REPORT OF THE INTERNATIONAL COURT OF JUSTICE

1 August 1989 – 31 July 1990

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTY-FIFTH SESSION

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NOTE

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

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I. COMPOSITION OF THE COURT

1. The present composition of the Court is as follows: President: José María Ruda; Vice-President: Kéba Mbaye; Judges: Manfred Lachs, Taslim Olawale Elias, Shigeru Oda, Roberto Ago, Stephen M. Schwebel, Sir Robert Jennings, Mohammed Bedjaoui, Ni Zhengyu, Jens Evensen, Nikolai K. Tarassov, Gilbert Guillaume, Mohamed Shahabuddeen and Raghunandan Swarup Pathak.

2. The Registrar of the Court is Mr. Eduardo Valencia-Ospina. The Deputy-Registrar is Mr. Bernard Noble.

3. In accordance with Article 29 of the Statute, the Court forms annually a Chamber of Summary Procedure. On 6 February 1990, this Chamber was constituted as follows:

Members

President, José María Ruda;

Vice-President, Kéba Mbaye;

Judges Sir Robert Jennings, Ni Zhengyu and Jens Evensen.

Substitute members

Judges Gilbert Guillaume and Mohamed Shahabuddeen.

4. The original membership of the Chamber formed by the Court on 8 May 1987 for the purpose of dealing with the case concerning the Land, island and maritime frontier dispute (El Salvador/Honduras) was as follows: Judges José Sette-Camara (President of the Chamber), Shigeru Oda and Sir Robert Jennings; Judges ad hoc Nicolas Valticos and Michel Virally, chosen respectively by El Salvador and Honduras. Following the death of Judge Virally, recorded in the previous report, Honduras chose Mr. Santiago Torres Bernárdez to replace him. On 13 December 1989 the Court made an Order declaring the following new composition of the Chamber: Judges José Sette-Camara (President of the Chamber), Shigeru Oda and Sir Robert Jennings; Judges ad hoc Nicolas Valticos and Santiago Torres Bernárdez.

5. Mr. Claude-Albert Colliard, chosen by Nicaragua, sits as a judge ad hoc in the case concerning Military and paramilitary activities in and against Nicaragua (Nicaragua v. United States of America).

6. In the case concerning Maritime delimitation in the area between Greenland and Jan Mayen (Denmark v. Norway), Denmark has chosen Mr. Paul Henning Fischer to sit as a judge ad hoc.

7. In the case concerning the Arbitral award of 31 July 1989 (Guinea-Bissau v. Senegal), Guinea-Bissau has chosen Mr. Hubert Thierry to sit as a judge ad hoc.

II. JURISDICTION OF THE COURT

A. Jurisdiction of the Court in contentious cases

8. On 31 July 1990, the 159 States Members of the United Nations, together with Liechtenstein, Nauru, San Marino and Switzerland, were parties to the Statute of the Court.

9. There are now 51 States which have made declarations (a number of them with reservations) recognizing the jurisdiction of the Court as compulsory, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Cambodia, Canada, Colombia, Costa Rica, Cyprus, Denmark, Dominican Republic, Egypt, El Salvador, Finland, Gambia, Guinea-Bissau, Haiti, Honduras, India, Japan, Kenya, Liberia, Liechtenstein, Luxembourg, Malawi, Malta, Mauritius, Mexico, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Philippines, Portugal, Senegal, Somalia, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay and Zaire. The texts of the declarations filed by those States appear in chapter IV, section II, of the I.C.J. Yearbook 1989-1990. The declaration of Guinea-Bissau was deposited with the Secretary-General of the United Nations during the 12 months under review, on 7 August 1989.

10. Since 1 August 1989, three treaties providing for the jurisdiction of the Court in contentious cases and registered with the Secretariat of the United Nations have been brought to the knowledge of the Court: the Convention on the Protection of the Marine Environment of the Baltic Sea Area, concluded at Helsinki on 22 March 1974 (art. 18, para. 2); the Paris Act, concluded on 24 July 1971, relating to the Berne Convention for the Protection of Literary and Artistic Works (art. 33); and the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly of the United Nations in its resolution 44/34 of 4 December 1989 (art. 17, para. 1).

