United Nations

Report of the International Court of Justice

1 August 2012-31 July 2013

General Assembly

Official Records
Sixty-eighth Session
Supplement No. 4

General Assembly
Official Records
Sixty-eighth Session
Supplement No. 4

Report of the International Court of Justice

1 August 2012-31 July 2013

United Nations • New York, 2013

Note

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

ISSN 0251-8473

[1 August 2013]

Contents

Chapter I
Summary

Brief overview of the judicial work of the Court

1. During the 2012/2013 judicial year, the International Court of Justice was once again particularly active. Over this period, as part of its primary function, which is to decide in accordance with international law such disputes as are submitted to it by States, it held public hearings in the following four cases (in chronological order):

Frontier Dispute (Burkina Faso/Niger) (see paras. 165-169 below);

Maritime Dispute (Peru v. *Chile)* (see paras. 133-140 below);

Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia *v.* Thailand) *(Cambodia* v. *Thailand)* (see paras. 191-206 below); and

Whaling in the Antarctic (Australia v. *Japan)* (see paras. 150-164 below).

2. During the same period, the Court delivered two judgments, in the following cases (in chronological order):

Territorial and Maritime Dispute (Nicaragua v. *Colombia)* (see paras. 114-132 below);

Frontier Dispute (Burkina Faso/Niger) (see paras. 165-169 below).

3. It also handed down six orders (in chronological order):

- by an order of 6 February 2013, the Court authorized New Zealand to intervene in the case concerning *Whaling in the Antarctic (Australia* v. *Japan)* (see paras. 150-164 below);
- by two separate orders dated 17 April 2013, the Court joined the proceedings in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)* (see paras. 170-190 below) and in the case concerning the *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)* (see paras. 207-216 below);
- by an order dated 18 April 2013, the Court ruled on the four counterclaims submitted by Nicaragua in its counter-memorial filed in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)* (see paras. 170-190 below);
- by an order dated 12 July 2013, the Court nominated three experts who will assist the Parties in the operation of demarcation of their common frontier in the disputed area, pursuant to article 7, paragraph 4, of the Special Agreement concluded between the Parties on 24 February 2009 and to paragraph 113 of the Judgment delivered by the Court on 16 April 2013 in the case concerning the *Frontier Dispute (Burkina Faso/Niger)* (see paras. 165-169 below); and
- by an order dated 16 July 2013, the Court ruled on the requests submitted by Costa Rica and Nicaragua, respectively, for the modification of the provisional measures indicated by the Court on 8 March 2011 in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)* (see paras. 170-190) below.

4. During the period under review, the Court was seized of one new contentious case: Bolivia instituted proceedings against Chile concerning a dispute in relation to "Chile's obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean" (see paras. 217-224 below).

5. At 31 July 2013, the number of contentious cases on the Court's List stood at 10.[1] They came from all over the world: five were between Latin American States, two between European States, one between African States and one between Asian States, while one was intercontinental in character.

6. Those cases involved a wide variety of subject matters, such as territorial and maritime disputes, environmental damage and conservation of living resources, violation of territorial integrity, violation of international humanitarian law and human rights, genocide, interpretation and application of international conventions and treaties, and interpretation of the Court's judgments.

7. On 25 September 2012, Equatorial Guinea filed in the Registry of the Court a document, with annexes, entitled "Application instituting proceedings including request for provisional measures", seeking in particular the annulment by the Government of the French Republic of the proceedings and investigative measures against two high officials of the Republic of Equatorial Guinea. In this document, Equatorial Guinea asserts that those procedural actions violate the principles of equality between States, non-intervention, sovereignty and respect for immunity from criminal jurisdiction. Equatorial Guinea asks the Court "to put an end to these breaches of international law" by ordering France, inter alia, to "bring a halt to [the] criminal proceedings" and to "take all measures necessary to nullify the effects" of the corresponding arrest warrant. By way of "provisional measures", Equatorial Guinea requests the Court, in particular, to "order … the return … of the property and premises … belonging to the Republic of Equatorial Guinea" and seized by the French judges in the context of the investigation. Pursuant to article 38, paragraph 5, of the Rules of Court, Equatorial Guinea proposes to found the Court's jurisdiction to settle this dispute "on the consent of the French Republic, which will certainly be given". In accordance with article 38, paragraph 5, of the Rules of Court, a copy of the above-mentioned document received from Equatorial Guinea has been transmitted to the Government of France. No action shall be taken in the proceedings and the case shall not be entered in the General List unless and until France consents to the Court's jurisdiction in this case.

8. 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, for example: the

[1] The Court delivered its judgment in the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* on 25 September 1997. The case nevertheless technically remains pending, given that, in September 1998, Slovakia filed a request for an additional judgment. Hungary filed a written statement of its position on the request 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 the implementation of the 1997 Judgment and have informed the Court on a regular basis of the progress made.
The Court delivered its judgment in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)* on 19 December 2005. This case also technically remains pending, in the sense that the Parties could again turn to the Court, as they are entitled to do under the judgment, to decide the question of reparation if they are unable to agree on this point.

filing of preliminary objections by respondents to jurisdiction or admissibility; the submission of requests for the indication of provisional measures, which have to be dealt with as a matter of urgency; and applications for permission to intervene and declarations of intervention filed by third States.

9. With regard to the Court's other function, which is to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies, no request was made during the period under review.

Continuation of the sustained level of activity of the Court

10. The judicial year 2012/2013 was a busy one, four cases having been under deliberation, and the year 2013/2014 will also be full. In this connection, the Court has already announced that the oral proceedings in the case concerning *Aerial Herbicide Spraying (Ecuador* v. *Colombia)* will open on 30 September 2013. The Court also informed the parties to the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)* that it intended to hold hearings in that case early in 2014.

11. The sustained level of activity on the part of the Court has been made possible thanks to a significant number of steps it has taken over recent years to enhance its efficiency and thereby enable it to cope with the steady increase in its workload. The Court continually re-examines its procedures and working methods. As part of this process, during the period under review, it adopted a new Practice Direction for use by States, Practice Direction IXquater, with a view to clarifying the procedure to be followed by any party wishing to present audiovisual or photographic material at the hearings which was not previously included in the case file during the written phase.

12. Moreover, the Court sets itself a particularly demanding schedule of hearings and deliberations, in order that it may consider several cases at the same time and deal as promptly as possible with incidental proceedings, which are tending to grow in number (requests for the indication of provisional measures, preliminary measures, counterclaims, applications for permission to intervene and declarations of intervention). Over the past year, the Registry maintained the high level of effectiveness and quality that makes its support essential to the proper functioning of the Court. Thanks to the hard work of the Court, States considering coming to the principal judicial organ of the United Nations can be confident that the cases that they intend to bring before the Court will be decided in a timely manner, taking account of the particular aspects of each case.

13. The Court welcomes the reaffirmed confidence that States have shown in its ability to resolve their disputes. The Court will give the same meticulous and impartial attention to future cases coming before it in the 2013/2014 judicial year as it always has in the past.

Promoting the rule of law

14. At the high-level meeting of the General Assembly on the rule of law at the national and international levels, held on 24 September 2012, the President of the Court, Judge Peter Tomka, recalled that "[t]he Court — through its activities — is an important agent for upholding and promoting the rule of law at the international level, in relations between States". He welcomed the burgeoning recourse to the Court, while regretting the fact that only slightly more than one third of the States

Members of the United Nations had made a declaration under Article 36, paragraph 2, of the Statute recognizing "as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes".

15. In this regard, the Court welcomes the fact that, by resolutions 67/1 of 24 September 2012 and 67/97 of 14 December 2012, the General Assembly called upon States that had not yet done so to consider accepting the compulsory jurisdiction of the Court on that basis.

16. 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. Everything the Court 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 Charter of the United Nations, and thus contributes to promoting and clarifying international law. It also ensures the greatest possible global awareness of its decisions through its publications, its multimedia offerings and its website, which now features its entire jurisprudence as well as that of its predecessor — the Permanent Court of International Justice — and which provides useful information for States wishing to submit a potential dispute to the Court.

17. The President and members of the Court, the Registrar, as well as the Registry's Information Department and its Department of Legal Matters, regularly give presentations and take part in legal forums, both at home and abroad, on the functioning of the Court, its procedure and its jurisprudence.

18. The Court receives a very large number of visitors every year. In particular, it receives Heads of State and other official delegations from various countries with an interest in its work. Finally, it pays particular attention to young people: it participates in events organized by universities and offers internship programmes enabling students from various backgrounds to familiarize themselves with the institution and thereby further their knowledge of international law.

Human resources: establishment of posts

19. The Court is grateful to the General Assembly for the posts it has approved for the current biennium. In its budget submission for the biennium 2012-2013, the Court had sought the establishment of a P-3 security specialist post, an information security assistant post in the General Service category and a publications assistant post in the General Service category within the Publications Division. The Assembly decided to award these three posts to the Court for the current biennium and they have been filled. In particular, this has allowed all aspects of the Court's security to be strengthened and its publications to appear at a faster rate.

Modernization of the Great Hall of Justice in the Peace Palace

20. During the period under review, the Carnegie Foundation, which owns the Peace Palace, completed the renovation of the Great Hall of Justice (the courtroom), where it has been possible to install all of the equipment whose funding was approved by the General Assembly at the end of 2009 and which was purchased by the Court in December 2011. As a result, since April 2013, the Court has held its public hearings in the refurbished Great Hall of Justice, with more modern equipment at its disposal.

Pension scheme for members of the Court

21. In 2012, by means of a letter from its President addressed to the President of the General Assembly, accompanied by an explanatory memorandum (A/66/726), the Court expressed its deep concern to the General Assembly regarding certain proposals made by the Secretary-General relating to the pension scheme for judges (see A/67/4, paras. 26-30). In particular, it highlighted the serious issues raised by the proposals from the perspective of the integrity of its Statute and the equality of its members.

22. The Court is grateful to the General Assembly for the special attention it has paid to the issue and the decision it took (66/556 B), on the recommendation of its Fifth Committee (A/66/638/Add.1, para. 18), to allow itself time for reflection and to defer until its sixty-eighth session consideration of the issue. The Court is convinced that the Assembly will, in its wisdom, fully appreciate the important points of principle raised by the proposed reform and, at the same time, recognize that the resulting long-term savings would be marginal.

Chapter II
Organization of the Court

A. Composition

23. The International Court of Justice 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 Court's seats falls vacant. The next elections to fill such vacancies will be held in the last quarter of 2014.

24. The President and the Vice-President are elected by the members of the Court every three years by secret ballot. The President presides at all meetings of the Court; he/she directs its work and supervises its administration. During judicial deliberations, the President has a casting vote in the event of votes being equally divided. The Vice-President replaces the President in his/her absence, in the event of his/her inability to exercise his/her duties, or in the event of a vacancy in the presidency.

25. At 31 July 2013, the composition of the Court was as follows: President: Peter Tomka (Slovakia); Vice-President: Bernardo Sepúlveda-Amor (Mexico); Judges: Hisashi Owada (Japan), Ronny Abraham (France), Kenneth Keith (New Zealand), Mohamed Bennouna (Morocco), Leonid Skotnikov (Russian Federation), Antônio Augusto Cançado Trindade (Brazil), Abdulqawi Ahmed Yusuf (Somalia), Christopher Greenwood (United Kingdom of Great Britain and Northern Ireland), Xue Hanqin (China), Joan E. Donoghue (United States of America), Giorgio Gaja (Italy), Julia Sebutinde (Uganda) and Dalveer Bhandari (India).

26. The Registrar of the Court is Philippe Couvreur, of Belgian nationality. On 11 February 2013, the Court elected Jean-Pelé Fomété, of Cameroonian nationality, to the post of Deputy-Registrar for a term of seven years as from 16 March 2013.

27. In accordance with Article 29 of the Statute, the Court annually forms a Chamber of Summary Procedure, which, at 31 July 2013, was constituted as follows:

Members

President Tomka
Vice-President Sepúlveda-Amor
Judges Yusuf, Xue and Donoghue

Substitute members

Judges Skotnikov and Gaja.

28. The Court also constituted committees to facilitate the performance of its administrative tasks. At 31 July 2013, they were composed as follows:

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

(b) Rules Committee: Judge Abraham (Chair) and Judges Keith, Skotnikov, Cançado Trindade, Donoghue and Gaja;

(c) Library Committee: Judge Bennouna (Chair) and Judges Cançado Trindade, Gaja and Bhandari.

29. In accordance with Article 31 of the Statute, parties that have no judge of their nationality on the Bench may choose an ad hoc judge for the purposes of the case that concerns them.

30. The number of judges ad hoc chosen by States parties during the period under review was 19, with these functions being carried out by 14 individuals (the same person is on occasion appointed to sit as judge ad hoc in more than one different case).

31. 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 Joe Verhoeven and Uganda, James L. Kateka to sit as judges ad hoc. Following the election of Julia Sebutinde, of Ugandan nationality, as a member of the Court with effect from 6 February 2012, the term of office of Mr. Kateka came to an end.

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

33. In the case concerning the *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*, Nicaragua chose Mohammed Bedjaoui to sit as judge ad hoc; following the latter's resignation, it chose Giorgio Gaja; then, following the latter's election as a member of the Court, it chose Thomas A. Mensah.[2] Colombia chose Yves L. Fortier to sit as judge ad hoc; following the latter's resignation, it chose Jean-Pierre Cot.

