006 on the request for the indication of provisional measures. By an Order of 23 January 2007, the Court found that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power under Article 41 of the Statute.

159. Argentina filed its Memorial and Uruguay its Counter-Memorial within the time-limits fixed by the Order of 13 July 2006.

160. By an Order of 14 September 2007, the Court authorized the submission of a Reply by Argentina and a Rejoinder by Uruguay. Those pleadings were filed within the prescribed time-limits.

161. Public hearings on the merits of the case will be held from Monday 14 September 2009 to Friday 2 October 2009.

10. *Maritime Dispute (Peru* v. *Chile)*

162. On 16 January 2008, Peru filed an Application instituting proceedings against Chile before the Court concerning a dispute in relation to "the delimitation of the boundary between the maritime zones of the two States in the Pacific Ocean, beginning at a point on the coast called Concordia, . . . the terminal point of the land boundary established pursuant to the Treaty . . . of

3 June 1929"[2], and also to the recognition in favour of Peru of a "maritime zone lying within 200 nautical miles of Peru's coast, and thus appertaining to Peru, but which Chile considers to be part of the high seas".

163. In its Application, Peru claims that "the maritime zones between Chile and Peru have never been delimited by agreement or otherwise" and that, accordingly, "the delimitation is to be determined by the Court in accordance with customary international law". Peru states that, "since the 1980s, [it] has consistently endeavoured to negotiate the various issues in dispute, but . . . has constantly met a refusal from Chile to enter into negotiations". It asserts that a Note of 10 September 2004 from the Minister for Foreign Affairs of Chile to the Minister for Foreign Affairs of Peru made further attempts at negotiation impossible.

164. Peru consequently "requests the Court to determine the course of the boundary between the maritime zones of the two States in accordance with international law . . . and to adjudge and declare that Peru possesses exclusive sovereign rights in the maritime area situated within the limit of 200 nautical miles from its coast but outside Chile's exclusive economic zone or continental shelf".

165. As basis for the Court's jurisdiction, Peru invokes Article XXXI of the Pact of Bogotá of 30 April 1948, to which both States are parties without reservation.

166. By an Order of 31 March 2008, the Court fixed 20 March 2009 and 9 March 2010 as the respective time-limits for the filing of a Memorial by Peru and a Counter-Memorial by Chile. The Memorial of Peru was filed within the time-limit thus prescribed.

167. Copies of the pleadings and documents annexed were requested by the Governments of Colombia and Ecuador, pursuant to Article 53, paragraph 1, of the Rules of Court. In accordance with that provision, after ascertaining the views of the Parties, the Court acceded to those requests.

11. *Aerial Herbicide Spraying (Ecuador* v. *Colombia)*

168. On 31 March 2008, Ecuador filed an Application instituting proceedings against Colombia in respect of a dispute concerning the alleged "aerial spraying [by Colombia] of toxic herbicides at locations near, at and across its border with Ecuador".

[2]Treaty between Chile and Peru for the settlement of the dispute regarding Tacna and Arica, signed at Lima on 3 June 1929.

169. Ecuador maintains that "the spraying has already caused serious damage to people, to crops, to animals, and to the natural environment on the Ecuadorian side of the frontier, and poses a grave risk of further damage over time". It further contends that it has made "repeated and sustained efforts to negotiate an end to the fumigations" but that "these negotiations have proved unsuccessful".

170. Ecuador accordingly requests the Court

> "to adjudge and declare that:
>
> *(a)* Colombia has violated its obligations under international law by causing or allowing the deposit on the territory of Ecuador of toxic herbicides that have caused damage to human health, property and the environment;
>
> *(b)* Colombia shall indemnify Ecuador for any loss or damage caused by its internationally unlawful acts, namely the use of herbicides, including by aerial dispersion, and in particular:
>
> (i) death or injury to the health of any person or persons arising from the use of such herbicides; and
>
> (ii) any loss of or damage to the property or livelihood or human rights of such persons; and
>
> (iii) environmental damage or the depletion of natural resources; and
>
> (iv) the costs of monitoring to identify and assess future risks to public health, human rights and the environment resulting from Colombia's use of herbicides; and
>
> (v) any other loss or damage; and
>
> *(c)* Colombia shall:
>
> (i) respect the sovereignty and territorial integrity of Ecuador; and
>
> (ii) forthwith, take all steps necessary to prevent, on any part of its territory, the use of any toxic herbicides in such a way that they could be deposited onto the territory of Ecuador; and
>
> (iii) prohibit the use, by means of aerial dispersion, of such herbicides in Ecuador, or on or near any part of its border with Ecuador."

171. As basis for the Court's jurisdiction, Ecuador invokes Article XXXI of the Pact of Bogotá of 30 April 1948, to which both States are parties. Ecuador also relies on Article 32 of the

1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

172. In its Application, Ecuador reaffirms its opposition to "the export and consumption of illegal narcotics", but stresses that the issues presented to the Court "relate exclusively to the methods and locations of Colombia's operations to eradicate illicit coca and poppy plantations — and the harmful effects in Ecuador of such operations".

173. By an Order of 30 May 2008, the Court fixed 29 April 2009 and 29 March 2010 as the respective time-limits for the filing of a Memorial by Ecuador and a Counter-Memorial by Colombia. The Memorial of Ecuador was filed within the time-limit thus prescribed.