11. Lists of treaties and conventions in force which provide for the jurisdiction of the Court appear in chapter IV, section II, of the I.C.J. Yearbook 1989-1990. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

B. Jurisdiction of the Court in advisory proceedings

12. In addition to the United Nations (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly, Committee on Applications for Review of Administrative Tribunal Judgements), the following organizations are at present authorized to request advisory opinions of the Court on legal questions:

International Labour Organisation;

Food and Agriculture Organization of the United Nations;

United Nations Educational, Scientific and Cultural Organization;

International Civil Aviation Organization;

World Health Organization;

World Bank;

International Finance Corporation;

International Development Association;

International Monetary Fund;

International Telecommunication Union;

World Meteorological Organization;

International Maritime Organization;

World Intellectual Property Organization;

International Fund for Agricultural Development;

United Nations Industrial Development Organization;

International Atomic Energy Agency.

13. The international instruments which make provision for the advisory jurisdiction of the Court are listed in chapter IV, section I, of the I.C.J. Yearbook 1989-1990.

III. JUDICIAL WORK OF THE COURT

14. During the period under review the Court was seized of one contentious case, that concerning the Arbitral award of 31 July 1989 (Guinea-Bissau v. Senegal), and received from Nicaragua an Application for permission to intervene in the case, referred to a Chamber, concerning the Land, island and maritime frontier dispute (El Salvador/Honduras) (see para. 56 below).

15. The Court held 7 public sittings and 34 private meetings. It delivered an Advisory Opinion in the case concerning the Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations. It made one Order in the contentious case concerning Border and transborder armed actions (Nicaragua v. Honduras), one Order in the contentious case concerning the Aerial incident of 3 July 1988 (Islamic Republic of Iran v. United States of America) and two Orders in the contentious case concerning the Arbitral award of 31 July 1989 (Guinea-Bissau v. Senegal), one of which was on a request by Guinea-Bissau for the indication of provisional measures. In the contentious case concerning the Land, island and maritime frontier dispute (El Salvador/Honduras), the Court made one Order on the composition of the Chamber and another referring the Application for permission to intervene to the Chamber dealing with the case (see para. 57 below).

16. The President of the Court made three Orders, in the contentious cases concerning Border and transborder armed actions (Nicaragua v. Honduras), the Aerial incident of 3 July 1988 (Islamic Republic of Iran v. United States of America) and Maritime delimitation in the area between Greenland and Jan Mayen, respectively.

17. During the period under review, the Chamber constituted to deal with the case concerning the Land, island and maritime frontier dispute (El Salvador/Honduras) held five public sittings and three private meetings; the President of the Chamber made one Order.

A. Contentious cases before the Court

1. Military and paramilitary activities in and against Nicaragua (Nicaragua v. United States of America)

18. In its Judgment of 27 June 1986 on the merits of this case, the Court found, inter alia, that the United States of America was under and obligation to make reparation to the Republic of Nicaragua for all injury caused to Nicaragua by certain breaches of obligations under international law committed by the United States. It further decided "that the form and amount of such reparation, failing agreement between the Parties, [would] be settled by the Court", reserving for that purpose the subsequent procedure.

19. In a letter of 7 September 1987, the Agent of Nicaragua stated that no agreement had been reached between the Parties as to the form and amount of the reparation and that Nicaragua requested the Court to make the necessary orders for the further conduct of the case.

20. By a letter dated 13 November 1987, the Deputy-Agent of the United States informed the Registrar that the United States remained of the view that the Court

was without jurisdiction to entertain the dispute and that the Nicaraguan Application was inadmissable, and that, accordingly, the United States would not be represented at a meeting, to be held in accordance with article 31 of the Rules of Court, for the purpose of ascertaining views of the Parties on the procedure to be followed.