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

35. In the case concerning *Aerial Herbicide Spraying (Ecuador* v. *Colombia)*, Ecuador chose Raúl Emilio Vinuesa and Colombia, Jean-Pierre Cot to sit as judges ad hoc.

36. In the case concerning *Whaling in the Antarctic (Australia* v. *Japan)*, Australia chose Hilary Charlesworth to sit as judge ad hoc.

37. In the case concerning the *Frontier Dispute (Burkina Faso/Niger)*, Burkina Faso chose Jean-Pierre Cot to sit as judge ad hoc. Following the latter's resignation, Burkina Faso chose Yves Daudet. Niger chose Ahmed Mahiou to sit as judge ad hoc.

38. In the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)*, Costa Rica chose John Dugard and Nicaragua, Gilbert Guillaume to sit as judges ad hoc.

39. In the case concerning the *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the* Temple of Preah Vihear (Cambodia *v.* Thailand) *(Cambodia* v. *Thailand)*, Cambodia chose Gilbert Guillaume and Thailand, Jean-Pierre Cot to sit as judges ad hoc.

40. In the case concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)*, Nicaragua chose Gilbert Guillaume and Costa Rica, Bruno Simma to sit as judges ad hoc. Further to the Court's decision to

[2] In view of that choice, Judge Gaja considered that it seemed appropriate for him, as the former judge ad hoc chosen by Nicaragua, not to take part in any further proceedings concerning the case.

join the proceedings in this case and in that concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)*, Mr. Simma resigned.

B. Privileges and immunities

41. Under Article 19 of the Statute of the Court, "[t]he Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities".

42. In the Netherlands, pursuant to an exchange of letters dated 26 June 1946 between the President of the Court and the Minister for Foreign Affairs, the members of the Court enjoy, generally, the same privileges, immunities, facilities and prerogatives as heads of diplomatic missions accredited to His Majesty the King of the Netherlands (*I.C.J. Acts and Documents No. 6*, pp. 204-211 and pp. 214-217).

43. By resolution 90 (I) of 11 December 1946 (ibid., pp. 210-215), the General Assembly approved the agreements concluded between the International Court of Justice and the Government of the Netherlands in June 1946 and recommended the following: 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 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.

44. In the same resolution, the General Assembly recommended that the authorities of Members of the United Nations should recognize and accept the laissez-passer issued by the Court to the judges. Such laissez-passer have been produced by the Court since 1950. They are similar in form to those issued by the Secretary-General.

45. 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".

C. Seat

46. 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, Article 22, para. 1; Rules, Article 55). The Court has never held sittings outside The Hague so far.

47. 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 subsequent amendments. The annual contribution by the United Nations to the Carnegie Foundation amounts to €1,264,152 for 2012 and to €1,292,595 for 2013. Negotiations are currently under

way between United Nations Headquarters and the Carnegie Foundation for a further amendment to the agreement, in particular concerning the extent and quality of the areas reserved for the Court, security of persons and property and the level of services provided by the Foundation.

Chapter III
Role and jurisdiction of the Court

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

A. Jurisdiction in contentious cases

49. 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 2013, 193 States were parties to the Statute of the Court.

50. Seventy States have now made a declaration (some 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, Ireland, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malta, Marshall Islands, Mauritius, Mexico, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Senegal, Slovakia, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Timor-Leste, 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, under the heading "Jurisdiction").

51. Further, more than 300 bilateral or multilateral treaties or conventions provide for the Court to have jurisdiction in the resolution of disputes concerning their application or interpretation. A representative list of those treaties and conventions may also be found on the Court's website (under the heading "Jurisdiction"). The Court's jurisdiction *ratione materiae* can also be founded, in the case of a specific dispute, on a special agreement concluded between the States concerned. Finally, when submitting a dispute to the Court, a State 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 gives its consent, the Court's jurisdiction is established on the date that this consent is given (this situation is known as *forum prorogatum*).

B. Jurisdiction in advisory proceedings

52. The Court also gives advisory opinions. In addition to two United Nations organs (General Assembly and Security Council) that are authorized to request advisory opinions of the Court "on any legal question" (Article 96, para. 1, of the Charter), three other United Nations organs (Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly) and the following organizations are at present authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities (Article 96, para. 2, of the Charter):

International Labour Organization

Food and Agriculture Organization of the United Nations

United Nations Educational, Scientific and Cultural Organization

International Civil Aviation Organization

World Health Organization

World Bank

International Finance Corporation

International Development Association

International Monetary Fund

International Telecommunication Union

World Meteorological Organization

International Maritime Organization

World Intellectual Property Organization

International Fund for Agricultural Development

United Nations Industrial Development Organization

International Atomic Energy Agency

53. A list of the international instruments that make provision for the advisory jurisdiction of the Court is available on the Court's website (under the heading "Jurisdiction").

Chapter IV
Registry

54. The Court is the only principal organ of the United Nations to have its own administration (see Article 98 of the Charter). The Registry is the permanent international secretariat of the Court. Its role is defined by the Statute and the Rules of Court (in particular Articles 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 a permanent administrative organ. The Registry's activities are thus administrative, as well as judicial and diplomatic. The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar. An organizational chart of the Registry is contained in the annex to the present report.

55. The duties of the Registry are set out in detail in instructions drawn up by the Registrar and approved by the Court (see Rules, Article 28, paras. 2 and 3). The version of the Instructions for the Registry which is currently in force was adopted by the Court in March 2012 (see A/67/4, para. 66).

56. 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 Article 28 of the Rules). The most recent amendments made to those Regulations date from March 2011 and March 2012 (see A/67/4, para. 70). 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.

57. Over the last 20 years, the Registry's workload, notwithstanding the adoption of new technologies, has grown considerably on account of the substantial increase in the number of cases brought before the Court and of the incidental proceedings instituted as part of those cases, as well as of the mounting complexity of the latter.

58. The total number of posts at the Registry is at present 120, namely, 60 posts in the Professional category and above (all permanent posts) and 60 in the General Service category (of which 58 are permanent and 2 are temporary posts for the biennium).

59. Further to the adoption by the United Nations of a new internal justice system, the specific appeals system for Registry staff members had to be restructured slightly. In 1998, the Court recognized the jurisdiction of the United Nations Administrative Tribunal; this has been replaced in the new system by the United Nations Appeals Tribunal. By means of an exchange of letters, over the period from 20 April to 10 June 2011, between the President of the Court and the Secretary-General of the United Nations, the Court has provisionally recognized the jurisdiction of the Appeals Tribunal to rule on applications by Registry staff members in circumstances similar to those in which it had previously recognized the jurisdiction of the United Nations Administrative Tribunal (failure of internal conciliation proceedings).

A. The Registrar

60. The Registrar is responsible for all departments and divisions of the Registry, of which he is the head. In the discharge of his functions the Registrar is responsible to the Court. His role is threefold: judicial, diplomatic and administrative.

61. The Registrar's judicial duties notably include those relating to the cases submitted to the Court. The Registrar is responsible, among other things, for the following tasks: (a) keeping the General List of all cases and for recording documents in the case files; (b) managing the proceedings in the cases; (c) being present in person, or being represented by the Deputy-Registrar, at meetings of the Court and of Chambers; providing any assistance required, including the preparation of reports or minutes of such meetings; (d) signing all judgments, advisory opinions and orders of the Court, as well as minutes; (e) maintaining relations with the parties to a case, with specific responsibility for the receipt and transmission of certain documents, most importantly, applications and special agreements, as well as all written pleadings; (f) ensuring the translation, printing and publication of the Court's judgments, advisory opinions and orders, the pleadings, written statements and minutes of the public sittings in every case, and of such other documents as the Court may direct to be published; and (g) maintaining custody of the seals and stamps of the Court, the archives of the Court, and such other archives as may be entrusted to the Court (including the archives of the Permanent Court of International Justice and of the Nuremberg International Military Tribunal).

62. The Registrar's diplomatic duties include the following tasks: (a) attending to the Court's external relations and acting as the channel of communication to and from the Court; (b) managing external correspondence, including that relating to cases, and provides any consultations required; (c) managing relations of a diplomatic nature, in particular with the organs and the States Members of the United Nations, with other international organizations and with the Government of the country in which the Court has its seat; (d) maintaining relations with the local authorities and with the press; and (e) being responsible for information concerning the Court's activities and for the Court's publications, as well as for press releases, among other things.

63. The Registrar's administrative duties include: (a) the Registry's internal administration; (b) financial management, in accordance with the financial procedures of the United Nations, and in particular preparing and implementing the budget; (c) supervision of all administrative tasks and of printing; and (d) making arrangements for such provision or verification of translations and interpretations into the Court's two official languages (English and French) as the Court may require.

64. Pursuant to the exchange of letters and General Assembly resolution 90 (I) as referred to in paragraphs 43 and 44 above, the Registrar is accorded the same privileges and immunities as heads of diplomatic missions in The Hague and, on journeys to third States, all the privileges, immunities and facilities granted to diplomatic envoys.

65. The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence.

B. Substantive divisions and units of the Registry

1. Department of Legal Matters

66. 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 acts as secretariat to the drafting committees, which prepare the Court's draft decisions. The Department also acts as secretariat to the Rules Committee. It carries out research in international law, examining judicial and procedural precedents, and prepares all 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. Further, it draws up the minutes of the Court's meetings. Finally, the Department may be consulted on any legal questions relating to external contracts and to the terms of employment of Registry staff.

2. Department of Linguistic Matters

67. The Department of Linguistic Matters, composed of 17 posts in the Professional category and one in the General Service category, is primarily responsible for all translation and interpretation tasks, to and from English and French, as required for the functioning of the Court. The Department is also responsible for providing the judges with any linguistic support they may need. The Court works equally in its two official languages at all stages of its activity.

68. Documents to be translated include: case pleadings and other communications from States, organs or organizations appearing before the Court; verbatim records of hearings; draft judgments, advisory opinions and orders of the Court, together with their various working documents; judges' notes and their opinions and declarations appended to judgments, advisory opinions and orders; minutes of meetings of the Court and of its committees; internal reports, notes, studies, memorandums and directives; speeches by the President and judges to outside bodies; reports and communications to the Secretariat, etc.

69. 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.

70. Following the creation, in 2000, of 12 translator and translator/reviser posts within the Department, there was initially a substantial decrease in recourse to outside translators. However, in view of the increase in the Court's workload, the need for external support has begun to rise again. The Department has done its best to make use of home translation (paid by the word and traditionally less expensive than bringing freelance translators in to work in the Registry on temporary contracts) and remote translation (performed by other language services within the United Nations system). Nevertheless, recourse to temporary assistance is still significant and may be a source of increased spending in the future, even though a part of this temporary assistance is provided remotely, through "off-site" contracts, which have the advantage of avoiding the need for the Court to pay subsistence allowances.

71. In respect of interpretation, outside interpreters are almost exclusively used for Court hearings and deliberations; 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, the Department has initiated a programme to train translators as interpreters; one English-to-French translator has received training in interpretation and has been interpreting at the requisite Professional level for three years.

3. Information Department

72. 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 draft documents containing general information on the latter and encouraging and assisting the media to report on the work of the Court (for example, by developing new communications products, particularly in the audiovisual field). The Department gives presentations on the Court to various interested audiences (diplomats, lawyers, students and others) and ensures that the Court's website is kept up to date. Its duties also extend to internal communication.

73. 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. On those occasions it serves as a protocol office.

4. Administrative and Personnel Division

74. The Administrative and Personnel Division, currently composed of two posts in the Professional category and two in the General Service category, is responsible for the various duties related to administration and staff management, including planning and implementation of staff recruitment, appointments, promotions, training and separation from service. In this context, it ensures observance of the Staff Regulations for the Registry and of those United Nations Staff Regulations and Rules which the Court has determined to be applicable. As part of its recruitment tasks, the Division prepares vacancy announcements, reviews applications, arranges interviews for the selection of candidates, prepares contracts for successful candidates and handles the intake of new staff members. The Division also administers staff entitlements and various benefits, is responsible for the follow-up to relevant administrative notices and maintains liaison with the Office of Human Resources Management of the United Nations Secretariat and the United Nations Joint Staff Pension Fund.

75. The Division is also responsible for procurement, inventory control and, in liaison with the Carnegie Foundation, which owns the Peace Palace building, building-related matters.

76. It also oversees the General Assistance Division, which is composed of seven posts in the General Service category and which, under the responsibility of a coordinator, provides general assistance to members of the Court and Registry staff in regard to messenger, transport and reception services.

5. Finance Division

77. The Finance Division, composed of one post in the Professional category and two in the General Service category, is responsible for financial matters. In particular, its duties include preparing the draft budget, ensuring that the budget is properly implemented, keeping the financial accounting books, financial reporting, managing vendor payments and payroll, and carrying out payroll-related operations for members of the Court and Registry staff (e.g., various allowances and expense reimbursements). The Division is also responsible for paying the pensions of retired members of the Court, for treasury and banking matters, and for maintaining regular contact with the tax authorities of the host country.

78. The Division is preparing for the adoption of International Public Sector Accounting Standards (IPSAS). The United Nations will move definitively to those Standards on 1 January 2014. The changes to be made in this context to the working methods and accounting systems are of such a scale that they represent a major challenge for a Division that is limited by its size and its electronic resources, particularly in the light of the few opportunities for training.

