

# **READING OF THE ADVISORY OPINION**

**PUBLIC SITTING**

*held at the Peace Palace on 12 July 1973,  
the President, Judge Lachs presiding*

PUBLIC SITTING (12 VII 73, 10 a.m.)

*Present: President LACHS; Judges FORSTER, GROS, BENZON, ONYEAMA, MOROZOV, JIMÉNEZ DE ARÉCHAGA, Sir Humphrey WALDOCK, NAGENDRA SINGH, RUDA; Registrar AQUARONE.*

### READING OF THE ADVISORY OPINION

The PRESIDENT: The Court meets today to deliver at a public sitting, in accordance with Article 67 of its Statute, its Advisory Opinion on the *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal* which was requested of it on 3 July 1972 by the Committee on Applications for Review of Administrative Tribunal Judgements.

Before I proceed to read out the Advisory Opinion, it is my sad duty to record the death of President Hackworth, whose departure adds a distinguished name to the lengthening roll of those who served upon this Bench and are now no more.

Green H. Hackworth was a Member of this Court from 1946 to 1961, and its President from 1955 to 1958. He came to The Hague after a long and distinguished career as a member of the Bar of the Supreme Court of the United States and 21 years as Legal Adviser to the Department of State. In the latter capacity he took an active part in many international law-making conferences, notably those which led to the establishment of the United Nations. He chaired the United Nations Committee of Jurists, composed of 44 States, which met at Washington in 1945 to prepare the draft of the Statute of this Court.

Two years before his election to the Court he completed a work of eight volumes, which has made his name a household word to every international jurist. There can be few among them who, in matters of jurisprudence, have not made copious use of his *Digest of International Law*, which is a treasure-house of precedents and decisions in all branches of international law.

He served with great distinction on this Court for 15 years, and in several individual opinions shed a most interesting light on the decisions in which he took part.

In honouring his memory today we can say with pride that Green H. Hackworth served well the cause of justice and law in relations among States. I invite you to honour his memory by a minute of silence.

I now return to the matter with which we are concerned this morning, and, with regard to the composition of the Court, I wish to announce that Judge Petrán and Judge Ignacio-Pinto did not sit in these proceedings, having informed President Sir Muhammad Zafrulla Khan in accordance with Article 24, paragraph 1, of the Statute that, having contributed to the formation of the jurisprudence of the United Nations Administrative Tribunal which had been cited in the advisory proceedings pending before the Court, they considered that they should not take part in the decision in those proceedings. President Sir Muhammad Zafrulla Khan indicated that there was within the meaning of Article 24, paragraph 3, of the Statute, no disagreement between them and him, and that it was therefore in order for them not to sit.

For reasons of health, Vice-President Ammoun and Judge Dillard and, for family reasons, Judge de Castro are unfortunately unable to take part in the present sitting. All three of them, however, took part in the deliberations and the final vote.

Vice-President Ammoun and Judge de Castro were present when the Court proceeded to the vote.

Judge Dillard, however, was unable to leave the hospital where he was under treatment and, in accordance with Article 9, paragraph (ii), of the Resolution concerning its Internal Judicial Practice, was authorized by the Court to communicate his vote in writing.

I will now read out the Advisory Opinion in English.

[The President reads paragraphs 10 to 101 of the Opinion<sup>1</sup>.]

I call upon the Registrar to read the operative part of the Advisory Opinion in French.

[The Registrar reads the operative part of the Advisory Opinion in French<sup>2</sup>.]

I myself append a declaration to the Advisory Opinion. Judges Forster and Nagendra Singh append a joint declaration. Judges Onyeama, Dillard and Jiménez de Aréchaga append separate opinions to the Advisory Opinion. The Vice-President, Judges Gros, de Castro and Morozov append dissenting opinions to the Advisory Opinion.

*The sitting is closed.*

*(Signed)* M. LACHS,  
President.

*(Signed)* S. AQUARONE,  
Registrar.

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<sup>1</sup> *I.C.J. Reports 1973*, pp. 168-213.

<sup>2</sup> *I.C.J. Reports 1973*, p. 213.