12. *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*

174. On 5 June 2008, Mexico filed a Request for interpretation of the Judgment delivered on 31 March 2004 by the Court in the Case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)* (see Annual Reports 2007-2008 and 2003-2004, respectively).

175. Mexico's Request for interpretation was accompanied by a request for the indication of provisional measures on the ground that such measures "are clearly justified in order both to protect Mexico's paramount interest in the life of its nationals and to ensure the Court's ability to order the relief Mexico seeks".

176. Public hearings were held on 19 and 20 June 2008 and, by an Order of 16 July 2008, the Court indicated the following provisional measure: "The United States of America shall take all measures necessary to ensure that Messrs. José Ernesto Medellín Rojas, César Roberto Fierro Reyna, Rubén Ramírez Cárdenas, Humberto Leal García, and Roberto Moreno Ramos are not executed pending judgment on the Request for interpretation submitted by the United Mexican States, unless and until these five Mexican nationals receive review and reconsideration consistent with paragraphs 138 to 141 of the Court's Judgment delivered on 31 March 2004 in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*".

177. After ascertaining the views of the Parties, the Court, pursuant to Article 98, paragraph 3, of the Rules of Court, fixed

29 August 2008 as the time-limit for the filing by the United States of written observations on Mexico's Request for interpretation. Those observations were filed within the prescribed time-limit.

178. On 28 August 2008, Mexico, informing the Court of the execution on 5 August 2008 of Mr. José Ernesto Medellín Rojas in the State of Texas, United States of America, and referring to Article 98, paragraph 4 of the Rules of Court, requested the Court to afford Mexico the opportunity of furnishing further written explanations for the purpose, on the one hand, of elaborating on the merits of the Request for interpretation in the light of the written observations which the United States was due to file and, on the other, of "amending its pleading to state a claim based on the violation of the Order of 16 July 2008".

179. On 2 September 2008, the Court authorized Mexico and the United States of America to furnish further written explanations, pursuant to Article 98, paragraph 4, of the Rules of Court. It fixed 17 September and 6 October 2008, respectively, as the time-limits by which these were to be filed. These further written explanations were filed within the time-limits thus fixed.

180. On 19 January 2009, the Court delivered its Judgment, the operative clause of which reads as follows:

"For these reasons,

THE COURT

(1) By eleven votes to one,

Finds that the matters claimed by the United Mexican States to be in issue between the Parties, requiring an interpretation under Article 60 of the Statute, are not matters which have been decided by the Court in its Judgment of 31 March 2004 in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*, including paragraph 153 (9), and thus cannot give rise to the interpretation requested by the United Mexican States;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Buergenthal, Owada, Tomka, Abraham, Keith, Bennouna, Skotnikov;

AGAINST: *Judge* Sepúlveda-Amor;

(2) Unanimously,

Finds that the United States of America has breached the obligation incumbent upon it under the Order indicating

provisional measures of 16 July 2008, in the case of Mr. José Ernesto Medellín Rojas;

(3) By eleven votes to one,

Reaffirms the continuing binding character of the obligations of the United States of America under paragraph 153 (9) of the *Avena* Judgment and *takes note* of the undertakings given by the United States of America in these proceedings;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Buergenthal, Owada, Tomka, Keith, Sepúlveda-Amor, Bennouna, Skotnikov;

AGAINST: *Judge* Abraham;

(4) By eleven votes to one,

Declines, in these circumstances, the request of the United Mexican States for the Court to order the United States of America to provide guarantees of non-repetition;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Buergenthal, Owada, Tomka, Abraham, Keith, Bennouna, Skotnikov;

AGAINST: *Judge* Sepúlveda-Amor;

(5) By eleven votes to one,

Rejects all further submissions of the United Mexican States.

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Buergenthal, Owada, Tomka, Abraham, Keith, Bennouna, Skotnikov;

AGAINST: *Judge* Sepúlveda-Amor."

181. Judges Koroma and Abraham appended declarations to the Judgment; Judge Sepúlveda-Amor appended a dissenting opinion to the Judgment.

13. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*

182. On 12 August 2008, the Republic of Georgia instituted proceedings before the Court against the Russian Federation on the grounds of "its actions on and around the territory of Georgia in breach of CERD [the 1965 International Convention on the

Elimination of All Forms of Racial Discrimination]". In its Application, Georgia "also seeks to ensure that the individual rights" under the Convention "of all persons on the territory of Georgia are fully respected and protected".

183. Georgia claims that "the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, and through the South Ossetian and Abkhaz separatist forces and other agents acting on the instructions of, and under the direction and control of the Russian Federation, is responsible for serious violations of its fundamental obligations under CERD, including Articles 2, 3, 4, 5 and 6". According to Georgia, the Russian Federation "has violated its obligations under CERD during three distinct phases of its interventions in South Ossetia and Abkhazia", in the period from 1990 to August 2008.

184. Georgia requests the Court to order "the Russian Federation to take all steps necessary to comply with its obligations under CERD".

185. As a basis for the jurisdiction of the Court, Georgia relies on Article 22 of the Convention on the Elimination of All Forms of Racial Discrimination. It also reserves its right to invoke, as an additional basis of jurisdiction, Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, to which Georgia and the Russian Federation are parties.

186. Georgia's Application was accompanied by a request for the indication of provisional measures, in order to preserve its rights under CERD "to protect its citizens against violent discriminatory acts by Russian armed forces, acting in concert with separatist militia and foreign mercenaries".