6. Publications Division

79. The Publications Division, composed of three posts in the Professional category and, since May 2012, one (temporary) post in the General Service category, is responsible for the preparation of texts, 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) *Annuaires/Yearbooks*; (d) *Acts and Documents concerning the Organization of the Court*; and (e) *Bibliographies*. It is also responsible for various other publications as instructed by the Court or the Registrar. In addition, the Division is responsible for the preparation, conclusion and implementation of contracts with printers, including control of all invoices. In view of the increase in its workload, a post of publications assistant (General Service, Other level) was granted to the Publications Division for the current biennium. For more information on the Court's publications, see chapter VII below.

7. Documents Division and Library of the Court

80. The Documents Division, composed of two posts in the Professional category and four in the General Service category (including one temporary post of indexer), has as its main task acquiring, conserving, classifying and making available within the Court the leading works on international law, as well as a significant number of periodicals and other relevant documents. The Division prepares bibliographies 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 relevance for the Court. The Division has acquired integrated software for managing its collection and operations. In September 2011, the Library of the Court launched its online catalogue, which is accessible to all members of the Court and Registry staff members. A number of resources are now available on the Court's intranet pages.

The Documents Division operates in close collaboration with the Peace Palace Library of the Carnegie Foundation.

81. The Division is also responsible for the Archives of the Nuremberg International Military Tribunal (including paper documents, gramophone records, films and certain objects). A project to conserve and digitize these archives is currently under way.

8. Information and Communications Technology Division

82. The Information and Communications Technology Division, composed of two posts in the Professional category and four in the General Service category, is responsible for the efficient functioning of information and communications technology at the Court. Its mission is to support the judicial work of the members of the Court and the various activities of the Registry by providing appropriate and effective information technology resources. The Division offers personalized assistance to users and ensures information system security.

83. The Division is charged in particular with the administration and functioning of the Court's servers, with the maintenance and inventory of equipment and with the management of the local and wide-area networks, including the communications systems. The Division regularly implements mechanisms to monitor the security of its information system and constantly keeps abreast of new technologies enabling it to track developing risks. Finally, it advises and trains users in all aspects of information technology and fosters communication between itself and the various departments and divisions of the Registry.

9. Archives, Indexing and Distribution Division

84. 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, classifying and storing all correspondence and documents received or sent by the Court, and for the subsequent retrieval of any such item as required. 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 and distributing within the Court and filing all internal documents, some of which are strictly confidential. The Division now has a computerized records management system for both internal and external documents.

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

10. Text Processing and Reproduction Division

86. The Text Processing and Reproduction Division is composed of one post in the Professional category and nine in the General Service category. It is responsible for the typing, formatting and printing of the Court's judgments, advisory opinions and orders, in the two official languages of the Court, while ensuring that documents conform to the Court's house style and layout.

87. The Division also processes correspondence, minutes, press releases, verbatim records of hearings, judges' notes and opinions and their amendments to draft

decisions, as well as the translations of these and other similar documents, such as written pleadings. In addition, it is responsible for reviewing various documents and checking certain quotations.

11. Security Division

88. The Security Division is a new division which reports directly to the Registrar and is composed of one post in the Professional category and four in the General Service category, of which three are security guard posts and one an information security assistant post.

89. The primary function of the Security Division is to ensure the security of the Court, its members, staff, property and information. It establishes security policies and procedures, contributes to the security of the information technology system and coordinates security arrangements during official visits and the public hearings of the Court. To that end, the Security Division works with the relevant divisions of the Organization, the authorities of the Netherlands and the other international organizations in the Netherlands.

12. Law clerks and Special Assistants to the President and to the Registrar

90. The President of the Court and the Registrar are each aided by a special assistant (P-3), who is administratively attached to the Department of Legal Matters. Since the approval by the General Assembly of six additional associate legal officer posts (P-2) for the biennium 2010-2011, the other members of the Court are now each assisted by a law clerk. These 14 associate legal officers, although seconded to the judges, are also officially members of the Registry staff, administratively attached to the Department of Legal Matters. The law clerks carry out research for the members of the Court and the judges ad hoc, and work under their responsibility.

13. Judges' secretaries

91. The 15 judges' secretaries, working under the authority of a coordinator, undertake manifold duties. In general, the secretaries are responsible for the typing of 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.

14. Senior Medical Officer

92. Since 1 May 2009, the Registry has employed a senior medical officer (quarter time contract), paid out of the temporary assistance appropriation. The senior medical officer conducts emergency and periodic medical examinations, and initial medical examinations for new staff. Between 1 August 2012 and 31 July 2013, 372 medical consultations were conducted by the Medical Unit, including 14 initial medical examinations for new staff and three periodic medical examinations (security officers and drivers). The senior medical officer advises the Registry administration on health and hygiene matters, workstation ergonomics (30 workstation evaluations were conducted) and working conditions. Finally, the senior medical officer organizes information, screening, prevention and vaccination campaigns (during the 2012 influenza vaccination campaign, 63 staff members and their family members received vaccinations).

15. Staff Committee

93. The Registry Staff Committee was established in 1979 and is governed by article 9 of the Staff Regulations for the Registry. During the period under review, the Committee worked in constructive partnership with management, seeking to promote dialogue and a listening attitude within the Registry, and continued its exchanges with staff committees of other international organizations. The Committee seeks to address staff members' concerns about their working conditions. It also organized various social and cultural events.

Chapter V
Pending contentious proceedings during the period under review

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

94. On 2 July 1993, Hungary and Slovakia jointly notified to the Court a special agreement, signed on 7 April 1993, for the submission to the Court of certain issues arising out of differences regarding the implementation and the termination of the Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo Nagymaros barrage system (see A/48/4, para. 138). 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 Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989. 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. 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 and have informed the Court on a regular basis of the progress made. The President of the Court holds meetings with their agents when he deems it necessary. The case remains pending.

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

95. 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 A/54/4, para. 249, and subsequent supplements). Public hearings on the merits of the case were held from 11 to 29 April 2005.

96. In its application, the Democratic Republic of the Congo requested the Court to adjudge and declare that Uganda was guilty of an act of aggression contrary to Article 2, paragraph 4, of the United Nations Charter and that it was committing repeated violations of the Geneva Conventions of 1949 and the Additional Protocols of 1977. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation (see A/54/4, para. 253).

97. In its counter-memorial, filed on 20 April 2001, Uganda presented three counterclaims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement (see A/56/4, para. 319).

98. By an order of 29 November 2001 the Court found that the first two of the counterclaims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not (see A/57/4, para. 290).

99. Public hearings on the merits of the case were held from 11 to 29 April 2005 (see A/60/4, para. 159).

100. In the judgment which it rendered on 19 December 2005 (see A/61/4, para. 133), the Court found, in particular, that Uganda, by engaging in military activities against the Democratic Republic of the Congo on the latter's territory, by occupying Ituri and by actively extending support to irregular forces having operated on the territory of the Democratic Republic of the Congo, had violated the principle of non-use of force in international relations and the principle of non-intervention; that it had violated, in the course of hostilities between Ugandan and Rwandan military forces in Kisangani, its obligations under international human rights law and international humanitarian law; that it had violated, by the conduct of its armed forces towards the Congolese civilian population and in particular as an occupying Power in Ituri district, other obligations incumbent on it under international human rights law and international humanitarian law; and that it had violated its obligations under international law by acts of looting, plundering and exploitation of Congolese natural resources committed by members of its armed forces in the territory of the Democratic Republic of the Congo and by its failure to prevent such acts as an occupying Power in Ituri district.

101. Regarding the second counterclaim submitted by Uganda, having rejected the first, the Court found that the Democratic Republic of the Congo had for its part violated obligations owed to the Republic of Uganda under the Vienna Convention on Diplomatic Relations of 1961, through maltreatment of or failure to protect the persons and property protected by the said Convention.

102. The Court therefore found 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. Since then, the parties have transmitted to the Court certain information concerning the negotiations they are holding 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 in the judgment. The case therefore remains pending.

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

103. 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.

104. 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 the "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".

105. 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 ... in a sum to be determined by the Court" (see A/54/4, paras. 254-257, and subsequent supplements).

106. As basis for the Court's jurisdiction, Croatia invokes article IX of the Genocide Convention, to which, it claims, both States are parties.

107. 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.

108. 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 in respect of 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.

109. Public hearings on the preliminary objections in respect of jurisdiction and admissibility were held from 26 to 30 May 2008 (see A/63/4, para. 122, and subsequent supplements).

110. On 18 November 2008, the Court rendered its judgment on the preliminary objections (see A/64/4, para. 121, and subsequent supplements). In its judgment the Court found, inter alia, that, subject to its statement concerning the second preliminary objection raised by the Respondent, it had jurisdiction, on the basis of article IX of the Genocide Convention, to entertain Croatia's application. The Court added that Serbia's second preliminary objection did not, in the circumstances of the case, possess an exclusively preliminary character. It then rejected the third preliminary objection raised by Serbia.

111. 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. That pleading, containing counterclaims, was filed within the time limit thus prescribed. By an order of 4 February 2010, the Court directed the submission of a reply by Croatia and a rejoinder by Serbia concerning the claims presented by the parties. It fixed 20 December 2010 and 4 November 2011, respectively, as the time limits for the filing of those written pleadings. Those pleadings were filed within the time limits thus fixed.

112. By an order of 23 January 2012, the Court authorized the submission by Croatia of an additional written pleading relating solely to the counterclaims submitted by Serbia. It fixed 30 August 2012 as the time limit for the filing of that written pleading, which was filed by Croatia within the time limit thus fixed.

113. Public hearings on the merits of the case are scheduled for early 2014.

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

114. 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.

115. 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 (insofar 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".

116. Nicaragua further indicated that it "reserve[d] 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 added that it "reserve[d] the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua" (see A/57/4, para. 351, and subsequent supplements).

117. As the basis for the Court's jurisdiction, Nicaragua invoked 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.

118. 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 of a counter-memorial by Colombia. The memorial of Nicaragua was filed within the time limit thus fixed.

119. Copies of the pleadings and annexed documents produced in the case were requested by the Governments of Honduras, Jamaica, Chile, Peru, Ecuador, Venezuela (Bolivarian Republic of) 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.

120. 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.

121. Public hearings on the preliminary objections were held from 4 to 8 June 2007 (see A/62/4, para. 161, and subsequent supplements).

122. On 13 December 2007, the Court rendered a judgment, in which it found that Nicaragua's application was admissible insofar 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 (see A/63/4, para. 142, and subsequent supplements).

123. By an order of 11 February 2008, the President of the Court fixed 11 November 2008 as the time limit for the filing of a counter-memorial by Colombia. The counter-memorial was filed within the time limit thus fixed.

124. 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 pleadings, which were filed within the time limits thus fixed.

125. On 25 February 2010, Costa Rica filed an application for permission to intervene in the case (Article 62 of the Statute). In its application, Costa Rica stated, among other things, that "[b]oth Nicaragua and Colombia, in their boundary claims against each other, claim maritime area to which Costa Rica is entitled". It made clear that it was seeking to intervene in the proceedings as a non-party State. Costa Rica's application was immediately communicated to Nicaragua and Colombia, and the Court fixed 26 May 2010 as the time limit for the filing of written observations by those States. Those written observations were filed within the time limit thus fixed.

126. On 10 June 2010, Honduras also filed an application for permission to intervene in the case (Article 62 of the Statute). It asserted in its application that Nicaragua, in its dispute with Colombia, was putting forward maritime claims that lay in an area of the Caribbean Sea in which Honduras had rights and interests. Honduras stated that it was seeking primarily to intervene in the proceedings as a party. Honduras's application was immediately communicated to Nicaragua and Colombia. The President of the Court fixed 2 September 2010 as the time limit for the filing of written observations by those States. Those written observations were filed within the time limit thus fixed.

127. Public hearings on the admission of Costa Rica's application for permission to intervene were held from 11 to 15 October 2010.

128. In its judgment of 4 May 2011, the Court, by nine votes to seven, found that the application for permission to intervene in the proceedings filed by Costa Rica could not be granted (see A/66/4, para. 141).

129. Public hearings on the admission of Honduras's application for permission to intervene took place from 18 to 22 October 2010.

130. In its judgment of 4 May 2011, the Court, by 13 votes to 2, found that the application for permission to intervene in the proceedings filed by Honduras could not be granted (see A/66/4, para. 144).