21. After having ascertained the views of the Government of Nicaragua and having afforded the Government of the United States of America an opportunity of stating its views, the Court, by an Order of 18 November 1987, fixed 29 March 1988 as the time-limit for a Memorial of the Republic of Nicaragua and 29 July 1988 as the time-limit for a Counter-Memorial of the United States of America.

22. The Memorial of the Republic of Nicaragua was duly filed on 29 March 1988. The United States of America did not file a Counter-Memorial within the prescribed time-limit.

23. At a meeting on 22 June 1990 called by the President of the Court to ascertain the views of Nicaragua and the United States of America on the date for the opening of oral proceedings on compensation in this case, the Agent of Nicaragua informed the President of the position of his Government, already set out in a letter from the Agent to the Registrar of the Court dated 20 June 1990. He indicated that the new Government of Nicaragua was carefully studying the different matters it had pending before the Court; that the instant case was very complex and that, added to the many difficult tasks facing the Government, those were special circumstances that would make it extremely inconvenient for it to take a decision on what procedure to follow in this case during the coming months. The President, in the light of the position thus taken by the Government of Nicaragua, stated that he would inform the Court and in the meantime take no action to fix a date for hearings.

2. Border and transborder armed actions (Nicaragua v. Honduras)

24. On 28 July 1986, the Republic of Nicaragua filed in the Registry of the Court an Application instituting proceedings against the Republic of Honduras. The matters referred to in the Application included alleged border and transborder armed actions organized by contras on its territory from Honduras, the giving of assistance to the contras by the armed forces of Honduras, direct participation by the latter in military attacks against its territory, and threats of force against it emanating from the Government of Honduras. It requested the Court to adjudge and declare:

> "(a) That the acts and omissions of Honduras in the material period constitute breaches of the various obligations of customary international law and the treaties specified in the body of this Application for which the Republic of Honduras bears legal responsibility;
>
> "(b) That Honduras is under a duty immediately to cease and to refrain from all such acts as may constitute breaches of the foregoing legal obligations;
>
> "(c) That Honduras is under an obligation to make reparation to the Republic of Nicaragua for all injury caused to Nicaragua by the breaches of

obligations under the pertinent rules of customary international law and treaty provisions."

25. Since Honduras contested that the Court had jurisdiction over the matters raised by the Application, the Court decided that the first pleadings should deal exclusively with the issues of jurisdiction and admissibility. Those pleadings having been filed and the oral arguments of the Parties on those issues having been heard, the Court, in a Judgment delivered on 20 December 1988, found that it had jurisdiction to entertain the Application of Nicaragua and that that Application was admissible.

26. On 21 April 1989, the President of the Court fixed time-limits for written proceedings on the merits: 19 September 1989 for the Memorial of Nicaragua and 19 February 1990 for the Counter-Memorial of Honduras.

27. On 31 August 1989, the President of the Court made an Order (I.C.J. Reports 1989, p. 123) extending to 8 December 1989 the time-limit for the Memorial and reserving the question of extension of the time-limit for the Counter-Memorial. The Memorial of Nicaragua was filed within the prescribed time-limit.

28. By letters dated 13 December 1989, the Agents of both Parties transmitted to the Court the text of an agreement reached by the Presidents of the Central American countries on 12 December 1989 in San Isidro de Coronado, Costa Rica. They referred in particular to paragraph 13 thereof, which recorded the agreement of the President of Nicaragua and the President of Honduras, in the context of arrangements aimed at achieving an extra-judicial settlement of the dispute which is the subject of the proceedings before the Court, to instruct their Agents in the case to communicate immediately, either jointly or separately, the agreement to the Court, and to request the postponement of the date for the fixing of the time-limit for the presentation of the Counter-Memorial of Honduras until 11 June 1990.

29. By an Order of 14 December 1989 (I.C.J. Reports 1989, p. 174), the Court decided that the time-limit for the filing by Honduras of a Counter-Memorial on the merits was extended from 19 February 1990 to a date to be fixed by an order to be made after 11 June 1990. Subsequent to the date last mentioned, the President of the Court consulted the Parties, concluded that they did not desire the new time-limit for the Counter-Memorial to be fixed for the time being, and informed them that he would so advise the Court.