187. In its request, Georgia reiterated its contention made in the Application that "beginning in the early 1990s and acting in concert with separatist forces and mercenaries in the Georgian regions of South Ossetia and Abkhazia, the Russian Federation has engaged in a systematic policy of ethnic discrimination directed against the ethnic Georgian population and other groups in those regions".

188. Georgia further stated that "[o]n 8 August 2008, the Russian Federation launched a full-scale military invasion against Georgia in support of ethnic separatists in South Ossetia and Abkhazia" and that this "military aggression has resulted in hundreds of civilian deaths, extensive destruction of civilian property, and the displacement of virtually the entire ethnic Georgian population in South Ossetia".

189. Georgia claimed that "[d]espite the withdrawal of Georgian armed forces and the unilateral declaration of a ceasefire,

Russian military operations continued beyond South Ossetia into territories under Georgian government control". Georgia further claimed that "[t]he continuation of these violent discriminatory acts constitutes an extremely urgent threat of irreparable harm to Georgia's rights under CERD in dispute in this case".

190. Georgia requested the Court "as a matter of utmost urgency to order the following measures to protect its rights pending the determination of this case on the merits:

(a) the Russian Federation shall give full effect to its obligations under CERD;

(b) the Russian Federation shall immediately cease and desist from any and all conduct that could result, directly or indirectly, in any form of ethnic discrimination by its armed forces, or other organs, agents, and persons and entities exercising elements of governmental authority, or through separatist forces in South Ossetia and Abkhazia under its direction and control, or in territories under the occupation or effective control of Russian forces;

(c) the Russian Federation shall in particular immediately cease and desist from discriminatory violations of the human rights of ethnic Georgians, including attacks against civilians and civilian objects, murder, forced displacement, denial of humanitarian assistance, extensive pillage and destruction of towns and villages, and any measures that would render permanent the denial of the right to return of IDPs, in South Ossetia and adjoining regions of Georgia, and in Abkhazia and adjoining regions of Georgia, and any other territories under Russian occupation or effective control."

191. On 15 August 2008, having considered the gravity of the situation, the President of the Court, acting under Article 74, paragraph 4, of the Rules of Court, urgently called upon the Parties "to act in such a way as will enable any order the Court may take on the request for provisional measures to have its appropriate effects".

192. Public hearings were held from 8 to 10 October 2008 to hear the oral observations of the Parties on the request for the indication of provisional measures. By an Order of 15 October 2008, the Court:

> "reminding the Parties of their duty to comply with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination,
>
> *Indicate[d]* the following provisional measures:
>
> A. By eight votes to seven,

Both Parties, within South Ossetia and Abkhazia and adjacent areas in Georgia, shall

(1) refrain from any act of racial discrimination against persons, groups of persons or institutions;

(2) abstain from sponsoring, defending or supporting racial discrimination by any persons or organizations,

(3) do all in their power, whenever and wherever possible, to ensure, without distinction as to national or ethnic origin,

(i) security of persons;

(ii) the right of persons to freedom of movement and residence within the border of the State;

(iii) the protection of the property of displaced persons and of refugees;

(4) do all in their power to ensure that public authorities and public institutions under their control or influence do not engage in acts of racial discrimination against persons, groups of persons or institutions;

B. By eight votes to seven,

Both Parties shall facilitate, and refrain from placing any impediment to, humanitarian assistance in support of the rights to which the local population are entitled under the International Convention on the Elimination of All Forms of Racial Discrimination;

C. By eight votes to seven,

Each Party shall refrain from any 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;

D. By eight votes to seven,

Each Party shall inform the Court as to its compliance with the above provisional measures."

193. Vice-President Al-Khasawneh and Judges Ranjeva, Shi, Koroma, Tomka, Bennouna and Skotnikov appended a joint dissenting opinion to the Order of the Court. Judge *ad hoc* Gaja appended a declaration to the Order.

194. By an Order of 2 December 2008, the President fixed 2 September 2009 as the time-limit for the filing of a Memorial by Georgia and 2 July 2010 as the time-limit for the filing of a Counter-Memorial by the Russian Federation.

14. *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia* v. *Greece)*

195. On 17 November 2008, the former Yugoslav Republic of Macedonia instituted proceedings before the Court against Greece for what it describes as "a flagrant violation of its obligations under Article 11" of the Interim Accord signed by the Parties on 13 September 1995.

196. In its Application, the former Yugoslav Republic of Macedonia requests the Court "to protect its rights under the Interim Accord and to ensure that it is allowed to exercise its rights as an independent State acting in accordance with international law, including the right to pursue membership of relevant international organisations".

197. The Applicant contends that in accordance with Article 11, paragraph 1, of the Interim Accord, Greece "has undertaken a binding obligation under international law 'not to object to the application by or the membership of [The former Yugoslav Republic of Macedonia] in international, multilateral and regional organizations and institutions of which [Greece] is a member: however [Greece] reserves the right to object to any membership referred to above if and to the extent [The former Yugoslav Republic of Macedonia] is to be referred to in such organization or institution differently than in paragraph 2 of the United Nations Security Council resolution 817 (1993)'", i.e. as "The former Yugoslav Republic of Macedonia".