131. Public hearings on the merits of the case were held from 23 April to 4 May 2012 (see A/67/4, para. 162).

132. On 19 November 2012, the Court rendered its judgment, the operative clause of which reads as follows:

"For these reasons,

THE COURT,

(1) Unanimously,

Finds that the Republic of Colombia has sovereignty over the islands at Albuquerque, Bajo Nuevo, East-Southeast Cays, Quitasueño, Roncador, Serrana and Serranilla;

(2) By fourteen votes to one,

Finds admissible the Republic of Nicaragua's claim contained in its final submission I (3) requesting the Court to adjudge and declare that "[t]he appropriate form of delimitation, within the geographical and legal framework constituted by the mainland coasts of Nicaragua and Colombia, is a continental shelf boundary dividing by equal parts the overlapping entitlements to a continental shelf of both Parties";

IN FAVOUR: *President* Tomka; *Vice-President* Sepúlveda-Amor; *Judges* Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue, Donoghue, Sebutinde; *Judges* ad hoc Mensah, Cot;

AGAINST: *Judge* Owada;

(3) Unanimously,

Finds that it cannot uphold the Republic of Nicaragua's claim contained in its final submission I (3);

(4) Unanimously,

Decides that the line of the single maritime boundary delimiting the continental shelf and the exclusive economic zones of the Republic of Nicaragua and the Republic of Colombia shall follow geodetic lines connecting the points with coordinates:

	Latitude north	Longitude west
1.	13° 46' 35.7"	81° 29' 34.7"
2.	13° 31' 08.0"	81° 45' 59.4"
3.	13° 03' 15.8"	81° 46' 22.7"
4.	12° 50' 12.8"	81° 59' 22.6"
5.	12° 07' 28.8"	82° 07' 27.7"
6.	12° 00' 04.5"	81° 57' 57.8"

From point 1, the maritime boundary line shall continue due east along the parallel of latitude (coordinates 13° 46' 35.7" N) until it reaches the 200-nautical-mile limit from the baselines from which the breadth of the territorial sea of Nicaragua is measured. From point 6 (with coordinates 12° 00' 04.5" N and 81° 57' 57.8" W), located on a 12-nautical-mile envelope of arcs around Albuquerque, the maritime boundary line shall continue along that envelope of arcs until it reaches point 7 (with coordinates 12° 11' 53.5" N and 81° 38' 16.6" W) which is located on the parallel passing through the southernmost point on the 12-nautical-mile envelope of arcs around East-

Southeast Cays. The boundary line then follows that parallel until it reaches the southernmost point of the 12-nautical-mile envelope of arcs around East-Southeast Cays at point 8 (with coordinates 12° 11' 53.5" N and 81° 28' 29.5" W) and continues along that envelope of arcs until its most eastward point (point 9 with coordinates 12° 24' 09.3" N and 81° 14' 43.9" W). From that point the boundary line follows the parallel of latitude (coordinates 12° 24' 09.3" N) until it reaches the 200-nautical-mile limit from the baselines from which the territorial sea of Nicaragua is measured;

(5) Unanimously,

Decides that the single maritime boundary around Quitasueño and Serrana shall follow, respectively, a 12-nautical-mile envelope of arcs measured from QS 32 and from low-tide elevations located within 12 nautical miles from QS 32, and a 12-nautical-mile envelope of arcs measured from Serrana Cay and the other cays in its vicinity;

(6) Unanimously,

Rejects the Republic of Nicaragua's claim contained in its final submissions requesting the Court to declare that the Republic of Colombia is not acting in accordance with its obligations under international law by preventing the Republic of Nicaragua from having access to natural resources to the east of the 82nd meridian."

Judge Owada appended a dissenting opinion to the judgment of the Court; Judge Abraham appended a separate opinion to the judgment of the Court; Judges Keith and Xue appended declarations to the judgment of the Court; Judge Donoghue appended a separate opinion to the judgment of the Court; Judges ad hoc Mensah and Cot appended declarations to the judgment of the Court.

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

133. 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",[3] and also to the recognition in favour of Peru of a "maritime zone lying within 200 nautical miles of the coast of Peru, and thus appertaining to Peru, but which Chile considers to be part of the high seas" (see A/63/4, para. 187, and subsequent supplements).

134. Peru "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".

135. As the 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.

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

136. 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. Those pleadings were filed within the time limits thus prescribed.

137. Colombia, Ecuador and Bolivia, relying on article 53, paragraph 1, of the Rules of Court, requested copies of the pleadings and annexed documents produced in the case. In accordance with that provision, the Court, after ascertaining the views of the parties, acceded to those requests.

138. By an order of 27 April 2010, the Court authorized the submission of a reply by Peru and a rejoinder by Chile. It fixed 9 November 2010 and 11 July 2011 as the respective time limits for the filing of those pleadings. The reply and rejoinder were filed within the time limits thus fixed.

139. Public hearings were held from 3 to 14 December 2012. At the conclusion of those hearings, the parties presented the following final submissions to the Court:

For the Republic of Peru:

"For the reasons set out in Peru's Memorial and Reply and during the oral proceedings, the Republic of Peru requests the Court to adjudge and declare that:

(1) The delimitation between the respective maritime zones between the Republic of Peru and the Republic of Chile, is a line starting at 'Point Concordia' (defined as the intersection with the low-water mark of a 10-kilometre radius arc, having as its centre the first bridge over the River Lluta of the Arica-La Paz railway) and equidistant from the baselines of both Parties, up to a point situated at a distance of 200 nautical miles from those baselines, and

(2) Beyond the point where the common maritime border ends, Peru is entitled to exercise exclusive sovereign rights over a maritime area lying out to a distance of 200 nautical miles from its baselines."

For the Republic of Chile:

"Chile respectfully requests the Court to:

(a) dismiss Peru's claims in their entirety;

(b) adjudge and declare that:

(i) the respective maritime zone entitlements of Chile and Peru have been fully delimited by agreement;

(ii) those maritime zone entitlements are delimited by a boundary following the parallel of latitude passing through the most seaward boundary marker of the land boundary between Chile and Peru, known as Hito No. 1, having a latitude of 18° 21' 00" S under WGS84 Datum; and

(iii) Peru has no entitlement to any maritime zone extending to the south of that parallel."

140. The judgment of the Court will be delivered at a public sitting on a date to be announced in due course.

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

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

142. Ecuador maintained 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 contended that it had made "repeated and sustained efforts to negotiate an end to the fumigations", adding that "these negotiations have proved unsuccessful" (see A/63/4, paras. 192-193, and subsequent supplements).

143. Ecuador accordingly requested 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."

144. As the basis for the Court's jurisdiction, Ecuador invoked 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 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

145. In its application, Ecuador reaffirmed its opposition "to the export and consumption of illegal narcotics", but stressed that the issues it presented to the Court "relate exclusively to the methods and locations of Colombian operations to

eradicate illicit coca and poppy plantations — and the harmful effects in Ecuador of such operations".

146. 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. Those pleadings were filed within the time limits thus prescribed.

147. By an order of 25 June 2010, the Court directed the submission of a reply by Ecuador and a rejoinder by Colombia. It fixed 31 January 2011 and 1 December 2011, respectively, as the time limits for the filing of those pleadings. The reply of Ecuador was filed within the time limit thus fixed.

148. By an order of 19 October 2011, the President of the Court extended from 1 December 2011 to 1 February 2012 the time limit for the filing of a rejoinder by Colombia. That pleading was filed within the time limit thus extended.

149. Pursuant to article 54, paragraph 1, of the Rules of Court, the Court fixed Monday, 30 September 2013, as the date for the opening of the oral proceedings in the case.

7. *Whaling in the Antarctic (Australia* v. *Japan)*

150. On 31 May 2010, Australia instituted proceedings against Japan, alleging that "Japan's continued pursuit of a large-scale program of whaling under the Second Phase of its Japanese Whale Research Program under Special Permit in the Antarctic ('JARPA II') [was] in breach of obligations assumed by Japan under the International Convention for the Regulation of Whaling ('ICRW'), as well as its other international obligations for the preservation of marine mammals and the marine environment" (see A/65/4, para. 234, and subsequent supplements).

151. At the end of its application, Australia requested the Court to adjudge and declare that "Japan is in breach of its international obligations in implementing the JARPA II program in the Southern Ocean" and to order that Japan: "(*a*) cease implementation of JARPA II; (*b*) revoke any authorisations, permits or licences allowing the activities which are the subject of this application to be undertaken; and (*c*) provide assurances and guarantees that it will not take any further action under the JARPA II or any similar program until such program has been brought into conformity with its obligations under international law".

152. As the basis for the jurisdiction of the Court, the applicant invokes the provisions of Article 36, paragraph 2, of the Court's Statute, as well as the declarations recognizing the Court's jurisdiction as compulsory made pursuant to that Article by Australia on 22 March 2002 and by Japan on 9 July 2007.

153. By an order of 13 July 2010, the Court fixed 9 May 2011 as the time limit for the filing of a memorial by Australia and 9 March 2012 as the time limit for the filing of a counter-memorial by Japan. Those pleadings were filed within the time limits thus prescribed.

154. The Court subsequently decided that the filing of a reply by Australia and a rejoinder by Japan was not necessary and that the written phase of the proceedings was therefore closed. The subsequent procedure was reserved for further decision.

155. On 20 November 2012, New Zealand filed in the Registry a declaration of intervention in the case. In order to avail itself of the right of intervention conferred by Article 63 of the Statute of the Court, New Zealand relied on its "status as a party to the International Convention for the Regulation of Whaling". It contended that "[a]s a party to the Convention, [it] has a direct interest in the construction that might be placed upon the Convention by the Court in its decision in these proceedings".

156. In its declaration, New Zealand further explained that its intervention was directed to the questions of construction arising in the case, in particular with respect to article VIII of the Convention, which provides, inter alia, that "any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit".

157. Given its long-standing participation in the work of the International Whaling Commission (the "IWC"), and its views with respect to the interpretation and application of the Convention, in particular with regard to whaling under Special Permit, New Zealand declared that it was necessary for it to intervene in the case "in order to be able to place its interpretation of the relevant provisions of the Convention before the Court".

158. At the end of its declaration, New Zealand provided the following summary of its interpretation of article VIII:

> "(a) Article VIII forms an integral part of the system of collective regulation established by the Convention.
>
> (b) Parties to the Convention may engage in whaling by Special Permit only in accordance with Article VIII.
>
> (c) Article VIII permits the killing of whales under Special Permit only if:
>
> (i) an objective assessment of the methodology, design and characteristics of the programme demonstrates that the killing is only 'for purposes of scientific research'; and
>
> (ii) the killing is necessary for, and proportionate to, the objectives of that research and will have no adverse effect on the conservation of stocks; and
>
> (iii) the Contracting Government issuing the Special Permit has discharged its duty of meaningful cooperation with the Scientific Committee and the IWC.
>
> (d) Whaling under Special Permit that does not meet these requirements of Article VIII, and not otherwise permitted under the Convention, is prohibited."

159. New Zealand underlined in its declaration "that it d[id] not seek to be a party to the proceedings" and "confirm[ed] that, by availing itself of its right to intervene, it accept[ed] that the construction given by the judgment in the case w[ould] be equally binding upon it".

160. In accordance with article 83 of the Rules of Court, Australia and Japan were invited to furnish written observations on New Zealand's declaration of intervention by Friday, 21 December 2012 at the latest. Those written observations were filed within the time limit thus fixed.

161. In its order dated 6 February 2013, the Court, taking note of the concerns expressed by Japan relating to certain procedural issues regarding the equality of the parties, recalled that intervention under Article 63 of the Statute was limited to submitting observations on the construction of the convention in question and did not allow the intervener, which did not become a party to the proceedings, to deal with any other aspect of the case before the Court. It considered that such an intervention could not affect the equality of the parties. Having noted that New Zealand met the requirements set out in article 82 of the Rules of Court, that its declaration of intervention fell within the provisions of Article 63 of the Statute and, moreover, that the parties had raised no objection to the admissibility of the declaration, the Court concluded that New Zealand's declaration of intervention was admissible. By the same order, the Court fixed 4 April 2013 as the time limit for the filing by New Zealand of the written observations referred to in article 86, paragraph 1, of the Rules of Court; it also authorized the filing by Australia and Japan of written observations on those written observations of New Zealand and fixed 31 May 2013 as the time limit for such filings. Those pleadings were filed within the time limits thus fixed.

162. Public hearings were held from 26 June to 16 July 2013. At the conclusion of those hearings, the parties presented the following final submissions to the Court:

On behalf of Australia:

"1. Australia requests the Court to adjudge and declare that the Court has jurisdiction to hear the claims presented by Australia.

"2. Australia requests the Court to adjudge and declare that Japan is in breach of its international obligations in authorising and implementing the *Japanese Whale Research Program under Special Permit in the Antarctic Phase II* (JARPA II) in the Southern Ocean.

"3. In particular, the Court is requested to adjudge and declare that, by its conduct, Japan has violated its international obligations pursuant to the International Convention for the Regulation of Whaling to:

(a) observe the zero catch limit in relation to the killing of whales for commercial purposes in Paragraph 10(*e*) of the Schedule;

(b) refrain from undertaking commercial whaling of fin whales in the Southern Ocean Sanctuary in Paragraph 7(*b*) of the Schedule;

(c) observe the moratorium on taking, killing or treating of whales, except minke whales, by factory ships or whale catchers attached to factory ships in Paragraph 10(*d*) of the Schedule; and

(d) comply with the requirements of Paragraph 30 of the Schedule.

"4. Further, the Court is requested to adjudge and declare that JARPA II is not a program for purposes of scientific research within the meaning of Article VIII of the International Convention for the Regulation of Whaling.

"5. Further, the Court is requested to adjudge and declare that Japan shall:

(a) refrain from authorising or implementing any special permit whaling which is not for purposes of scientific research within the meaning of Article VIII;

(b) cease with immediate effect the implementation of JARPA II; and

(c) revoke any authorisation, permit or licence that allows the implementation of JARPA II."

On behalf of Japan:

"Japan requests that the Court adjudge and declare:

"1. — that it lacks jurisdiction over the claims brought against Japan by Australia, referred to it by the Application of Australia of 31 May 2010; and

— that, consequently, the Application of New Zealand for permission to intervene in the proceedings instituted by Australia against Japan lapses;

"2. in the alternative, that the claims of Australia are rejected."

