Chapter III

Legal aspects of international political relations

During 2002, the Preparatory Commission for the International Criminal Court, created by the 1998 United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (ICC) to make arrangements for the coming into operation of the Court, completed its mandate with the holding of its ninth and tenth sessions. It transmitted to the Assembly of States Parties to the Rome Statute of the International Criminal Court a report covering its work from 1999 to 2002 and containing its recommendations.

The Rome Statute of ICC entered into force on 1 July, following the deposit of the sixtieth instrument of ratification with the Secretary-General on 11 April. In September, the Assembly of States Parties to the Rome Statute held its first session, at which it adopted a number of instruments, resolutions and decisions.

The International Law Commission continued its examination of topics suitable for the progressive development and codification of international law, provisionally adopting a number of completed draft guidelines on reservations to treaties and draft articles on diplomatic protection.

The Ad Hoc Committee on the convention for the suppression of nuclear terrorism continued to elaborate a comprehensive convention on international terrorism and to resolve outstanding issues related to the preparation of a draft international convention for the suppression of acts of nuclear terrorism.

The Ad Hoc Committee on the Scope of Legal Protection under the 1994 Convention on the Safety of United Nations and Associated Personnel held its first session in 2002 to review measures recommended by the Secretary-General to strengthen the protective legal regime for UN and associated personnel.

Establishment of the International Criminal Court

The 1998 Rome Statute of the International Criminal Court [YUN 1998, p. 1299], which established the Court as a permanent institution with the power to exercise jurisdiction over persons for the most serious crimes of international concern—genocide, crimes against humanity, war crimes and the crime of aggression—entered into force on 1 July 2002, following the deposit of the sixtieth instrument of ratification with the Secretary-General on 11 April. At a treaty ceremony at UN Headquarters on that day, the representatives of 10 Member States deposited their instruments of ratification, bringing the number of instruments of ratification, acceptance, approval or accession above the required level of 60.

As at 31 December 2002, the Statute had 139 signatories and 87 States parties.

Intersessional expert meeting

At the invitation of the Netherlands, an intersessional meeting of experts on the provisional internal rules and regulations of the International Criminal Court (ICC) was held (The Hague, 11-15 March) to review rules and regulations in use within the UN system, especially by the ad hoc International Tribunals for the former Yugoslavia (see p. 1275) and for Rwanda (see p. 1284), which would be relevant for provisional application by the Court at the initial stages of its establishment. Transitional arrangements were needed to address ICC’s situation during four such stages identified by the meeting: the periods before the entry into force of the 1998 Rome Statute, between its entry into force and the first meeting of the Assembly of States Parties, between that first meeting and the election of the judges and Prosecutor, and following the election of those officials and their assumption of office.

The meeting reviewed documents and executive summaries prepared by focal points on human resources and administration, on budgeting and finance, and on operational issues; it sought to prioritize the essential rules and regulations necessary at the initial stages of ICC’s operation, identify those aspects requiring change or adaptation for the Court’s use and make appropriate suggestions and annotations. The meeting’s report [PCNICC/2002/INF/2], which contained the executive summaries and comments made by the experts and participants, reflecting the main issues discussed, was to be transmitted to ICC through the Preparatory Commission and the
Assembly of States Parties. Comments and suggestions were also made on the draft financial rules.

Preparatory Commission


In addition to its working groups on ICC’s first-year budget, on the basic principles governing a headquarters agreement to be negotiated between the Court and the host country (Netherlands), and on the crime of aggression, the Preparatory Commission, at its ninth session, established two other working groups: on the preparatory documents for the Assembly of States Parties and on financial issues.