198. The former Yugoslav Republic of Macedonia contends in its Application that the Respondent violated its rights under the Interim Accord by objecting, in April 2008, to its application to join NATO. The former Yugoslav Republic of Macedonia contends, in particular, that Greece "veto[ed]" its application to join NATO because Greece desires "to resolve the difference between the Parties concerning the constitutional name of the Applicant as an essential precondition" for such membership.

199. The Applicant argues that it has "met its obligations under the Interim Accord not to be designated as a member of NATO with any designation other than 'the former Yugoslav Republic of Macedonia'" and affirms that "the subject of this dispute does not concern —either directly or indirectly — the difference [that has arisen between Greece and itself over its name]".

200. The former Yugoslav Republic of Macedonia requests the Court to order Greece to "immediately take all necessary steps to comply with its obligations under Article 11, paragraph 1" and "to cease and desist from objecting in any way, whether directly or indirectly, to the Applicant's membership of the North Atlantic Treaty Organisation and/or of any other 'international, multilateral and regional organizations and institutions' of which [Greece] is a member . . .".

201. As a basis for the jurisdiction of the Court, the former Yugoslav Republic of Macedonia invokes Article 21, paragraph 2, of the Interim Accord of 13 September 1995, which provides that "[a]ny difference or dispute that arises between the Parties concerning the interpretation or implementation of this Interim Accord may be submitted by either of them to the International Court of Justice, except for the differences referred to in Article 5, paragraph 1".

202. By an Order of 20 January 2009, the Court fixed 20 July 2009 as the time-limit for the filing of a Memorial by the former Yugoslav Republic of Macedonia and 20 January 2010 as the time-limit for the filing of a Counter-Memorial by the Hellenic Republic. The Memorial of the former Yugoslav Republic of Macedonia was filed within the time-limit thus prescribed.

15. *Jurisdictional Immunities of the State (Germany* v. *Italy)*

203. On 23 December 2008, the Federal Republic of Germany instituted proceedings before the Court against the Italian Republic, alleging that "[t]hrough its judicial practice . . . Italy has infringed and continues to infringe its obligations towards Germany under international law".

204. In its Application, Germany contends that "[i]n recent years, Italian judicial bodies have repeatedly disregarded the jurisdictional immunity of Germany as a sovereign State. The critical stage of that development was reached by the judgment of the Corte di Cassazione of 11 March 2004 in the *Ferrini* case, where [that court] declared that Italy held jurisdiction with regard to a claim . . . brought by a person who during World War II had been deported to Germany to perform forced labour in the armaments industry. After this judgment had been rendered, numerous other proceedings were instituted against Germany before Italian courts by persons who had also suffered injury as a consequence of the armed conflict." The *Ferrini* judgment having been recently confirmed "in a series of decisions delivered on 29 May 2008 and in a further judgment of

21 October 2008", Germany "is concerned that hundreds of additional cases may be brought against it".

205. The Applicant recalls that enforcement measures have already been taken against German assets in Italy: a "judicial mortgage" on Villa Vigoni, the German-Italian centre of cultural exchange, has been recorded in the land register. In addition to the claims brought against it by Italian nationals, Germany also cites "attempts by Greek nationals to enforce in Italy a judgment obtained in Greece on account of a . . . massacre committed by German military units during their withdrawal in 1944".

206. Germany concludes its Application by requesting the Court to adjudge and declare that Italy:

"(1) by allowing civil claims based on violations of international humanitarian law by the German Reich during World War II from September 1943 to May 1945 to be brought against the Federal Republic of Germany, committed violations of obligations under international law in that it has failed to respect the jurisdictional immunity which the Federal Republic of Germany enjoys under international law;

(2) by taking measures of constraint against 'Villa Vigoni' [the German-Italian centre for cultural exchange], German State property used for government non-commercial purposes, also committed violations of Germany's jurisdictional immunity;

(3) by declaring Greek judgments based on occurrences similar to those defined above in request No. 1 enforceable in Italy, committed a further breach of Germany's jurisdictional immunity.

Accordingly, the Federal Republic of Germany prays the Court to adjudge and declare that:

(4) the Italian Republic's international responsibility is engaged;

(5) the Italian Republic must, by means of its own choosing, take any and all steps to ensure that all the decisions of its courts and other judicial authorities infringing Germany's sovereign immunity become unenforceable;

(6) the Italian Republic must take any and all steps to ensure that in the future Italian courts do not entertain

legal actions against Germany founded on the occurrences described in request No. 1 above."

207. Germany reserves the right to request the Court to indicate provisional measures in accordance with Article 41 of the Statute of the Court, "should measures of constraint be taken by Italian authorities against German State assets, in particular diplomatic and other premises that enjoy protection against such measures pursuant to general rules of international law".

208. As the basis for the jurisdiction of the Court, Germany invokes Article 1 of the European Convention for the Peaceful Settlement of Disputes of 29 April 1957, ratified by Italy on 29 January 1960 and by Germany on 18 April 1961. That Article states:

> "The High Contracting Parties shall submit to the judgment of the International Court of Justice all international legal disputes which may arise between them including, in particular, those concerning:
>
> *(a)* the interpretation of a treaty;
>
> *(b)* any question of international law;
>
> *(c)* the existence of any fact which, if established, would constitute a breach of an international obligation;
>
> *(d)* the nature or extent of the reparation to be made for the breach of an international obligation."