163. New Zealand presented its oral observations to the Court on Monday, 8 July 2013.

164. The Court will deliver its judgment at a public sitting, the date of which will be announced in due course.

8. *Frontier Dispute (Burkina Faso/Niger)*

165. On 20 July 2010, Burkina Faso and the Niger jointly submitted a frontier dispute between them to the Court. By a joint letter dated 12 May 2010 and filed in the Registry on 20 July 2010, the two States notified to the Court a special agreement signed in Niamey on 24 February 2009, which entered into force on 20 November 2009. Under the terms of article 1 of that Special Agreement, the parties had agreed to submit their frontier dispute to the Court.

Article 2 of the Special Agreement indicated the subject of the dispute as follows:

"The Court is requested to:

"1. determine the course of the boundary between the two countries in the sector from the astronomic marker of Tong-Tong (latitude 14° 25' 04" N; longitude 00° 12' 47" E) to the beginning of the Botou bend (latitude 12° 36' 18" N; longitude 01° 52' 07" E);

"2. place on record the Parties' agreement on the results of the work of the Joint Technical Commission on demarcation of the Burkina Faso-Niger boundary with regard to the following sectors:

(*a*) the sector from the heights of N'Gouma to the astronomic marker of Tong-Tong;

(*b*) the sector from the beginning of the Botou bend to the River Mekrou."

Article 7 of the Special Agreement, entitled "Judgment of the Court", read as follows:

"1. The Parties accept the Judgment of the Court given pursuant to this Special Agreement as final and binding upon them.

"2. From the day on which the Judgment is rendered, the Parties shall have eighteen (18) months in which to commence the work of demarcating the boundary.

"3. In case of difficulty in the implementation of the Judgment, either Party may seise the Court pursuant to Article 60 of its Statute.

"4. The Parties request the Court to nominate, in its Judgment, three (3) experts to assist them as necessary in the demarcation."

Lastly, article 10 contained the following "special undertaking":

"Pending the Judgment of the Court, the Parties undertake to maintain peace, security and tranquillity among the populations of the two States in the frontier region, refraining from any act of incursion into the disputed areas and organizing regular meetings of administrative officials and the security services.

"With regard to the creation of socio-economic infrastructure, the Parties undertake to hold preliminary consultations prior to implementation."

The Special Agreement was accompanied by an exchange of notes dated 29 October and 2 November 2009 embodying the agreement between the two States on the delimited sectors of the frontier.

166. By an order of 14 September 2010, the Court fixed 20 April 2011 and 20 January 2012 as the respective time limits for the filing of a memorial and a counter-memorial by each of the parties. Those pleadings were filed within the time limits thus fixed.

167. Public hearings were held from 8 to 17 October 2012 (see International Court of Justice Press Release No. 2012/30).

168. On 16 April 2013, the Court delivered its judgment, the operative clause of which reads as follows:

"For these reasons,

The Court,

(1) Unanimously,

Finds that it cannot uphold the requests made in points 1 and 3 of the final submissions of Burkina Faso;

(2) Unanimously,

Decides that, from the Tong-Tong astronomic marker, situated at the point with geographic co-ordinates 14° 24' 53.2" N; 00° 12' 51.7" E, to the Tao astronomic marker, the precise co-ordinates of which remain to be determined by the Parties as specified in paragraph 72 of the present Judgment, the course of the frontier between Burkina Faso and the Republic of Niger takes the form of a straight line;

(3) Unanimously,

Decides that, from the Tao astronomic marker, the course of the frontier follows the line that appears on the 1:200,000-scale map of the *Institut géographique national (IGN) de France*, 1960 edition, (hereinafter the "IGN line") until its intersection with the median line of the River Sirba at the point with geographic co-ordinates 13° 21' 15.9" N; 01° 17' 07.2" E;

(4) Unanimously,

Decides that, from this latter point, the course of the frontier follows the median line of the River Sirba upstream until its intersection with the IGN line, at the point with geographic co-ordinates 13° 20' 01.8" N; 01° 07' 29.3" E; from that point, the course of the frontier follows the IGN line, turning up towards the north-west, until the point, with geographic co-ordinates 13° 22' 28.9" N; 00° 59' 34.8" E, where the IGN line turns south. At that point, the course of the frontier leaves the IGN line and continues due west in a straight line until the point, with geographic co-ordinates 13° 22' 28.9" N; 00° 59' 30.9" E, where it reaches the meridian which passes through the intersection of the Say parallel with the right bank of the River Sirba; it then runs southwards along that meridian until the said intersection, at the point with geographic co-ordinates 13° 06' 12.08" N; 00° 59' 30.9" E;

(5) Unanimously,

Decides that, from this last point to the point situated at the beginning of the Botou bend, with geographic co-ordinates 12° 36' 19.2" N; 01° 52' 06.9" E, the course of the frontier takes the form of a straight line;

(6) Unanimously,

Decides that it will nominate at a later date, by means of an Order, three experts in accordance with Article 7, paragraph 4, of the Special Agreement of 24 February 2009."

Judge Bennouna appended a declaration to the judgment of the Court; Judges Cançado Trindade and Yusuf appended separate opinions to the judgment of the Court; Judges ad hoc Mahiou and Daudet appended separate opinions to the judgment of the Court.

The Court was composed as follows: *President* Tomka; *Vice-President* Sepúlveda-Amor; *Judges* Owada, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari; *Judges* ad hoc Mahiou, Daudet; *Registrar* Couvreur.

169. By an order dated 12 July 2013, the Court nominated three experts who will assist the parties in the operation of the demarcation of their common frontier in the disputed area. The case has thus been completed.

9. *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)*

170. On 18 November 2010, Costa Rica instituted proceedings against Nicaragua in respect of an alleged "incursion into, occupation of and use by Nicaragua's Army of Costa Rican territory as well as [alleged] breaches of Nicaragua's obligations towards Costa Rica" under a number of international treaties and conventions.

171. Costa Rica contends that Nicaragua has, in two separate incidents, occupied the territory of Costa Rica in connection with the construction of a canal across Costa Rican territory from the San Juan River to Laguna los Portillos (also known as "Harbor Head Lagoon"), and carried out certain related works of dredging on the San Juan River. Costa Rica states that the "ongoing and planned dredging and the construction of the canal will seriously affect the flow of water to the Colorado River of Costa Rica, and will cause further damage to Costa Rican territory, including the wetlands and national wildlife protected areas located in the region" (see A/66/4, para. 233, and subsequent supplements).

172. Costa Rica accordingly requests the Court:

> "to adjudge and declare that Nicaragua is in breach of its international obligations ... as regards the incursion into and occupation of Costa Rican territory, the serious damage inflicted to its protected rainforests and wetlands, and the damage intended to the Colorado River, wetlands and protected ecosystems, as well as the dredging and canalization activities being carried out by Nicaragua on the San Juan River. In particular, the Court is requested to adjudge and declare that, by its conduct, Nicaragua has breached:
>
> (*a*) the territory of the Republic of Costa Rica, as agreed and delimited by the 1858 Treaty of Limits, the Cleveland Award and the first and second Alexander Awards;
>
> (*b*) the fundamental principles of territorial integrity and the prohibition of use of force under the Charter of the United Nations and the Charter of the Organization of American States;
>
> (*c*) the obligation imposed upon Nicaragua by Article IX of the 1858 Treaty of Limits not to use the San Juan River to carry out hostile acts;
>
> (*d*) the obligation not to damage Costa Rican territory;
>
> (*e*) the obligation not to artificially channel the San Juan River away from its natural watercourse without the consent of Costa Rica;
>
> (*f*) the obligation not to prohibit the navigation on the San Juan River by Costa Rican nationals;
>
> (*g*) the obligation not to dredge the San Juan River if this causes damage to Costa Rican territory (including the Colorado River), in accordance with the 1888 Cleveland Award;
>
> (*h*) the obligations under the Ramsar Convention on Wetlands;
>
> (*i*) the obligation not to aggravate and extend the dispute by adopting measures against Costa Rica, including the expansion of the invaded and occupied Costa Rican territory or by adopting any further measure or carrying out any further actions that would infringe Costa Rica's territorial integrity under international law."

173. The Court is also requested in the application to determine the reparation which must be made by Nicaragua, in particular in relation to any measures of the kind referred to in the paragraph above.

174. As the basis for the jurisdiction of the Court, the applicant invokes article XXXI of the American Treaty on Pacific Settlement ("Pact of Bogotá") of 30 April

1948. In addition, it invokes the declaration of acceptance of the compulsory jurisdiction of the Court made by Costa Rica on 20 February 1973, under Article 36, paragraph 2, of the Statute, and that made by Nicaragua on 24 September 1929 (and amended on 23 October 2001), under Article 36 of the Statute of the Permanent Court of International Justice, which is deemed, pursuant to Article 36, paragraph 5, of the Statute of the present Court, to be acceptance of the latter's compulsory jurisdiction (see A/67/4, para. 226).

175. On 18 November 2010, Costa Rica also filed a request for the indication of provisional measures, in which it "request[ed] the Court as a matter of urgency to order ... provisional measures so as to rectify the ... ongoing breach of Costa Rica's territorial integrity and to prevent further irreparable harm to Costa Rica's territory, pending its determination of this case on the merits" (see A/66/4, paras. 238-239, and subsequent supplements).

176. Public hearings on the request for the indication of provisional measures submitted by Costa Rica were held from 11 to 13 January 2011 (see A/66/4, para. 240, and subsequent supplements).

177. In its order made on 8 March 2011, the Court indicated the following provisional measures:

> "(1) Unanimously,
>
> Each Party shall refrain from sending to, or maintaining in the disputed territory, including the *caño* [the canal cut by Nicaragua], any personnel, whether civilian, police or security;
>
> (2) By thirteen votes to four,
>
> Notwithstanding point (1) above, Costa Rica may dispatch civilian personnel charged with the protection of the environment to the disputed territory, including the *caño*, but only insofar as it is necessary to avoid irreparable prejudice being caused to the part of the wetland where that territory is situated; Costa Rica shall consult with the Secretariat of the Ramsar Convention in regard to these actions, give Nicaragua prior notice of them and use its best endeavours to find common solutions with Nicaragua in this respect;
>
> IN FAVOUR: *President* Owada; *Vice-President* Tomka; *Judges* Koroma, Al-Khasawneh, Simma, Abraham, Keith, Bennouna, Cançado Trindade, Yusuf, Greenwood, Donoghue; *Judge* ad hoc Dugard;
>
> AGAINST: *Judges* Sepúlveda-Amor, Skotnikov, Xue; *Judge* ad hoc Guillaume;
>
> (3) Unanimously,
>
> Each Party shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve;
>
> (4) Unanimously,
>
> Each Party shall inform the Court as to its compliance with the above provisional measures."

Judges Koroma and Sepúlveda-Amor appended separate opinions to the order of the Court; Judges Skotnikov, Greenwood and Xue appended declarations to the order of the Court; Judge ad hoc Guillaume appended a declaration to the order of the Court; Judge ad hoc Dugard appended a separate opinion to the order of the Court.

178. By an order of 5 April 2011, the Court, taking account of the views of the parties, fixed 5 December 2011 and 6 August 2012, respectively, as the time limits for the filing of a memorial by Costa Rica and a counter-memorial by Nicaragua. Those pleadings were filed within the time limits thus fixed.

179. In its counter-memorial, Nicaragua submitted four counterclaims. In its first counterclaim, it requested the Court to declare that Costa Rica bore responsibility to Nicaragua for "the impairment and possible destruction of navigation on the San Juan River caused by the construction of a road next to its right bank" by Costa Rica. In its second counterclaim, Nicaragua asked the Court to declare that it had become the sole sovereign over the area formerly occupied by the Bay of San Juan del Norte. In its third counterclaim, it requested the Court to find that Nicaragua had a right to free navigation on the Colorado Branch of the San Juan de Nicaragua River, until the conditions of navigability existing at the time when the 1858 Treaty was concluded were re-established. In its fourth counterclaim, Nicaragua alleged that Costa Rica had failed to implement the provisional measures indicated by the Court in its order of 8 March 2011.

180. By two separate orders dated 17 April 2013, the Court joined the proceedings in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)* (hereinafter "the *Costa Rica* v. *Nicaragua* case") and in the case concerning the *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)* (hereinafter "the *Nicaragua* v. *Costa Rica* case") (see paras. 207-216 below). In those two orders, the Court emphasized that it had so proceeded "in conformity with the principle of the sound administration of justice and with the need for judicial economy".

181. By an order dated 18 April 2013, the Court ruled on the four counterclaims submitted by Nicaragua in its counter-memorial filed in the *Costa Rica* v. *Nicaragua* case. In that order, the Court found, unanimously, that there was no need for it to adjudicate on the admissibility of Nicaragua's first counterclaim as such, since that claim had become without object by reason of the fact that the proceedings in the *Costa Rica* v. *Nicaragua* and *Nicaragua* v. *Costa Rica* cases had been joined. That claim will therefore be examined as a principal claim within the context of the joined proceedings. The Court also unanimously found that the second and third counterclaims were inadmissible as such and did not form part of the current proceedings, since there was no direct connection, either in fact or in law, between those claims and the principal claims of Costa Rica. In its order, the Court lastly found, unanimously, that there was no need for it to entertain the fourth counterclaim as such, since the question of compliance by both parties with provisional measures may be considered in the principal proceedings, irrespective of whether or not the respondent State raised that issue by way of a counterclaim and that, consequently, the parties could take up any question relating to the implementation of the provisional measures indicated by the Court in the further course of the proceedings.