3. Maritime delimitation in the area between Greenland and Jan Mayen (Denmark v. Norway)

30. On 16 August 1988, the Kingdom of Denmark filed in the Registry of the Court an Application instituting proceedings against the Kingdom of Norway.

31. In its Application, Denmark explained that, despite negotiations conducted since 1980, it had not been possible to find an agreed solution to a dispute with regard to the delimitation of Denmark's and Norway's fishing zones and continental shelf areas in the waters between the east coast of Greenland and the Norwegian island of Jan Mayen, where there is an area of some 72,000 square kilometres to which both Parties lay claim.

32. It therefore requested the Court:

"to decide, in accordance with international law, where a single line of delimitation shall be drawn between Denmark's and Norway's fishing zones and continental shelf areas in the waters between Greenland and Jan Mayen".

33. Denmark chose Mr. Paul Henning Fischer to sit as a judge ad hoc.

34. On 14 October 1988, the Court, taking into account the views expressed by the Parties, fixed 1 August 1989 as the time-limit for the Memorial of Denmark and 15 May 1990 as that for the Counter-Memorial of Norway. Both the Memorial and the Counter-Memorial were filed within the prescribed time-limits.

35. Taking into account an agreement between the Parties that there should be a Reply and a Rejoinder, the President of the Court, by an Order of 20 June 1990 (I.C.J. Reports 1990, p. 89), fixed 1 February 1991 as the time-limit for the Reply of Denmark and 1 October 1991 as that for the Rejoinder of Norway.

4. Aerial incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)

36. On 17 May 1989, the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America.

37. In its Application, the Islamic Republic of Iran referred to:

"The destruction of an Iranian aircraft, Iran Air Airbus A-300B, flight 655, and the killing of its 290 passengers and crew by two surface-to-air missiles launched from the USS Vincennes, a guided-missile cruiser on duty with the United States Persian Gulf/Middle East Force in the Iranian airspace over the Islamic Republic's territorial waters in the Persian Gulf on 3 July 1988".

It contended that, "by its destruction of Iran Air flight 655 and taking 290 lives, its refusal to compensate the Islamic Republic for damages arising from the loss of the aircraft and individuals on board and its continuous interference with the Persian Gulf aviation", the Government of the United States had violated certain provisions of the Chicago Convention on International Civil Aviation (7 December 1944), as amended, and of the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (23 September 1971), and that the Council of the International Civil Aviation Organization (ICAO) had erred in a decision taken on 17 March 1989 with respect to the incident.

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

"(a) That the ICAO Council decision is erroneous in that the Government of the United States has violated the Chicago Convention, including the Preamble, Articles 1, 2, 3 bis and 44 (a) and (h) and Annex 15 of the Chicago Convention as well as Recommendations 2.6/1 of the Third Middle East Regional Air Navigation Meeting of ICAO;

"(b) That the Government of the United States has violated Articles 1, 3 and 10 (1) of the Montreal Convention; and

"(c) That the Government of the United States is responsible to pay compensation to the Islamic Republic, in the amount to be determined by the Court, as measured by the injuries suffered by the Islamic Republic and the bereaved families as a result of these violations, including additional financial losses which Iran Air and the bereaved families have suffered for the disruption of their activities."

39. By an Order of 13 December 1989 (I.C.J. Reports 1989, p. 132), the Court, taking into account the views expressed by each of the Parties, fixed 12 June 199 as the time-limit for the filing of the Memorial of the Islamic Republic of Iran and 10 December 1990 for the filing of the Counter-Memorial of the United States of America.

40. By an Order of 12 June 1990 (I.C.J. Reports 1990, p. 86), made in response to a request by the Islamic Republic of Iran and after the views of the United States of America had been ascertained, the President of the Court extended t 24 July 1990 the time-limit for the filing of the Memorial of the Islamic Republic of Iran and to 4 March 1991 the time-limit for the Counter-Memorial of the United States of America. The Memorial was filed within the prescribed time-limit as thus extended.