209. Germany asserts that, although the present case is between two Member States of the European Union, the Court of Justice of the European Communities in Luxembourg has no jurisdiction to entertain it, since the dispute is not governed by any of the jurisdictional clauses in the treaties on European integration. It adds that outside of that "specific framework" the Member States "continue to live with one another under the regime of general international law".

210. The Application was accompanied by a Joint Declaration adopted on the occasion of German-Italian Governmental Consultations in Trieste on 18 November 2008, whereby both Governments declared that they "share the ideals of reconciliation, solidarity and integration, which form the basis of the European construction". In this declaration, Germany "fully acknowledges the untold suffering inflicted on Italian men and women" during World War II. Italy, for its part, "respects Germany's decision to apply to the International Court of Justice for a ruling on the principle of state immunity [and] is of the

view that the ICJ's ruling on State immunity will help to clarify this complex issue".

211. By an Order of 29 April 2009, the Court fixed 23 June 2009 as the time-limit for the filing of a Memorial by Germany and 23 December 2009 as the time-limit for the filing of a Counter-Memorial by Italy. The Memorial of Germany was filed within the time-limit thus prescribed.

16. *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal)*

212. On 19 February 2009, Belgium instituted proceedings before the Court against Senegal, on the grounds that a dispute exists "between the Kingdom of Belgium and the Republic of Senegal regarding Senegal's compliance with its obligation to prosecute" the former President of Chad, Hissène Habré, "or to extradite him to Belgium for the purposes of criminal proceedings". Belgium also submitted a request for the indication of provisional measures, in order to protect its rights pending the Court's Judgment on the merits.

213. In its Application, Belgium maintains that Senegal, where Mr. Habré has been living in exile since 1990, has taken no action on its repeated requests to see the former President of Chad prosecuted in Senegal, failing his extradition to Belgium, for acts characterized as including crimes of torture and crimes against humanity. The Applicant recalls that, following a complaint filed on 25 January 2000 by seven individuals and an NGO (the Association of Victims of Political Repression and Crime), Mr. Habré was indicted in Dakar on 3 February 2000 for complicity in "crimes against humanity, acts of torture and barbarity" and placed under house arrest. Belgium adds that the *Chambre d'accusation* of the Dakar Court of Appeal dismissed this indictment on 4 July 2000 "after finding that 'crimes against humanity' did not form part of Senegalese criminal law".

214. Belgium further indicates that "[b]etween 30 November 2000 and 11 December 2001, a Belgian national of Chadian origin and Chadian nationals" filed similar complaints in the Belgian courts. Belgium recalls that, since the end of 2001, its competent legal authorities have requested numerous investigative measures of Senegal, and in September 2005 issued an international arrest warrant against Mr. Habré on which the Senegalese courts did not see fit to take action. At the end of 2005, according to the Applicant, Senegal passed the case on to the African Union. Belgium adds that in February 2007, Senegal decided to amend its penal code and code of criminal procedure so as to include "the offences of

genocide, war crimes and crimes against humanity"; however, it points out that the Respondent has cited financial difficulties preventing it from bringing Mr. Habré to trial.

215. Belgium contends that under conventional international law, "Senegal's failure to prosecute Mr. H. Habré, if he is not extradited to Belgium to answer for the acts of torture that are alleged against him, violates the [United Nations] Convention against Torture of [10 December] 1984, in particular Article 5, paragraph 2, Article 7, paragraph 1, Article 8, paragraph 2, and Article 9, paragraph 1". It adds that, under customary international law, "Senegal's failure to prosecute Mr. H. Habré, or to extradite him to Belgium to answer for the crimes against humanity which are alleged against him, violates the general obligation to punish crimes against international humanitarian law which is to be found in numerous texts of secondary law (institutional acts of international organizations) and treaty law".

216. To found the Court's jurisdiction, Belgium, in its Application, first invokes the unilateral declarations recognizing the compulsory jurisdiction of the Court made by the Parties pursuant to Article 36, paragraph 2, of the Statute of the Court, on 17 June 1958 (Belgium) and 2 December 1985 (Senegal).

217. Moreover, the Applicant indicates that "[t]he two States have been parties to the United Nations Convention against Torture of 10 December 1984" since 21 August 1986 (Senegal) and 25 June 1999 (Belgium). Article 30 of that Convention provides that any dispute between two States parties concerning the interpretation or application of the Convention which it has not been possible to settle through negotiation or arbitration may be submitted to the ICJ by one of the States. Belgium contends that negotiations between the two States "have continued unsuccessfully since 2005" and that it reached the conclusion on 20 June 2006 that they had failed. Belgium states, moreover, that it suggested recourse to arbitration to Senegal on 20 June 2006 and notes that the latter "failed to respond to that request . . . whereas Belgium has persistently confirmed in Notes Verbales that a dispute on this subject continues to exist".

218. At the end of its Application, Belgium requests the Court to adjudge and declare that:

— "the Court has jurisdiction to entertain the dispute between the Kingdom of Belgium and the Republic of Senegal regarding Senegal's compliance with its obligation to prosecute Mr. H. Habré or to extradite him to Belgium for the purposes of criminal proceedings;

— Belgium's claim is admissible;

— the Republic of Senegal is obliged to bring criminal proceedings against Mr. H. Habré for acts including crimes of torture and crimes against humanity which are alleged against him as perpetrator, co-perpetrator or accomplice;

— failing the prosecution of Mr. H. Habré, the Republic of Senegal is obliged to extradite him to the Kingdom of Belgium so that he can answer for these crimes before the Belgian courts".