The Chair of the Bureau’s subcommittee, acting as interlocutor with the host country, identified the actions that had to be taken for the expeditious establishment of the Court, including the setting up of provisional systems to ensure that the infrastructure was in place to welcome the first officials of the Court; they would also ensure custody of information received after the entry into force of the Rome Statute and enable the Court rapidly to recruit personnel and procure goods and services for its functioning. The provisional systems, to be devised by an advance team of seven or eight independent, mid-level experts, were to include: systems for human resources; a computerized financial system that would take into account the special requirements of a judicial institution; a computerized data and case management system; a security system; and systems on legal issues, public information, and the administration and management of the ICC building. The team would provide guidance and assistance to the Court during its initial stages and undertake functions until the first meeting of the Assembly of States Parties.

On 15 April, the Preparatory Commission took note of the proceedings of the intersessional meeting (see p. 1298) and recommended that that meeting’s report be transmitted to the Assembly of States Parties for forwarding to the Court. On 19 April, the Commission adopted its report on the work of its ninth session [PCNICC/2002/1 & Add.1-2], containing the draft basic principles governing a headquarters agreement to be negotiated between the Court and the host country, as well as the draft Financial Rules. Annexed to the report were two draft resolutions for the Assembly’s action on the provisional arrangements for its secretariat and on crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court.

The work of the Preparatory Commission at its tenth and final session was divided among five working groups: on the preparatory documents for the Assembly of States Parties; on a draft budget for the first financial period of the Court; on the remuneration of the judges, the Prosecutor and the Registrar; on the Victims Trust Fund; and on the crime of aggression. The Commission took note of the oral report of each working group coordinator and of the Chair of the Bureau’s subcommittee on progress made by the advance team of experts and on review meetings. It further took note of the oral report of the focal point on the creation of the post of Director of Common Services, as well as of the conference on an international criminal bar (Montreal, Canada, 13-15 June), regarding which it recommended awaiting further developments before taking action.

On 12 July, the Commission adopted the report on its tenth session [PCNICC/2002/2 & Add.1-5], which contained the draft budget for ICC’s first financial period (September 2002–December 2003), together with draft resolutions/decisions relating to: the Court’s budget and financing for that period (appropriations, the Working Capital Fund, scales of assessments, contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court, provision of Court funds, criteria for voluntary contributions, interim arrangements for the exercise of authority pending assumption of office by the Registrar); the meeting of the Assembly of States Parties (seating arrangements, provisional agenda, composition of the Bureau, provisional and permanent secretariat arrangements); the establishment of subsidiary bodies (Committee on Budget and Finance, Victims Trust Fund); procedures for the nomination and conduct of elections (for the Committee on Budget and Finance, the Board of Directors of the Victims Trust Fund, Court judges, the Prosecutor and Deputy Prosecutors); Court officials and staff (conditions of service and compensation of Court judges, participation in the United Nations Joint Staff Pension Fund (UNJSPF), selection of Court staff); and the continuity of work on the crime of aggression.

The report included a discussion paper on the definition and elements of the crime of aggression and appended the report of the March intersessional meeting of experts (see p. 1298).
On 8 July, the Preparatory Commission decided to hold the first meeting of the Assembly of States Parties from 3 to 10 September. As stipulated in the Final Act of the 1998 United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, the Commission decided on 12 July to submit to the Assembly’s first session its report on all matters within its mandate as contained in the records of its first to fifth [PCNICC/2000/1 & Add.1-4], sixth to eighth [PCNICC/2001/1 & Add.1,2] and ninth and tenth [PCNICC/2002/1 & Add.1,2 & Corr.1] sessions. A guide to the Commission’s three-part report, prepared by the Secretariat, was issued on 25 July [PCNICC/2002/3 & Corr.1].

Exception to the jurisdiction of ICC

During its tenth session, the Preparatory Commission issued a statement on 3 July [PCNICC/2002/L.3] to the President of the Security Council, with copies to Council members and to the Secretary-General, expressing the Commission’s deep concern about developments in the Council regarding ICC and international peacekeeping (see p. 67). The Commission called on States to safeguard the independent and effective functioning of the Court that was complementary to national jurisdictions and appealed to Council members to ensure an outcome of those developments that fully respected the letter and spirit of the Rome Statute.