5. Certain phosphate lands in Nauru (Nauru v. Australia)

41. On 19 May 1989, the Republic of Nauru filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in a dispute concerning the rehabilitation of certain phosphate lands mined under Australian administration before Nauruan independence.

42. In its Application, Nauru claimed that Australia had breached the trusteeship obligations it accepted under Article 76 of the Charter of the United Nations and under articles 3 and 5 of the Trusteeship Agreement for Nauru of 1 November 1947. Nauru further claimed that Australia had breached certain obligations towards Nauru under general international law.

43. The Republic of Nauru requested the Court to adjudge and declare:

"That Australia has incurred an international legal responsibility and is bound to make restitution or other appropriate reparation to Nauru for the damage and prejudice suffered"; and further

"That the nature and amount of such restitution or reparation should, in the absence of agreement between the Parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings."

44. On 18 July 1989, the Court, having ascertained the views of the Parties, fixed 20 April 1990 as the time-limit for the Memorial of Nauru and 21 January 1991 for the Counter-Memorial of Australia. The Memorial was filed within the prescribed time-limit.

6. Arbitral award of 31 July 1989 (Guinea-Bissau v. Senegal)

45. On 23 August 1989, the Republic of Guinea-Bissau filed an Application instituting proceedings against the Republic of Senegal.

46. The Application explained that, notwithstanding negotiations carried on from 1977 onwards, the two States had been unable to reach agreement regarding the settlement of a dispute concerning a maritime delimitation to be effected between them and for that reason had jointly consented, by an Arbitration Agreement dated 12 March 1985, to submit that dispute to an Arbitration Tribunal composed of three members. It further indicated that according to the terms of article 2 of that Agreement, the Tribunal had been asked to rule on the following twofold question:

> "1. Does the agreement concluded by an exchange of letters [between France and Portugal] on 26 April 1960, and which related to the maritime frontier, have the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal?
>
> "2. In the event of a negative answer to the first question, what is the course of the line delimiting the maritime territories appertaining to the Republic of Guinea-Bissau and the Republic of Senegal respectively?"

The Application added that it had been specified, in article 9 of the Agreement, that the Tribunal would inform the two Governments of its decision regarding the questions set forth in article 2, and that that decision should include the drawing on a map of the frontier line - the Application emphasized that the Agreement used the word "line" in the singular.

47. According to the Application, the Tribunal communicated to the Parties on 31 July 1989 a "text that was supposed to serve as an award" but did not in fact amount to one. Guinea-Bissau therefore asked the Court to adjudge and declare:

> "- that [the] so-called decision [of the Tribunal] is inexistent in view of the fact that one of the two Arbitrators who gave the appearance of a majority in favour of the text of the 'Award' has, by a Declaration appended to it, expressed a view in contradiction with the one apparently adopted by the vote;
>
> "- subsidiarily, that that so-called decision is null and void, as the Tribunal did not give a complete answer to the two-fold question raised by the Agreement and so did not arrive at a single delimitation line duly recorded on a map, and as it has not given the reasons for the restrictions thus unreasonably imposed upon its jurisdiction;
>
> "- that the Government of Senegal is not justified in seeking to require the Government of Guinea-Bissau to apply the Award of 31 July 1989".

48. Guinea-Bissau chose Mr. Hubert Thierry to sit as a judge ad hoc. At the public sitting of 12 February 1990 (see para. 51 below), Judge Thierry made the solemn declaration required by the Statute and Rules of Court.

49. By an Order of 1 November 1989 (I.C.J. Reports 1989, p. 126), the Court, having ascertained the views of the Parties, fixed 2 May 1990 as the time-limit for the Memorial of Guinea-Bissau and 31 October 1990 as that for the Counter-Memorial of Senegal. The Memorial was filed within the prescribed time-limit.

50. On 18 January 1990, a request was filed in the Registry whereby Guinea-Bissau, on the ground of actions stated to have been taken by the Senegalese Navy in a maritime area which Guinea-Bissau regarded as an area disputed between the Parties, requested the Court to indicate the following provisional measures:

> "In order to safeguard the rights of each of the Parties, they shall abstain in the disputed area from any act or action of any kind whatever, during the whole duration of the proceedings until the deicison is given by the Court".