219. Belgium's Application was accompanied by a request for the indication of provisional measures. It explains therein that while "Mr. H. Habré is [at present] under house arrest in Dakar . . . it transpires from an interview which the President of Senegal, A. Wade, gave to Radio France International that Senegal could lift his house arrest if it fails to find the budget which it regards as necessary in order to hold the trial of Mr. H. Habré. In such an event, it would be easy for Mr. H. Habré to leave Senegal and avoid any prosecution. That would cause irreparable prejudice to the rights conferred on Belgium by international law . . . and also violate the obligations which Senegal must fulfil".

220. Public hearings were held from 6 to 8 April 2009 to hear the oral observations of the Parties on the request for the indication of provisional measures submitted by Belgium.

221. At the close of the hearings, Belgium asked the Court to indicate the following provisional measures: "the Republic of Senegal is requested to take all the steps within its power to keep Mr. Hissène Habré under the control and surveillance of the Senegalese authorities so that the rules of international law with which Belgium requests compliance may be correctly applied". For its part, Senegal asked the Court "to reject the provisional measures requested by Belgium".

On 28 May 2009, the Court gave its decision on the request for the indication of provisional measures submitted by Belgium.

222. The operative clause of the Order of 28 May 2009 reads as follows:

"For these reasons,

THE COURT,

By thirteen 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* Owada; *Judges* Shi, Koroma, Al-Khasawneh, Simma, Abraham, Sepúlveda-Amor, Bennouna, Skotnikov, Yusuf, Greenwood; *Judges* ad hoc Sur, Kirsch;

AGAINST: *Judge* Cançado Trindade."

223. Judges Koroma and Yusuf appended a joint declaration to the Order of the Court; Judges Al-Khasawneh and Skotnikov appended a joint separate opinion to the Order; Judge Cançado Trindade appended a dissenting opinion to the Order; Judge *ad hoc* Sur appended a separate opinion to the Order.

224. By an order of 9 July 2009, the Court fixed 9 July 2010 as the time-limit for the filing of a Memorial by the Kingdom of Belgium and 11 July 2011 as the time-limit for the filing of a Counter-Memorial by the Republic of Senegal.

C. Pending advisory proceedings during the period under review

Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo

225. On 8 October 2008, the General Assembly of the United Nations adopted resolution A/RES/63/3 in which, referring to Article 65 of the Statute of the Court, it requested the International Court of Justice to render an advisory opinion on the following question: "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?"

226. The Request for an Advisory Opinion was transmitted to the Court by the Secretary-General of the United Nations in a letter dated 9 October 2008 which was filed with the Registry on 10 October 2008.

227. By an Order dated 17 October 2008, the Court decided that "the United Nations and its Member States are considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion". It fixed 17 April 2009 as the

time-limit within which written statements on the question could be presented to the Court and 17 July 2009 as the time-limit within which States and organizations having presented written statements could submit written comments on the other statements.

228. The Court also decided that "taking account of the fact that the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo of 17 February 2008 is the subject of the question submitted to the Court for an advisory opinion, the authors of the above declaration are considered likely to be able to furnish information on the question", and therefore decided "to invite them to make written contributions to the Court within the above time-limits".

229. Written statements were filed within the time-limit fixed by the Court for that purpose by (in order of receipt): the Czech Republic, France, Cyprus, China, Switzerland, Romania, Albania, Austria, Egypt, Germany, Slovakia, the Russian Federation, Finland, Poland, Luxembourg, the Libyan Arab Jamahiriya, the United Kingdom, the United States of America, Serbia, Spain, the Islamic Republic of Iran, Estonia, Norway, the Netherlands, Slovenia, Latvia, Japan, Brazil, Ireland, Denmark, Argentina, Azerbaijan, Maldives, Sierra Leone and Bolivia. Venezuela filed a written statement on 24 April 2009; the Court agreed to the filing of this written statement after the expiry of the time-limit. The authors of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo filed a written contribution within the time-limit fixed by the Court.

230. Written comments on the other written statements were filed within the time-limit fixed by the Court for that purpose by (in order of receipt): France, Norway, Cyprus, Serbia, Argentina, Germany, the Netherlands, Albania, Slovenia, Switzerland, Bolivia, the United Kingdom, the United States of America and Spain. The authors of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo filed a written contribution within the same time-limit.

231. The Court has announced that public hearings on the question of the *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo* (request for advisory opinion) will open on 1 December 2009.

D. Amendment and Adoption of Practice Directions

232. As part of the ongoing review of its procedures and working methods, the Court revised Practice Directions III and VI and adopted new Practice Direction XIII on 30 January 2009. It should be noted that Practice Directions, first adopted in October 2001, involve no alteration to the Rules of Court, but are additional thereto.

233. Practice Direction III, as amended, requires the parties not only to "append to their pleadings only strictly selected documents" but also urges them "to keep written pleadings as concise as possible, in a manner compatible with the full presentation of their positions". In Practice Direction VI the Court reiterates the need to keep oral pleadings as brief as possible, in compliance with Article 60, paragraph 1, of the Rules of Court, and more specifically requests parties to focus, in the first round of oral proceedings, "on those points which have been raised by one party at the stage of written proceedings but which have not so far been adequately addressed by the other, as well as on those which each party wishes to emphasize by way of winding up its arguments". New Practice Direction XIII gives guidance to the parties as to how their views with regard to questions of procedure can be ascertained, under Article 31 of the Rules.