182. On 23 May 2013, Costa Rica presented the Court with a request for the modification of the order of 8 March 2011. That request made reference to Article 41 of the Statute of the Court and article 76 of the Rules of Court.

183. In the first place, Costa Rica complained of "Nicaragua's sending to the disputed area ... and maintaining thereon large numbers of persons" and, secondly, of the "activities undertaken by those persons affecting that territory and its ecology". In Costa Rica's view, those actions, which had occurred since the Court decided to indicate provisional measures, created a new situation necessitating the modification of the order of 8 March 2011, in the form of further provisional measures, in particular so as to prevent the presence of any individual in the disputed territory other than civilian personnel sent by Costa Rica and charged with the protection of the environment.

184. The Court immediately communicated a copy of the said request to the Government of Nicaragua.

185. By letters dated 24 May 2013, the Registrar of the Court informed the parties that the time limit for the filing of any written observations that Nicaragua might wish to present on Costa Rica's request had been fixed as 14 June 2013.

186. In its written observations, filed within the time limit thus prescribed, Nicaragua asked the Court to reject Costa Rica's request, while in its turn requesting the Court to modify or adapt the order of 8 March 2011 on the basis of article 76 of the Rules of Court.

187. Nicaragua considered that there had been a change in the factual and legal situations in question as a result of, first, the construction by Costa Rica of a 160-km-long road along the right bank of the San Juan River and, second, the joinder, by the Court, of the proceedings in the two cases. Consequently, Nicaragua asked the Court to modify its order of 8 March 2011, in particular to allow both parties (and not only Costa Rica) to dispatch civilian personnel charged with the protection of the environment to the disputed territory.

188. A copy of Nicaragua's written observations and request was transmitted to Costa Rica, which was informed that the time limit for the filing of any written observations that it might wish to present on the said request had been fixed as 20 June 2013.

189. In its written observations, filed within the time limit thus prescribed, Costa Rica asserted that no part of the road in question was in the disputed area and considered that the joinder of the proceedings in the *Costa Rica* v. *Nicaragua* and *Nicaragua* v. *Costa Rica* cases "does not mean that there is now one proceeding which should be the subject of joint orders". Consequently, it asked the Court to reject Nicaragua's request.

190. In its order of 16 July 2013, the Court,

> "(1) By fifteen votes to two,
>
> *F*[*ound*] that the circumstances, as they [then] present[ed] themselves to the Court, w[ere] not such as to require the exercise of its power to modify the measures indicated in the Order of 8 March 2011;

IN FAVOUR: *President* Tomka; *Vice-President* Sepúlveda-Amor; *Judges* Owada, Abraham, Keith, Bennouna, Skotnikov, Yusuf, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari; *Judge* ad hoc Guillaume;

AGAINST: *Judge* Cançado Trindade; *Judge* ad hoc Dugard;

(2) Unanimously,

Reaffirm[*ed*] the provisional measures indicated in its Order of 8 March 2011, in particular the requirement that the Parties "sh[ould] refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve".

The Court reminded the parties once again that "these measures ha[d] binding effect … and therefore create[d] international legal obligations which each [of them was] required to comply with". Finally, the Court underlined that its order of 16 July 2013 was without prejudice as to any finding on the merits concerning the parties' compliance with its order of 8 March 2011.

Judge Cançado Trindade appended a dissenting opinion to the order of the Court; Judge ad hoc Dugard appended a dissenting opinion to the order of the Court.

10. *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the* Temple of Preah Vihear (Cambodia *v.* Thailand) *(Cambodia* v. *Thailand)*

191. On 28 April 2011, Cambodia submitted, by an application filed in the Registry of the Court, a request for interpretation of the judgment rendered by the Court on 15 June 1962 in the case concerning the *Temple of Preah Vihear (Cambodia* v. *Thailand)*.

192. In its application, Cambodia indicates the "points in dispute as to the meaning or scope of the Judgment", as stipulated by article 98 of the Rules of Court. It states in particular that:

"(1) according to Cambodia, the Judgment [rendered by the Court in 1962] is based on the prior existence of an international boundary established and recognized by both States;

"(2) according to Cambodia, that boundary is defined by the map to which the Court refers on page 21 of its Judgment ..., a map which enables the Court to find that Cambodia's sovereignty over the Temple is a direct and automatic consequence of its sovereignty over the territory on which the Temple is situated ...;

"(3) according to [Cambodia], Thailand is under an obligation [pursuant to the Judgment] to withdraw any military or other personnel from the vicinity of the Temple on Cambodian territory. [T]his is a general and continuing obligation deriving from the statements concerning Cambodia's territorial sovereignty recognized by the Court in that region."

Cambodia asserts that "Thailand disagrees with all of these points".

193. The applicant seeks to base the jurisdiction of the Court on Article 60 of the Statute of the Court, which provides: "In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party". Cambodia also invokes article 98 of the Rules of Court.

194. It explains in its application that, while "Thailand does not dispute Cambodia's sovereignty over the Temple — and only over the Temple itself", it does, however, call into question the 1962 judgment in its entirety.

195. Cambodia contends that "in 1962, the Court placed the Temple under Cambodian sovereignty, because the territory on which it is situated is on the Cambodian side of the boundary", and that "[t]o refuse Cambodia's sovereignty over the area beyond the Temple as far as its 'vicinity' is to say to the Court that the boundary line which it recognized [in 1962] is wholly erroneous, *including in respect of the Temple itself*".

196. Cambodia emphasizes that the purpose of its request is to seek an explanation from the Court regarding the "meaning and ... scope of its judgment, within the limit laid down by Article 60 of the Statute". It adds that such an explanation, "which would be binding on Cambodia and Thailand, ... could then serve as a basis for a final resolution of this dispute through negotiation or any other peaceful means" (see A/66/4, para. 250, and subsequent supplements).

197. At the close of its Application, Cambodia asks the Court to adjudge and declare that:

> "The obligation incumbent upon Thailand to 'withdraw any military or police forces, or other guards or keepers, stationed by her at the Temple, or in its vicinity on Cambodian territory' (point 2 of the operative clause [of the Judgment rendered by the Court in 1962]) is a particular consequence of the general and continuing obligation to respect the integrity of the territory of Cambodia, that territory having been delimited in the area of the Temple and its vicinity by the line on the map [referred to on page 21 of the Judgment], on which [the Judgment] is based."

198. On the same day, Cambodia also filed a request for the indication of provisional measures, whereby it "respectfully request[ed] the Court to indicate the following provisional measures, pending the delivery of its judgment:

– an immediate and unconditional withdrawal of all Thai forces from those parts of Cambodian territory situated in the area of the Temple of Preah Vihear;

– a ban on all military activity by Thailand in the area of the Temple of Preah Vihear;

– that Thailand refrain from any act or action which could interfere with the rights of Cambodia or aggravate the dispute in the principal proceedings". (See A/66/4, para. 255, and subsequent supplements).

199. Public hearings on the request for the indication of provisional measures filed by Cambodia were held on 30 and 31 May 2011.

200. At the close of the second round of oral observations, Cambodia reiterated its request for the indication of provisional measures; the Agent of Thailand, for his part, presented the following submissions on behalf of his Government: "In accordance with Article 60 of the Rules of Court and having regard to the Request for the indication of provisional measures of the Kingdom of Cambodia and its oral pleadings, the Kingdom of Thailand respectfully requests the Court to remove the case introduced by the Kingdom of Cambodia on 28 April 2011 from the General List".

201. On 18 July 2011, the Court made its order on the request for the indication of provisional measures submitted by Cambodia. The operative part of the Order reads as follows:

"For these reasons,

The Court,

(A) Unanimously,

Rejects the Kingdom of Thailand's request to remove the case introduced by the Kingdom of Cambodia on 28 April 2011 from the General List of the Court;

(B) *Indicates* the following provisional measures:

(1) By eleven votes to five,

Both Parties shall immediately withdraw their military personnel currently present in the provisional demilitarized zone, as defined in paragraph 62 of the present Order, and refrain from any military presence within that zone and from any armed activity directed at that zone;

IN FAVOUR: *Vice-President* Tomka; *Judges* Koroma, Simma, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood; *Judge* ad hoc Guillaume;

AGAINST: *President* Owada; *Judges* Al-Khasawneh, Xue, Donoghue; *Judge* ad hoc Cot;

(2) By fifteen votes to one,

Thailand shall not obstruct Cambodia's free access to the Temple of Preah Vihear or Cambodia's provision of fresh supplies to its non-military personnel in the Temple;

IN FAVOUR: *President* Owada; *Vice-President* Tomka; *Judges* Koroma, Al-Khasawneh, Simma, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue; *Judges* ad hoc Guillaume, Cot;

AGAINST: *Judge* Donoghue;

(3) By fifteen votes to one,

Both Parties shall continue the cooperation which they have entered into within ASEAN and, in particular, allow the observers appointed by that organization to have access to the provisional demilitarized zone;

IN FAVOUR: *President* Owada; *Vice-President* Tomka; *Judges* Koroma, Al-Khasawneh, Simma, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue; *Judges* ad hoc Guillaume, Cot;

AGAINST: *Judge* Donoghue;

(4) By fifteen votes to one,

Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve;

IN FAVOUR: *President* Owada; *Vice-President* Tomka; *Judges* Koroma, Al-Khasawneh, Simma, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue; *Judges* ad hoc Guillaume, Cot;

AGAINST: *Judge* Donoghue;

(C) By fifteen votes to one,

Decides that each Party shall inform the Court as to its compliance with the above provisional measures;

IN FAVOUR: *President* Owada; *Vice-President* Tomka; *Judges* Koroma, Al-Khasawneh, Simma, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue; *Judges* ad hoc Guillaume, Cot;

AGAINST: *Judge* Donoghue;

(D) By fifteen votes to one,

Decides that, until the Court has rendered its judgment on the request for interpretation, it shall remain seised of the matters which form the subject of this Order.

IN FAVOUR: *President* Owada; *Vice-President* Tomka; *Judges* Koroma, Al-Khasawneh, Simma, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue; *Judges* ad hoc Guillaume, Cot;

AGAINST: *Judge* Donoghue."

President Owada appended a dissenting opinion to the order of the Court; Judge Koroma appended a declaration to the order of the Court; Judge Al-Khasawneh appended a dissenting opinion to the order of the Court; Judge Cançado Trindade appended a separate opinion to the order of the Court; Judges Xue and Donoghue appended dissenting opinions to the order of the Court; Judge ad hoc Guillaume appended a declaration to the order of the Court; Judge ad hoc Cot appended a dissenting opinion to the order of the Court.

202. By letters dated 20 July 2011, the Registrar of the Court informed the parties that, in accordance with article 98, paragraph 3, of the Rules of Court, the Court had fixed 21 November 2011 as the time limit for the filing of Thailand's written observations on the request for interpretation submitted by Cambodia. The written observations of Thailand were filed within the time limit thus fixed.

203. By letters dated 24 November 2011, the Registrar informed the parties that the Court had decided to afford them the opportunity of furnishing further written explanations, pursuant to article 98, paragraph 4, of the Rules of Court, and had fixed 8 March 2012 and 21 June 2012 as the respective time limits for the filing by Cambodia and Thailand of such explanations. The further written explanations were filed within the time limits thus fixed.

204. Public hearings on the merits of the case were held from 15 to 19 April 2013.

205. At the conclusion of those hearings, the parties presented the following final submissions to the Court:

On behalf of Cambodia:

"Rejecting the submissions of the Kingdom of Thailand, and on the basis of the foregoing, Cambodia respectfully asks the Court, under Article 60 of its Statute, to respond to Cambodia's request for interpretation of its Judgment of 15 June 1962.

"In Cambodia's view: 'the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia' (first paragraph of the operative clause), which is the legal consequence of the fact that the Temple is situated on the Cambodian side of the frontier, as that frontier was recognized by the Court in its Judgment. Therefore, the obligation incumbent upon Thailand to 'withdraw any military or police forces, or other guards or keepers, stationed by her at the Temple, or in its vicinity on Cambodian territory' (second paragraph of the operative clause) is a particular consequence of the general and continuing obligation to respect the integrity of the territory of Cambodia, that territory having been delimited in the region of the Temple and its vicinity by the line on the Annex I map, on which the Judgment of the Court is based."

On behalf of Thailand:

"In accordance with Article 60 of the Rules of Court and having regard to the Request for Interpretation of the Kingdom of Cambodia and its written and oral pleadings, and in view of the written and oral pleadings of the Kingdom of Thailand, the Kingdom of Thailand requests the Court to adjudge and declare:

– that the request of the Kingdom of Cambodia asking the Court to interpret the Judgment of 15 June 1962 in the case concerning the *Temple of Preah Vihear (Cambodia* v. *Thailand)* under Article 60 of the Statute of the Court does not satisfy the conditions laid down in that Article and that, consequently, the Court has no jurisdiction to respond to that Request and/or that the Request is inadmissible;

– in the alternative, that there are no grounds to grant Cambodia's Request to construe the Judgment and that there is no reason to interpret the Judgment of 1962; and

– to formally declare that the 1962 Judgment does not determine with binding force the boundary line between the Kingdom of Thailand and the Kingdom of Cambodia, nor does it fix the limit of the vicinity of the Temple."