51. Having held public sittings on 12 February 1990 to hear the oral observations of both Parties on the request for provisional measures, the Court, in an Order of 2 March 1990 (I.C.J. Reports 1990, p. 64), adopted by 14 votes to 1, dismissed that request. Judges Evensen and Shahabuddeen appended separate opinions, and Judge ad hoc Thierry a dissenting opinion, to the Order.

B. Contentious case before a Chamber

Land, island and maritime frontier dispute (El Salvador/Honduras)

52. On 11 December 1986, El Salvador and Honduras jointly notified the Court of a Special Agreement concluded between them on 24 May 1986, whereby a dispute referred to as the land, island and maritime frontier dispute would be submitted for decision to a chamber which the Parties would request the Court to form under Article 26, paragraph 2, of the Statute, to consist of three Members of the Court and two judges ad hoc chosen by each party.

53. By an Order of 8 May 1987, the Court, after having received such a request, constituted a Chamber with the original membership indicated in paragraph 4 above. The Chamber elected Judge José Sette-Camara to be its President.

54. In an Order of 13 December 1989 (I.C.J. Reports 1989, p. 162), adopted unanimously, the Court took note of the death of Judge ad hoc Virally, of the nomination by Honduras of Mr. Santiago Torres Bernárdez to replace him and of a number of communications from the Parties, noted that it appeared that El Salvador had no objection to the choice of Mr. Torres Bernárdez, and that no objection appeared to the Court itself, and declared the Chamber to be composed as follows: Judges José Sette-Camara (President of the Chamber), Shigeru Oda and Sir Robert Jennings; Judges ad hoc Nicholas Valticos and Santiago Torres Bernárdez. Judge Shahabuddeen appended a separate opinion to the Order. Judge Torres Bernárdez made the solemn declaration required by the Statute and Rules of Court at the first public sitting held by the Chamber thereafter, on 5 June 1990.

55. The written proceedings in the case have taken the following course: each party filed a Memorial within the time-limit of 1 June 1988 which had been fixed therefore by the Court after ascertainment of the Parties' views. The Parties having requested, by virtue of their Special Agreement, that the written proceedings should also consist of Counter-Memorials and Replies, the Chamber authorized the filing of such pleadings and fixed time-limits accordingly. At the successive requests of the Parties, the President of the Chamber extended those time-limits, by Orders made on 12 January 1989 and 13 December 1989 (I.C.J. Reports

1989, pp. 3 and 129), to 10 February 1989 and 12 January 1990 respectively. Each Party's Counter-Memorial and Reply were filed within the time-limits as thus extended.

56. On 17 November 1989, Nicaragua addressed to the Court an Application under Article 62 of the Statute for permission to intervene in the case. Nicaragua stated that it had no intention of intervening in respect of the dispute concerning the land boundary between El Salvador and Honduras, its object being:

> "First, generally to protect the legal rights of the Republic of Nicaragua in the Gulf of Fonseca and the adjacent maritime areas by all legal means available.
>
> "Secondly, to intervene in the proceedings in order to inform the Court of the nature of the legal rights of Nicaragua which are in issue in the dispute. This form of intervention would have the conservative purpose of seeking to ensure that the determination of the Chamber did not trench upon the legal rights and interests of the Republic of Nicaragua, and Nicaragua intends to subject itself to the binding effect of the decision to be given."

Nicaragua further expressed the view that its request for permission to intervene was a matter exclusively within the procedural mandate of the full Court.

57 In an Order of 28 February 1990 (I.C.J. Reports 1990, p. 3), adopted by 12 votes to 3, the Court, having considered the observations submitted by the Parties on that last point and the Applicant's comments thereon, concluded that it was sufficiently informed of the views of the States concerned, without there being any need for oral proceedings, and found that it was for the Chamber formed to deal with the case to decide whether the application for permission to intervene should be granted. Judge Oda appended a declaration, and Judges Elias, Tarassov and Shahabuddeen dissenting opinions to the Order.