Communications. A 12 April note verbale from Spain [A/56/900] annexed an 11 April statement issued by the Presidency of the European Union (EU), which saluted the entry into force of the 1998 Rome Statute and appealed to States that had not done so to join the Statute so that ICC could promptly reach universality. The EU stated that the Court would be an essential component in the struggle against impunity for acts of genocide, crimes against humanity and war crimes.

The EU, in a 14 May statement transmitted by Spain [A/56/950], set out its position on the 6 May formal announcement by the United States that it did not intend to ratify the Rome Statute and that, accordingly, it considered itself released from any legal obligation arising from its signature of the Statute on 31 December 2000. At the request of the United States, its intention not to become a party to the Statute was reflected in the depositary status list pertaining to that treaty [ST/LEG/SER.E/21]. The EU noted that that unilateral action might have undesirable consequences on multilateral treaty-making and generally on the rule of law in international relations. The EU restated its belief that the anxieties expressed by the United States regarding ICC’s future activities were unfounded and that the Rome Statute provided all necessary safeguards against the misuse of the Court for politically motivated purposes, which would become self-evident when ICC began its work. The EU expressed disappointment that the United States had felt obliged to act as it had without the benefit of actual experience of the Court’s activities, and it believed that such experience would show that the United States could associate itself fully with ICC. It also expressed concern that the potentially negative effect that the United States action might have on the development and reinforcement of recent trends towards individual accountability for the most serious crimes of concern to the international community and to which the United States showed itself strongly committed. The EU expressed hope that the United States would continue to work together with friends and partners in developing effective and impartial international criminal justice and would remain open to cooperation with the Court.

On 9 July [A/57/208], Denmark transmitted an unofficial consolidated version of the common position of the EU Council on ICC, the objective of which was to support the early establishment and effective functioning of the Court and promote the widest possible participation in the Statute.

Assembly of States Parties

In accordance with the Preparatory Commission’s decision, the Assembly of States Parties to the 1998 Rome Statute of the International Criminal Court held its first session (New York, 3-10 September) [ICC-ASP/1/3 & Corr.1]. The Assembly elected its Bureau and took a number of decisions on procedural matters, including agreeing on a work programme and assigning items for consideration by the Working Group of the Whole.

On the basis of the Preparatory Commission’s recommendations (see p. 1299), the Assembly adopted a resolution establishing the Committee on Budget and Finance and decided that the period for the nomination of its membership would be from 1 December 2002 to 15 February 2003. On 3 September, it adopted budget appropriations of 30,893,500 euros for the Court’s first financial period (1 September 2002–31 December 2003), together with the Working Capital Fund for that period in the amount of 1,953,700 euros, as well as the other resolutions and decisions related to the budget. It reached an understanding that, in respect of the decision on ICC funding, assessments would be based on the Assembly’s membership on the date of the decision’s adoption.
On 9 September, the Assembly adopted the report of the Working Group of the Whole, on whose recommendation it also adopted the following instruments: the Rules of Procedure and Evidence for the application of the 1998 Rome Statute; the Elements of Crimes; the Financial Regulations and Rules; the basic principles governing a headquarters agreement to be negotiated between ICC and the host country (Netherlands); a draft Relationship Agreement between ICC and the United Nations; and the Agreement on the Privileges and Immunities of the International Criminal Court, which opened for signature on 10 September, was signed by 13 States on that date and would remain open for signature until 30 June 2004. Also on 9 September, the Assembly adopted resolutions and decisions on: the continuity of work in respect of the crime of aggression, for which the Assembly established a special working group; the nomination and election procedure for ICC judges, the Prosecutor and Deputy Prosecutors, as well as the election procedure for the judges; the establishment of a fund for victims of crimes within the Court’s jurisdiction and their families; the selection of ICC staff; ICC participation in UNJSPF; and arrangements for the secretariat of the Assembly. Pending permanent arrangements for its secretariat, the Assembly decided that its secretariat functions would continue to be carried out by the UN Secretariat on the basis of full reimbursement to the United Nations for the resultant expenses.