234. The full texts of revised Practice Directions III and IV and new Practice Direction XIII are printed below:

"*Practice Direction III*

The parties are strongly urged to keep the written pleadings as concise as possible, in a manner compatible with the full presentation of their positions.

In view of an excessive tendency towards the proliferation and protraction of annexes to written pleadings, the parties are also urged to append to their pleadings only strictly selected documents."

"*Practice Direction VI*

The Court requires full compliance with Article 60, paragraph 1, of the Rules of Court and observation of the requisite degree of brevity in oral pleadings. In that context, the Court will find it very helpful if the parties focus in the first round of the oral proceedings on those points which have been raised by one party at the stage of written proceedings but which have not so far been adequately addressed by the other, as well as on those

which each party wishes to emphasize by way of winding up its arguments. Where objections of lack of jurisdiction or of inadmissibility are being considered, oral proceedings are to be limited to statements on the objections."

"*Practice Direction XIII*

The reference in Article 31 of the Rules of Court to ascertaining the views of the parties with regard to questions of procedure is to be understood as follows:

— After the initial meeting with the President, and in the context of any further ascertainment of the parties' views relating to questions of procedure, the parties may, should they agree on the procedure to be followed, inform the President by letter accordingly.

— The views of the parties as to the future procedure may also, should they agree, be ascertained by means of a video or telephone conference."

Chapter VI.
Visits to the Court

235. In the period covered by this report, the Court was paid a visit on 21 January 2009 by His Excellency Dr. Boni Yayi, President of the Republic of Benin. President Boni Yayi was greeted by the President of the Court, Judge Rosalyn Higgins, and by the Registrar, Mr. Philippe Couvreur. President Higgins introduced him to Judges Ranjeva, Abraham and Bennouna, who sat in the Chamber which dealt with the case concerning the *Frontier Dispute (Benin/Niger)*. The Registrar introduced him to senior officials of the Registry and to two Beninese nationals working for the Court. His Excellency Dr. Boni Yayi then participated in a meeting with the Members of the Court present on the activities of the ICJ.

236. On 1 April 2009, the Secretary-General of the United Nations, H.E. Mr. Ban Ki-moon, held a working breakfast in the "Judges' Restaurant" at the Peace Palace, the seat of the Court, for the Presidents of the International Court of Justice (represented by the senior judge), the International Criminal Tribunal for the former Yugoslavia, the International Criminal Court, the Special Tribunal for Sierra Leone and the Special Tribunal for Lebanon.

237. On 22 April 2009, H.M. King Carl XVI Gustaf of Sweden visited the Peace Palace for a discussion with the President of the Court, the President of the International Criminal Court, the Vice-President of the International Criminal Tribunal for the former Yugoslavia and the Secretary-General of the Permanent Court of Arbitration. This was a short and strictly private working visit, included at the request of the Swedish sovereign in the programme for the State visit which he was making to the Netherlands at the time. H.M. the King wished to meet these key figures at the Palace to hear briefly about the activities of the institutions they represent and about the challenges which these are facing.

238. In addition, during the period under review, the President and Members of the Court, as well as the Registrar and Registry officials, welcomed a large number of dignitaries, including members of governments, diplomats, parliamentary representatives, presidents and members of judicial bodies and other senior officials, to the seat of the Court.

239. A noticeable development has been the increasingly frequent wish of leading national and regional courts to come to the Court for an exchange of ideas and views. The Court has

also pursued electronic exchanges of information with a range of other courts and tribunals.

240. Many visits were also made by national judges, senior legal officials, researchers, academics, lawyers and other members of the legal profession, and journalists. For many of these, presentations were made by the President, Members of the Court, the Registrar or Registry officials.

241. Lastly, on Sunday 21 September 2008, the Court welcomed a thousand or so visitors as part of the "Open Day at the International Organizations" held in The Hague in order to introduce Dutch citizens and the expatriate community to the institutions based in the city. This was the first time that the Court had taken part in such an event.

Chapter VII
Publications, documents and website of the Court

242. 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 these publications is organized chiefly by the sales and marketing sections of the United Nations Secretariat in New York and Geneva. A catalogue published in English and French is distributed free of charge. A revised and updated version of the catalogue, containing the new 13-digit ISBN references, was published at the end of June 2009.

243. 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* and the *Bibliography* of works and documents relating to the Court. At the time of preparation of this report, the three bound volumes of *Reports 2004* and the bound volumes of *Reports 2005* and *2006* had been printed, while the two bound volumes of *Reports 2007* will appear as soon as the index has been printed. The *Yearbook 2005-2006* was printed during the period in question, while the *Yearbooks 2006-2007* and *2007-2008* were being finalized. The *Bibliography of the International Court of Justice*, No. 54 was in preparation.

244. The Court also prepares bilingual printed versions of the instruments instituting proceedings in contentious cases before it (applications instituting proceedings and special agreements), as well as requests for an advisory opinion. In the period covered by this report, the Court received one request for an advisory opinion, which has already been printed, and four applications instituting proceedings, which are currently being printed.