58. Between 5 and 8 June 1990, the Chamber, at five public sittings, heard oral arguments on the Nicaraguan Application for permission to intervene, presented on behalf of Nicaragua, El Salvador and Honduras.

59. At the time of preparation of this report, the Chamber is deliberating on the judgment to be delivered on Nicaragua's Application.

C. Request for advisory opinion

Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations

60. On 24 May 1989, the Economic and Social Council of the United Nations adopted resolution 1989/75, whereby it requested the Court to give, on a priority basis, an advisory opinion

> **"on the legal question of the applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations in the case of Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission"**

on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights.

61. The letter from the Secretary-General, transmitting to the Court the request for advisory opinion and certified copies of the English and French texts of the resolution, was received in the Registry on 13 June 1989.

62. In an Order of 14 June 1989, the President of the Court decided that the United Nations and the States parties to the Convention on the Privileges and Immunities of the United Nations were considered likely to be able to furnish information on the question and, bearing in mind that the request was expressed to be made "on a priority basis", fixed 31 July 1989 as the time-limit for the submission of written statements and 31 August 1989 for the submission of subsequent written comments on those statements.

63. Pursuant to the Statute, the Secretary-General of the United Nations transmitted to the Court a dossier of documents likely to throw light upon the question.

64. Written statements were filed, within the time-limit fixed, by the United Nations and by Canada, the Federal Republic of Germany, Romania and the United States of America.

65. At public sittings held on 4 and 5 October 1989, oral statements were made before the Court by Mr. Carl-August Fleischhauer, the United Nations Legal Counsel, on behalf of the Secretary-General, and by Mr. Abraham Sofaer, Legal Adviser, Department of State, on behalf of the United States of America. Questions were put by Members of the Court to the representative of the Secretary-General, and answered before the close of the oral proceedings.

66. At a public sitting held on 15 December 1989, the Court delivered its Advisory Opinion (I.C.J. Reports 1989, p. 177), the operative part of which reads as follows:

> "The Court,
>
> "Unanimously,
>
> "Is of the opinion that article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations is applicable in the case of Mr. Dumitru Mazilu as a special rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities."

Judges Oda, Evensen and Shahabuddeen appended separate opinions to the Advisory Opinion.

IV. THE COURT AND THE UNITED NATIONS DECADE OF INTERNATIONAL LAW

67. In the Court's previous report to the General Assembly, 1/ mention was made of the ministerial meeting of the Movement of Non-Aligned Countries on peace and the rule of law in international affairs, which was held in the Peace Palace from 25 to 29 June 1989. That meeting adopted the Hague Declaration, which stressed the supremacy of international law in the preservation of peace and the promotion of justice and called upon the United Nations General Assembly to declare a decade of international law, to begin in 1990 and to conclude in 1999 in a third peace conference, which would mark the centenary of the first International Peace Conference, held at the Hague (see A/44/191, appendix).

68. The Court has taken note of General Assembly resolution 44/23 of 17 November 1989, entitled "United Nations Decade of International Law", in which the Assembly declared the period 1990-1999 as that Decade and, inter alia, gave as one of the main purposes of the Decade:

> "To promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice".

The Court will readily participate, within the framework of its functions, in the endeavours of the international community towards making the Decade a success.

1/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 4 (A/44/4), para. 70.

V. SECRETARY-GENERAL'S TRUST FUND TO ASSIST STATES IN THE SETTLEMENT OF DISPUTES THROUGH THE INTERNATIONAL COURT OF JUSTICE

69. The Court has taken note of the announcement by the Secretary-General of the United Nations, at the meeting of the General Assembly held on 1 November 1989, of the Secretary-General's Trust Fund to assist States in the settlement of disputes through the International Court of Justice. It has noted that the purpose of the Fund is to provide, in accordance with the terms and conditions specified in the terms of reference, guidelines and rules, financial assistance to States for expenses incurred in connection with (a) a dispute submitted to the International Court of Justice by way of a special agreement, or (b) the execution of a Judgment of the Court resulting from such special agreement.