In addition, the Assembly decided to transmit to ICC the report of the intersessional expert meeting containing the summaries of staff regulations and rules for provisional application by the Court (see p. 1298), to consider the question of the establishment of an international criminal bar at a future session, and to extend until 31 October 2002 the mandate of the advance expert team working to ensure the early and effective establishment of ICC. It fixed 9 September to 30 November 2002 as the nomination period for the Court’s judges and Prosecutor. The Assembly also established the schedule for its 2003 sessions.

Annexed to the Assembly’s report were the report of the Working Group of the Whole, the report of the Credentials Committee and the lists of speakers and documents.

**Report of Secretary-General.** In a September report [A/57/408], the Secretary-General described actions in 2002 relating to ICC’s establishment, including the Preparatory Commission and Assembly of States Parties sessions (see above). He stated that arrangements had been put in place in the UN Secretariat in order to receive voluntary contributions to defray the costs to the Secretariat in providing secretariat assistance to the Assembly of States Parties, which, at that Assembly’s request, would continue in 2003 on a provisional basis.

### GENERAL ASSEMBLY ACTION

On 19 November (meeting 52), the General Assembly, on the recommendation of the Sixth (Legal) Committee [A/57/565], adopted resolution 57/23 without vote (agenda item 158).

### Establishment of the International Criminal Court

**The General Assembly,**


Noting that the Rome Statute of the International Criminal Court was adopted on 17 July 1998 and entered into force on 1 July 2002,

Noting also that the Preparatory Commission for the International Criminal Court, established in accordance with resolution F of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held its ninth and tenth sessions from 8 to 19 April and from 1 to 12 July 2002, respectively, and thus successfully completed its mandate in accordance with that resolution,

Recalling the United Nations Millennium Declaration adopted at the Millennium Assembly, in which heads of State and Government stressed the importance of the International Criminal Court,

Reiterating the historic significance of the adoption of the Rome Statute of the International Criminal Court,

1. Calls upon all States that are not yet parties to the Rome Statute of the International Criminal Court to consider ratifying it or acceding to it without delay, and encourages efforts aimed at promoting awareness of the results of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from 15 June to 17 July 1998, the provisions of the Statute and the process leading to the establishment of the International Criminal Court;

2. Calls upon all States to consider becoming parties to the Agreement on the Privileges and Immunities of the International Criminal Court without delay;

3. Welcomes the important work accomplished by the Preparatory Commission for the International Criminal Court in the completion of its mandate in accordance with resolution F of the Rome Conference;

4. Welcomes also the holding of the first session of the Assembly of States Parties to the Rome Statute of the International Criminal Court from 3 to 10 September 2002 and the adoption of a number of important instruments by the Assembly;

5. Takes note of the report of the Secretary-General, in particular paragraphs 12 to 15 indicating the decision of the Assembly of States Parties to resume its first session from 3 to 7 February and from 21 to 23 April 2003 and to hold the meeting of the Committee on
Budget and Finance from 4 to 8 August 2003 and the second session of the Assembly of States Parties from 8 to 12 September 2003, all of which are to be held at United Nations Headquarters;

6. Recognizes the need to make available, on a provisional basis, adequate resources and secretariat services for the Assembly of States Parties to enable it to discharge its functions efficiently and expeditiously;

7. Requests the Secretary-General to undertake the preparations necessary for holding the meetings referred to in paragraph 5 above in accordance with the rules of procedure of the Assembly of States Parties to the Rome Statute of the International Criminal Court;

8. Also requests the Secretary-General to make available to those meetings secretariat services for the necessary preparatory work as well as for any post-session follow-up actions;