206. The Court will deliver its judgment on the merits of the case at a public sitting, the date of which will be announced in due course.

11. *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)*

207. On 22 December 2011, Nicaragua instituted proceedings against Costa Rica with regard to "violations of Nicaraguan sovereignty and major environmental damages to its territory". Nicaragua contends that Costa Rica is carrying out major construction works along most of the border area between the two countries with grave environmental consequences.

208. In its application, Nicaragua claims, inter alia, that "Costa Rica's unilateral actions ... threaten to destroy the San Juan de Nicaragua River and its fragile ecosystem, including the adjacent biosphere reserves and internationally protected wetlands that depend upon the clean and uninterrupted flow of the River for their survival". According to the applicant, "[t]he most immediate threat to the River and its environment is posed by Costa Rica's construction of a road running parallel and in extremely close proximity to the southern bank of the River, and extending for a distance of at least 120 kilometres, from Los Chiles in the west to Delta in the east". It is also stated in the application that "[t]hese works have already caused and will continue to cause significant economic damage to Nicaragua".

209. Nicaragua accordingly "requests the Court to adjudge and declare that Costa Rica has breached: (*a*) its obligation not to violate Nicaragua's territorial integrity as delimited by the 1858 Treaty of Limits; the Cleveland Award of 1888 and the five Awards of the Umpire EP Alexander of 30 September 1897, 20 December 1897, 22 March 1898, 26 July 1899 and 10 March 1900; (*b*) its obligation not to damage Nicaraguan territory; (*c*) its obligations under general international law and the relevant environmental conventions, including the Ramsar Convention on Wetlands, the Agreement over the Border Protected Areas between Nicaragua and Costa Rica (International System of Protected Areas for Peace [SI-A-PAZ] Agreement), the Convention on Biological Diversity and the Convention for the Conservation of the Biodiversity and Protection of the Main Wild Life Sites in Central America".

210. Furthermore, Nicaragua requests the Court to adjudge and declare that Costa Rica must: "(*a*) restore the situation to the status quo ante; (*b*) pay for all damages caused including the costs added to the dredging of the San Juan River; (*c*) not undertake any future development in the area without an appropriate transboundary Environmental Impact Assessment and that this assessment must be presented in a timely fashion to Nicaragua for its analysis and reaction".

211. Finally, Nicaragua requests the Court to adjudge and declare that Costa Rica must: "(*a*) cease all the constructions underway that affect or may affect the rights of Nicaragua; (*b*) produce and present to Nicaragua an adequate Environmental Impact Assessment with all the details of the works".

212. As the basis for the jurisdiction of the Court, the applicant invokes article XXXI of the American Treaty on Pacific Settlement ("Pact of Bogotá") of 30 April 1948. In addition, it invokes the declaration of acceptance of the compulsory jurisdiction of the Court made by Costa Rica on 20 February 1973, under Article 36, paragraph 2, of the Statute of the Court, and that made by Nicaragua on 24 September 1929 (and amended on 23 October 2001), under article 36 of the Statute of the Permanent Court of International Justice, which is deemed, pursuant to Article 36, paragraph 5, of the Statute of the present Court, to be acceptance of the latter's compulsory jurisdiction (see A/67/4, para. 249).

213. By an order of 23 January 2012, the Court fixed 19 December 2012 and 19 December 2013 as the respective time limits for the filing of a memorial by Nicaragua and a counter-memorial by Costa Rica. The memorial of Nicaragua was filed within the time limit thus fixed.

214. By two separate orders dated 17 April 2013, the Court joined the proceedings in the *Costa Rica* v. *Nicaragua* (see paras. 170-190 above) and the *Nicaragua* v. *Costa Rica* cases. In those two orders, the Court emphasized that it had so

proceeded "in conformity with the principle of the sound administration of justice and with the need for judicial economy".

215. In the context of those joined proceedings, the Court, by an order dated 18 April 2013, ruled on the counterclaims submitted by Nicaragua in its counter-memorial filed in the *Costa Rica* v. *Nicaragua* case (see para. 181 above).

216. In those same joined proceedings, the Court, by an order dated 16 July 2013, ruled on the requests made by Costa Rica and Nicaragua, respectively, for the modification of the provisional measures indicated by the Court on 8 March 2011 in the *Costa Rica* v. *Nicaragua* case (see paras. 182-190 above).

12. *Obligation to Negotiate Access to the Pacific Ocean (Bolivia* v. *Chile)*

217. On 24 April 2013, Bolivia instituted proceedings against Chile concerning a dispute in relation to "Chile's obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean".

218. Bolivia's application contains a summary of the facts — starting from the independence of that country in 1825 and continuing until the present day — which, according to Bolivia, constitute "the main relevant facts on which [its] claim is based".

219. In its application, Bolivia stated that the subject of the dispute lies in: "(*a*) the existence of th[e above-mentioned] obligation, (*b*) the non-compliance of that obligation by Chile and (*c*) Chile's duty to comply with the said obligation".

220. Bolivia asserted, inter alia, that "beyond its general obligations under international law, Chile has committed itself, more specifically through agreements, diplomatic practice and a series of declarations attributable to its highest-level representatives, to negotiate a sovereign access to the sea for Bolivia". According to Bolivia, "Chile has not complied with this obligation and ... denies the existence of its obligation".

221. Bolivia accordingly requested the Court "to adjudge and declare that:

> (*a*) Chile has the obligation to negotiate with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean;
>
> (*b*) Chile has breached the said obligation;
>
> (*c*) Chile must perform the said obligation in good faith, promptly, formally, within a reasonable time and effectively, to grant Bolivia a fully sovereign access to the Pacific Ocean".

222. As the basis for the jurisdiction of the Court, the applicant invokes article XXXI of the American Treaty on Pacific Settlement ("Pact of Bogotá") of 30 April 1948, to which both States are parties.

223. At the end of its application, Bolivia "reserve[d] the right to request that an arbitral tribunal be established in accordance with the obligation under article XII of the Treaty of Peace and Friendship concluded with Chile on 20 October 1904 and the Protocol of 16 April 1907, in the case of any claims arising out of the said Treaty".

224. By an order dated 18 June 2013, the Court fixed 17 April 2014 and 18 February 2015 as the respective time limits for the filing of the memorial of Bolivia and the counter-memorial of Chile. The subsequent procedure was reserved for further decision.

Chapter VI
Visits to the Court and other activities

225. During the period under review, the Court welcomed a large number of dignitaries to its seat, notably heads of State, members of governments, diplomats, parliamentary representatives and presidents and members of judicial bodies.

226. On 21 November 2012, the Court was visited by Mr. Ivan Gašparovič, President of Slovakia, accompanied by a sizeable delegation. Mr. Gašparovič and his delegation were welcomed on their arrival by the President of the Court, Judge Peter Tomka, and by the Registrar, Mr. Philippe Couvreur. The President of Slovakia and his delegation were then given a tour of the Peace Palace, and in particular of the refurbished Great Hall of Justice, after which an exchange of views took place focusing on the functioning and jurisprudence of the Court.

227. On 18 March 2013, Ms. Anouchka van Miltenburg, President of the House of Representatives of the Netherlands, paid a visit to the Court. She was accompanied by the Mayor of The Hague, Mr. Jozias van Aartsen. During their meeting with President Tomka and the Registrar, they addressed such topics as future trends in international justice, the role of the Court and the support received by the Court from the host country's authorities.

228. On 28 March 2013, the Court was visited by Prince Bander bin Salman Al Saud from Saudi Arabia and his seven-member delegation. The Prince and his delegation had a meeting with the President and the Registrar on the functioning of the Court and the prospects for cooperation between the Court and Saudi Arabia. The Prince put forward the idea of having the Court's judgments translated into Arabic by Saudi translators. This proposal was welcomed by his hosts.

229. On 7 April 2013, the Court received the Secretary-General of the United Nations, Mr. Ban Ki-moon, for a working dinner. He was accompanied, in particular, by Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs. President Tomka, Vice-President Bernardo Sepúlveda-Amor, Judge Dalveer Bhandari and the Registrar of the Court, Mr. Couvreur, were present at that dinner. Conversation focused on the mission and functioning of the Court, the cases brought before it and its most recent decisions. The Secretary-General used the occasion to reaffirm his complete confidence in the Court's contribution to peace and international justice. He also expressed his firm belief that justice is an essential prerequisite to any form of lasting peace. At the close of the meeting, the Secretary-General signed the Court's Visitors' Book.

230. On 30 May 2013, the Court received a visit from Mr. Joachim Gauck, President of the Federal Republic of Germany, accompanied by a large delegation. He was welcomed by Vice-President Sepúlveda-Amor, Acting President, and by the Registrar of the Court, Mr. Couvreur. Mr. Gauck and his delegation then held discussions with the Vice-President, other members of the Court and the Registrar in the Chamber in which the Court meets prior to hearings. Questions addressed included, in particular, the Court's contribution to the promotion of human rights. Following this exchange of views, President Gauck signed the Court's Visitors' Book.

231. In addition, the President and members of the Court, as well as the Registrar and Registry officials, welcomed a large number of researchers, academics, lawyers

and journalists. Presentations on the role and functioning of the Court were made during several of these visits.

232. On Sunday, 23 September 2012, the Court welcomed several hundreds of visitors as part of "The Hague International Day". This was the fifth time that the Court had taken part in this event, organized in conjunction with the Municipality of The Hague and aimed at introducing the general public to the international organizations based in the city and surrounding area. The Information Department screened (in English and in French) the film about the Court produced by the Registry, gave presentations and answered visitors' questions (in English, French and Dutch). It also distributed various information brochures.

233. In celebration of the Centenary of the Peace Palace, the Court has decided to hold a conference on Monday, 23 September 2013. The following themes will be addressed on that occasion: a century of international justice and perspectives for the future; the International Court of Justice and the international legal system; the role of the International Court of Justice for enhancing the rule of law; and the International Court of Justice and the United Nations: relationship of the Court with other United Nations organs.

Chapter VII
Publications and presentation of the Court to the public

A. Publications

234. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, to international organizations and to the world's major law libraries. The catalogue of those publications, which is produced in English and French, is distributed free of charge. A revised and updated version of the catalogue (containing the new 13-digit ISBN references) is under preparation and will be published in the second half of 2013. It will be available on the Court's website (www.icj-cij.org, under the heading "Publications").

235. The publications of the Court consist of several series. The following three series are published annually: (a) *Reports of Judgments, Advisory Opinions and Orders* (published in separate fascicles and as a bound volume), (b) *Yearbooks* and (c) the *Bibliography* of works and documents relating to the Court.

236. As at the date of the present report, the two bound volumes of *Reports 2010* and *Reports 2011* had been published. The two bound volumes of *Reports 2012* will appear during the second half of 2013. The Court's *Yearbook 2009-2010* was published during the period under review, while the *Yearbook 2010-2011* was finalized for publication. The *Yearbook 2011-2012* will appear during the second half of 2013. The *Bibliography of the International Court of Justice*, No. 57, was also published during the period under review. The *Bibliography of the International Court of Justice*, No. 58, will appear at the end of the second half of 2013.

237. The Court also publishes bilingual printed versions of the instruments instituting proceedings in contentious cases referred to it (applications instituting proceedings and special agreements), and of applications for permission to intervene, declarations of intervention and requests for advisory opinions it receives. In the period covered by this report, one case was submitted to the Court (see para. 4 above); the application instituting proceedings is currently being printed.

238. The pleadings and other documents submitted to the Court in a case are published after the instruments instituting proceedings, in the series *Pleadings, Oral Arguments, Documents*. The volumes of this series, which now contain the full texts of the written pleadings, including annexes, as well as the verbatim reports of the public hearings, give practitioners a complete view of the arguments elaborated by the parties.

239. Eleven volumes were published in this series in the period covered by the present report.

240. In the series *Acts and Documents concerning the Organization of the Court*, the Court publishes the instruments governing its organization, functioning and judicial practice. The most recent edition, No. 6, which includes the Practice Directions adopted by the Court, came out in 2007. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. These documents can also be found online on the Court's website (www.icj-cij.org, under the heading "Basic Documents"). Unofficial translations of the Rules of Court are

also available in the other official languages of the United Nations and in German, and may be found on the Court's website.

241. The Court issues press releases and summaries of its decisions.

242. A special, lavishly illustrated, book entitled *The Permanent Court of International Justice* was also published in 2012. This trilingual publication (English, French and Spanish) was produced by the Court to mark the ninetieth anniversary of the inauguration of its predecessor. It joins *The Illustrated Book of the International Court of Justice*, published in 2006, an updated version of which is due to be released to mark the seventieth anniversary of the Court, which will be celebrated in 2016.

243. The Court also publishes a handbook intended to facilitate a better understanding of the history, organization, jurisdiction, procedures and jurisprudence of the Court. The fifth edition of this handbook came out in January 2006 in the Court's two official languages. A sixth, fully updated, edition will be published shortly in those two languages, and will subsequently be translated into the other official languages of the United Nations and into German.

244. In addition, the Court produces a general information booklet in the form of questions and answers. This booklet is published in all the official languages of the United Nations and in Dutch.