VI. REPRESENTATION OF THE COURT

70. At the ceremonies held at Windhoek on 20 and 21 March 1990 to mark the accession to independence of Namibia, the Court was represented by Judge Mohammed Bedjaoui, one-time Vice-President of the United Nations Council for Namibia, accompanied by the Deputy-Registrar.

VII. VISITS OF HEADS OF STATE

71. On 3 October 1989, the President of the Portuguese Republic, His Excellency Mr. Mario Soares, was received by the Court at a formal sitting in the Great Hall of Justice of the Peace Palace. At the sitting, which was attended by the diplomatic corps and representatives of the Dutch Government, the President of the Court made a welcoming speech, to which the President of Portugal replied.

72. The President of the Republic of Cyprus, His Excellency Mr. George Vassos Vassiliou, visited the Court on 13 June 1990. He was received in private by President Ruda and Members of the Court.

VIII. LECTURES ON THE WORK OF THE COURT

73. Many talks and lectures on the Court were given by the President, Members of the Court, the Registrar and officials of the Registry in order to improve public understanding of the judicial settlement of international disputes, the jurisdiction of the Court and its function in advisory cases.

IX. COMMITTEES OF THE COURT

74. The committees constituted by the Court to facilitate the performance of its administrative tasks, which met several times during the period under review, were composed as follows as from 5 February 1990 (for their composition before that date, see the previous report):

(a) The Budgetary and Administrative Committee: the President, the Vice-President and Judges Elias, Schwebel, Bedjaoui, Tarassov and Guillaume;

(b) The Committee on Relations: Judges Bedjaoui, Ni and Evensen;

(c) The Library Committee: Judges Oda, Sir Robert Jennings and Ni.

75. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judges Lachs, Mbaye, Oda, Ago, Sir Robert Jennings, Ni, Tarassov and Shahabuddeen.

X. PUBLICATIONS AND DOCUMENTS OF THE COURT

76. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court and to the major law libraries of the world. The sale of those publications is organized by the Sales Sections of the United Nations Secretariat, which are in touch with specialized booksellers and distributors throughout the world. A catalogue (latest edition: 1988) is, with its annual addenda, distributed free of charge.

77. The publications of the Court include at present three annual series: Reports of Judgments, Advisory Opinions and Orders (which are also published separately when they are made), a Bibliography of works and documents relating to the Court, and a Yearbook (in the French version: Annuaire). The most recent publication in the first series is I.C.J. Reports 1988. Bibliographies Nos. 40 (1986), 41 (1987) and 42 (1988) have been published during the period covered by this report.

78. Even before the termination of a case, the Court may, after ascertaining the views of the parties make the pleadings and documents available on request to the Government of any State entitled to appear before the Court. The Court may also, after ascertaining the views of the parties, make them accessible to the public on or after the opening of the oral proceedings. The documentation of each case is published by the Court after the end of the proceedings, under the title Pleadings, Oral Arguments, Documents. In that series, volumes I and VIII (Maps) in the case concerning the Delimitation of the maritime boundary in the Gulf of Maine area (Canada/United States of America) have been published during the period under review. Other volumes in the same case will be published shortly.

79. In the series Acts and Documents concerning the Organization of the Court, the Court also publishes the instruments governing its functioning and practice. No. 4 in this series, which was issued after the revision of the Rules adopted by the Court on 14 April 1978, having been exhausted, a new but little-changed edition (No. 5) has been published to replace it.

80. The Rules of Court have been translated into unofficial Arabic, Chinese, German, Russian and Spanish versions.

81. The Court distributes press communiqués, background notes and a handbook in order to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The handbook was updated on the occasion of the Court's fortieth anniversary, and the third edition appeared at the end of 1986 in English and French. For the first time, editions in the remaining four official languages of the United Nations (Arabic, Chinese, Russian and Spanish) have now been printed and will be available shortly.

82. More comprehensive information on the work of the Court during the period under review will be found in the I.C.J. Yearbook 1989-1990, to be issued in due course.

(Signed) José María RUDA
President

The Hague, 15 August 1990

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