245. The pleadings in each case are published by the Court after the end of the proceedings, in the series *Pleadings, Oral Arguments, Documents*. These volumes, which now contain the full texts of the written pleadings, including annexes, as well as the verbatim reports of the public hearings, enable practitioners to appreciate fully the arguments developed by the parties. Several volumes in this series are currently at various stages of production.

246. In the series *Acts and Documents concerning the Organization of the Court*, the Court also publishes the instruments governing its functioning and practice. The most recent edition, No. 6, which was completely updated and

includes the practice directions adopted by the Court, was published in 2007. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. Unofficial translations of the Rules (without the amendments of 5 December 2000) are also available in Arabic, Chinese, German, Russian and Spanish.

247. The Court distributes press releases, summaries of its decisions, and a handbook. The fifth edition of this handbook ("Blue Book") was issued in January 2006 in the Court's two official languages, English and French. A general information booklet on the Court ("Green Book"), produced in Arabic, Chinese, Dutch, English, French, Russian and Spanish editions, has also been published. In addition, a special publication, *The Illustrated Book of the International Court of Justice*, was issued in English and French in 2006.

248. In order to increase and expedite the availability of Court documents and reduce communication costs, the Court launched a dynamic, revamped and enhanced version of its website in 2007.

249. User-friendly, with a powerful search engine, the new site makes it possible to access the Court's entire jurisprudence since 1946, as well as that of its predecessor, the Permanent Court of International Justice, along with the principal documents from the written and oral proceedings of various cases, press releases, some basic documents (Charter of the United Nations, Statute and Rules of the Court and Practice Directions), declarations recognizing the Court's compulsory jurisdiction and a list of treaties and other agreements relating to that jurisdiction, general information on the Court's history and procedure, biographies of the judges and the Registrar, information on the organization and functioning of the Registry, and a catalogue of publications. The site includes a calendar of events and hearings, and online admission forms for groups wishing to attend hearings or presentations on the activities of the Court. It also has pages concerning vacancy announcements and internship opportunities. Finally, a virtual press room has been set up. A photo gallery is available, from which digital photos can be downloaded free of charge for non-commercial use. In the future, audio and video material from hearings and readings of decisions will be accessible. The site is available in the two official languages of the Court. Given the Court's worldwide scope, efforts have been made to ensure that as many documents as possible can also be consulted in the four other official languages of the United Nations. The website can be visited at *www.icj-cij.org*.

Chapter VIII
Finances of the Court

A. Method of covering expenditure

250. In accordance with Article 33 of the Statute of the Court, "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 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.

251. 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 recorded as United Nations income.

B. Drafting of the budget

252. In accordance with Articles 26 to 30 of the Instructions for the Registry, 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.

253. Once 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 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 decisions concerning the budget of the United Nations.

C. Financing of appropriations and accounts

254. 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 Subcommittee on Rationalization, the Registrar now communicates every three months a statement of accounts to the Budgetary and Administrative Committee of the Court.

255. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly and, periodically, by the internal auditors 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 2008-2009

256. Regarding the budget for the 2008-2009 biennium, the Court is pleased to note that its requests for new posts were accepted in part. The presence of a second P-5 official in the Department of Legal Matters has enabled the Registry to fulfil more effectively, to the requisite standard of quality and within the time-limits, its numerous responsibilities in support of the administration of justice. The Court was also granted three of the nine law clerk posts that it requested, which has to a certain extent facilitated the exercise of its judicial duties. Finally, a temporary post of indexer/bibliographer was added to the staff of the Library of the Court.

Budget for the biennium 2008-2009
(United States dollars, after re-costing)

Programme		
Members of the Court		
0311025	Allowances for various expenses	852,400
0311023	Pensions	3,440,900
0393909	Duty allowance: judges ad hoc	863.700
2042302	Travel on official business	42,300
0393902	Emoluments	7,619,200
Subtotal		**12,818,500**
Registry		
0110000	Established posts	14,202,000
0170000	Temporary posts for the biennium	2,696,600
0200000	Common staff costs	7,094,300
0211014	Representation allowance	7,200
1210000	Temporary assistance for meetings	1,973,600
1310000	General temporary assistance	223,500
1410000	Consultants	141,400
1510000	Overtime	103,200
2042302	Official travel	40,800
0454501	Hospitality	20,700
Subtotal		**26,503,300**
Programme Support		
3030000	External translation	277,400
3050000	Printing	715,300
3070000	Data-processing services	377,300
4010000	Rental/maintenance of premises	3,413,700
4030000	Rental of furniture and equipment	61,300
4040000	Communications	286,300
4060000	Maintenance of furniture and equipment	234,800
4090000	Miscellaneous services	28,200
5000000	Supplies and materials	300,000
5030000	Library books and supplies	196,600
6000000	Furniture and equipment	177,600

Programme		
6025041	Acquisition of office automation equipment	64,400
6025042	Replacement of office automation equipment	237,700
6040000	Replacement of the Court's vehicles	45,300
Subtotal		**6,415,900**
Total		**45,737,700**

257. More comprehensive information on the work of the Court during the period under review will be found in the *Yearbook 2008-2009*, which will be issued at a later date.

(Signed) Hisashi OWADA,
President of the International
Court of Justice.

The Hague, 1 August 2009.

Annex

International Court of Justice: Organizational structure and post distribution as at 31 July 2009