245. Finally, the Registry collaborates with the Secretariat by providing it with summaries of the Court's decisions, which it drafts in English and in French, for translation and publication in all the other official languages of the United Nations. The publication of the *Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice* in each of these languages by the Secretariat fulfils a vital educational function throughout the world and offers the general public much greater access to the essential content of the Court's decisions, which are otherwise available only in English and French.

B. Film

246. During the period under review, the Registry updated its 18-minute film about the Court, which is available in various language versions. In addition to the seven versions previously available (Chinese, English, French, German, Italian, Korean and Vietnamese), the film has now also been produced in four other languages (Arabic, Dutch, Russian and Spanish) and preparations are under way for other versions. The film is available in all 11 languages on the Court's website and on the UN Web TV website. It has also been made available to the Department of Public Information of the Secretariat and its Audiovisual Library of International Law. In addition, it is shown regularly on a big screen to visitors at the Peace Palace.

C. Website

247. Since the end of 2009, the Court has been providing full live (web streaming) and recorded (VOD) coverage of the majority of its public sittings on its website. In 2011-2012, this recorded coverage was also posted on the United Nations Webcast website; since the beginning of 2013, the Court's recordings have been available to watch live and as on-demand webcasts on UN Web TV, the United Nations new

online television channel. The Court also posts multimedia files online for the interested public.

248. The website contains the entire jurisprudence of the Court since 1946, as well as that of its predecessor. The publication entitled *The Permanent Court of International Justice* was recently published on the website; it is available to download free of charge (PDF format).

249. The Court's website also gives easy access to the principal documents from the written and oral proceedings in all cases, past and present, as well as a number of reference documents (Charter of the United Nations, Statute of the Court, Rules of Court and Practice Directions), declarations recognizing the Court's compulsory jurisdiction and a list of treaties and conventions providing for that jurisdiction.

250. In addition, the website contains the biographies of the judges and the Registrar, all of the Court's press releases since its establishment and general information (on the Court's history and procedure, the organization and functioning of the Registry), a calendar of hearings, an "Employment" section, the catalogue of publications and various online forms (for those wishing to attend hearings or presentations on the activities of the Court, or to receive its press releases, to apply for an internship or to put specific questions to the Registry).

251. The "Press Room" page provides online access to all the necessary information for reporters wishing to cover the Court's activities, as well as audio and video excerpts from recent public hearings and readings of the Court's decisions and photographs available to download. Thanks to the cooperation of the Department of Public Information of the Secretariat, the Court's photographs have also been available on the UN Photo website since 2011.

252. While the main website of the Court is available in its two official languages, English and French, a large number of documents (basic texts, summaries of cases since 1946) can also be found in Arabic, Chinese, Russian and Spanish on the dedicated pages accessible via the welcome screen of the main website.

253. Finally, the site offers various links to websites of the United Nations (UN Web TV, UN Photo, UN AVL, UN Radio, etc.). The Registry intends to continue and deepen its cooperation with these various services.

D. Museum

254. In 1999, the Secretary-General of the United Nations inaugurated the Museum of the International Court of Justice in the south wing of the Peace Palace. A project aimed at reorganizing and modernizing the Museum, and facilitating public access to the historical pieces displayed there, is currently under review.

Chapter VIII
Finances of the Court

A. Method of covering expenditure

255. In accordance with Article 33 of the Statute of the Court, "[t]he 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.

256. In accordance with established practice, sums derived from staff assessment, sales of publications, bank interest and other credits are recorded as United Nations income.

B. Drafting of the budget

257. In accordance with articles 24 to 28 of the revised 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.

258. 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 and is thereafter 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. Budget implementation

259. The Registrar is responsible for implementing the budget, with the assistance of the Finance Division (see paras. 77-78 above). 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, the Registrar regularly communicates a statement of accounts to the Budgetary and Administrative Committee of the Court.

260. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly. At the end of each month, the closed accounts are forwarded to the Secretariat of the United Nations.

D. Budget of the Court for the biennium 2012-2013

261. Regarding the budget for the 2012-2013 biennium, the Court was pleased to note that its requests for new posts and its other spending proposals were largely granted.

Revised budget for the biennium 2012-2013

(United States dollars, after recosting at the end of 2012)

Programme		
Members of the Court		
0311025	Allowances for various expenses[a]	1 534 300
0311023	Pensions	3 850 700
0393909	Duty allowance: judges ad hoc	1 233 400
2042302	Travel on official business	52 900
0393902	Emoluments	7 825 200
Subtotal		**14 496 500**
Registry		
0110000	Permanent posts	17 518 200
0170000	Temporary posts for the biennium	199 300
0200000	Common staff costs	6 652 000
1540000	Medical and associated costs, after suspension of services	317 900
0211014	Representation allowance	7 200
1210000	Temporary assistance for meetings	1 508 100
1310000	General temporary assistance	264 500
1410000	Consultants[b]	170 400
1510000	Overtime	101 800
2042302	Official travel	49 400
0454501	Hospitality	20 500
Subtotal		**26 809 300**
Programme support		
3030000	External translation	446 100
3050000	Printing	635 200
3070000	Data-processing services	670 600
4010000	Rental/maintenance of premises	3 375 900
4030000	Rental of furniture and equipment	246 800
4040000	Communications	210 900
4060000	Maintenance of furniture and equipment	111 900
4090000	Miscellaneous services	48 900
5000000	Supplies and materials	277 400
5030000	Library books and supplies	244 000

Programme		
6000000	Furniture and equipment	201 000
6025041	Acquisition of office automation equipment	80 000
6025042	Replacement of office automation equipment	135 100
Subtotal		**6 683 800**
Total		**47 989 600**

[a] Including a total of US$ 410,000 pursuant to the General Assembly resolution on unforeseen expenses.

[b] Including a total of US$ 11,900 pursuant to the General Assembly resolution on unforeseen expenses.

E. Budgetary requests for the biennium 2014-2015

262. The budgetary requests for the 2014-2015 biennium were submitted to the United Nations Secretariat at the beginning of 2013. Therein, the Court requested the establishment of three posts: a post of Head of Procurement, Facilities Management and General Assistance (P-3), a post of Associate Legal Officer (P-2) for the Office of the President of the Court and a post of Administrative Assistant (General Service, Other level) for the Office of the Registrar.

263. The incumbent of the first post would be responsible for overseeing the Procurement, Building Services and General Assistance Division, consisting of seven existing General Service posts, including one post of Senior Administrative Assistant (Principal level) and six other posts (Other level). Since the volume and complexity of procurement processes have increased significantly over recent years, it is important that a comprehensive approach should now be adopted in the matter, which justifies the creation of a P-3 post. In the context of the envisaged restructuring, the General Assistance Division (responsible for usher, reception, driving and messenger services) would report directly to the incumbent of the new post and no longer to the Administrative and Personnel Division, which could focus more on strategic human resources management, so as to better respond to the needs of the Court in this respect.

264. With respect to the second post requested, it is recalled that the President of the Court currently receives assistance from a Special Assistant (P-3) and a Secretary (General Services, Other level). In view of the growing volume of administrative tasks to be carried out by the Office of the President, the Special Assistant is no longer able to perform judicial tasks on a regular basis. The creation of a new post of Associate Legal Officer would guarantee permanent judicial assistance for the President. The incumbent of the new post could also be called upon to provide assistance to the judges ad hoc and to perform specific tasks for the Registry.

265. Lastly, as regards the third post, it is recalled that the Registrar currently enjoys the services of a Special Assistant (P-3) and a Personal Assistant (General Services, Principal level). Over recent years, the workload of the Office of the Registrar has grown considerably. In particular, there has been a significant increase in the volume of correspondence and electronic and telephone communications, as

well as the number of visits received by the Registrar, as a result of which, it has become difficult for his Personal Assistant to perform all of his or her duties, and in particular those of a more structural nature, such as the compilation of files and the scanning and archiving of documents. The incumbent of the new post of Administrative Assistant would help to draft correspondence, file and archive documents, organize meetings with the Registrar and accompany visitors. He or she would also be responsible for answering the telephone, photocopying and scanning documents, distributing the mail and standing in for the Personal Assistant in his or her absence.

266. In 2015, the Court is due to be included in the Umoja Project. Since the extent of this operation is as yet unknown, the Court has made provision in its budgetary requests for hardware, software and consultancy services in 2014-2015 to facilitate the migration to the Umoja/SAP (Systems, Applications, Products in Data Processing) software. The estimates — based on the hypothetical costs of the project — may prove insufficient to cover the actual costs.

267. As from 1 January 2014, the International Public Sector Accounting Standards (IPSAS) are due to be implemented across the United Nations. The Umoja Project will not be ready in time to provide the necessary support for this implementation. The Court has thus made provision in its budgetary requests for the biennium 2014-2015 to cover the costs of consultancy services, so as to ensure that its current accounting software (ACCPAC) meets IPSAS requirements. The Court will thus be in a position to produce IPSAS-compliant financial statements before Umoja becomes fully operational.

268. Finally, it should be noted that the Court will celebrate its seventieth anniversary on 18 April 2016. This event will be a unique opportunity to better inform the international community, through various means, about the activities and achievements of the principal judicial organ of the United Nations. Since most of the preparatory work for this celebration will take place in the course of the biennium 2014-2015, the Court has incorporated its funding requirements into the next budget.

269. More comprehensive information on the work of the Court during the period under review is available on its website. It will also be found in the *Yearbook 2012-2013*, to be issued in due course.

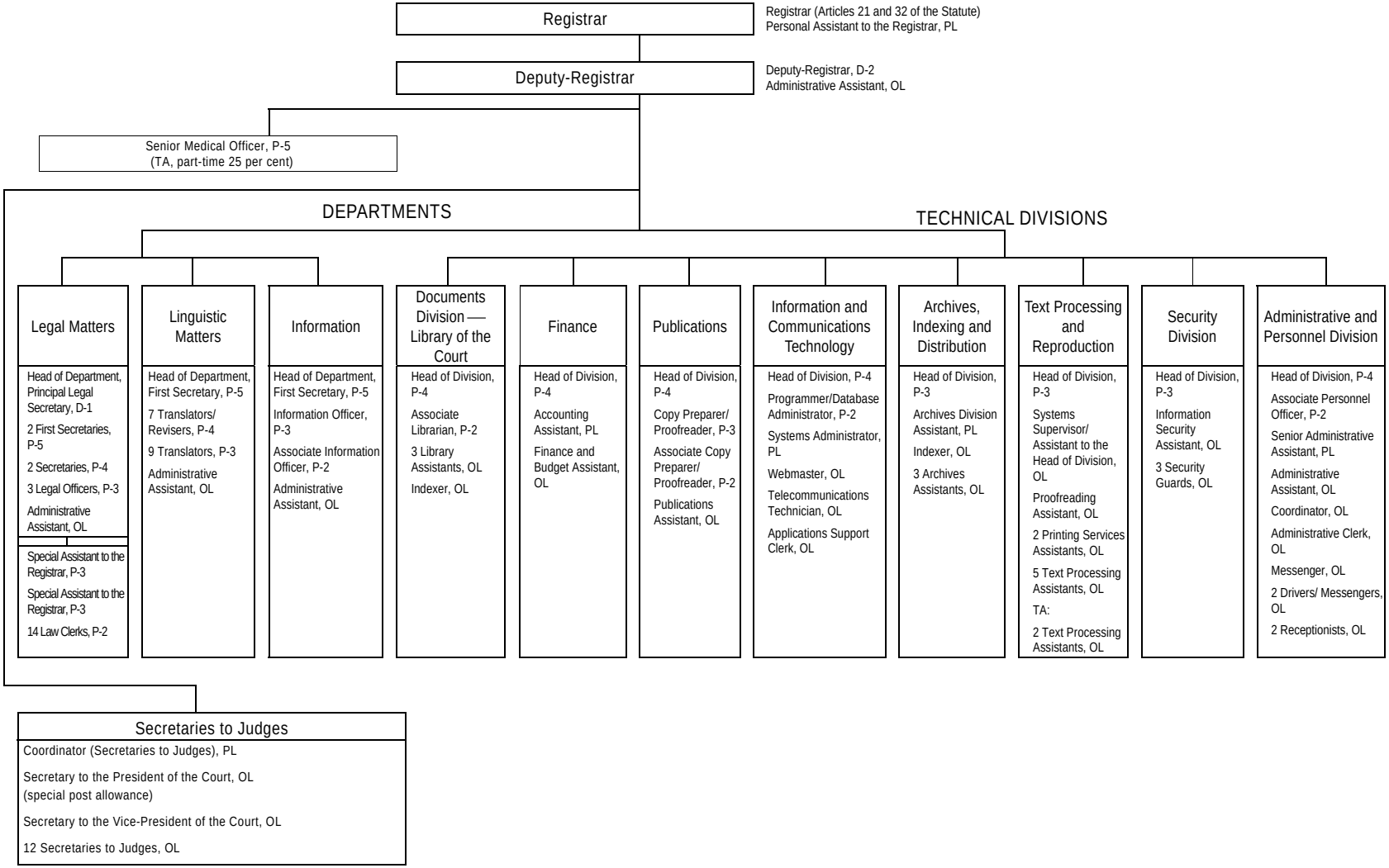
(*Signed*) Peter **Tomka**
President of the International Court of Justice

The Hague, 1 August 2013

13-42389 (E) 300913

Annex

International Court of Justice: organizational structure and post distribution of the Registry as at 31 July 2013



Abbreviations: PL, Principal level; OL, Other level; TA, Temporary assistance.