9. Further requests the Secretary-General to take steps to expand the mandate of the trust fund established pursuant to General Assembly resolution 51/207 for voluntary contributions towards meeting the costs of participation of the least developed countries in the work of the Assembly of States Parties to the Rome Statute of the International Criminal Court;

10. Requests the Secretary-General to report to the General Assembly at its fifty-eighth session on the implementation of the present resolution;

11. Decides that the costs of services rendered to the Assembly of States Parties that may accrue to the United Nations as a result of the implementation of the present resolution shall be paid in advance to the Organization;

12. Expresses its appreciation to States that made voluntary contributions to the first session of the Assembly of States Parties in accordance with paragraph 10 of resolution 56/85;

13. Decides to include in the provisional agenda of its fifty-eighth session an item entitled “International Criminal Court”.

International Law Commission

The International Law Commission (ILC) held its fifty-fourth session in Geneva in two parts: from 29 April to 7 June and from 22 July to 16 August [A/57/10 & Corr.1]. During the first part, the International Law Seminar held its thirty-eighth session, which was attended by 24 participants, mostly from developing countries. They observed ILC meetings, attended specially arranged lectures and participated in working groups on specific topics.

ILC, assisted by working groups and a Drafting Committee, continued to consider the Special Rapporteurs’ proposals related to the formulation of instruments on reservations to treaties, diplomatic protection and unilateral acts of States. A number of completed draft guidelines on reservations to treaties and draft articles on diplomatic protection provisionally adopted by ILC were reproduced in its report. ILC established new working groups and appointed Special Rapporteurs to consider the topics of international liability for injurious consequences arising out of acts not prohibited by international law (international liability in case of loss from transboundary harm arising out of hazardous activities), of the responsibility of international organizations and of shared natural resources. It established a study group on the fragmentation of international law: difficulties arising from the diversification and expansion of international law. (For details on those topics, see below.)

ILC identified specific issues on which it welcomed the views of Governments that could provide guidance for its future work, namely, reservations to treaties, diplomatic protection, unilateral acts of States, international liability for injurious consequences arising out of acts not prohibited by international law (international liability in case of loss from transboundary harm arising out of hazardous activities) and responsibility of international organizations.

In furtherance of cooperation with other bodies concerned with international law, ILC continued its traditional information exchanges with the Inter-American Juridical Committee; the Asian-African Legal Consultative Organization; the International Court of Justice; and the European Committee on Legal Cooperation and the Committee of Legal Advisers on Public International Law, both of the Council of Europe.

In order to conduct its work in the most cost-effective way, ILC shortened the duration of its 2002 and 2003 sessions to 10 weeks each. It also considered various proposals to improve its procedures and methods of work, including enhancing informal dialogue between ILC members attending the Assembly session and members of the Sixth Committee. It established a tentative work programme for the next four years, from 2003 to 2006, of its current five-year mandate (2002-2006) and decided to hold its fifty-fifth session in Geneva in two parts: from 5 May to 6 June and from 7 July to 8 August 2003.

GENERAL ASSEMBLY ACTION

On 19 November [meeting 52], the General Assembly, on the recommendation of the Sixth Committee [A/57/563], adopted resolution 57/21 without vote [agenda item 156].

Report of the International Law Commission on the work of its fifty-fourth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-fourth session,

Emphasizing the importance of furthering the codification and progressive development of international
law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development of international law and its codification,

Wishing to enhance further the interaction between the Sixth Committee as a body of governmental representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

Recalling the need to keep under review those topics of international law which, given the current interest in the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report,

1. Takes note with appreciation of the report of the International Law Commission on the work of its fifty-fourth session;
2. Takes note of the decision of the International Law Commission to proceed with its work on the topic “International liability for injurious consequences arising out of acts not prohibited by international law”, as requested by the General Assembly in its resolution 56/82 of 12 December 2001, and also takes note of its decision to include in its programme of work the topics “Responsibility of international organizations”, “Shared natural resources” and “Fragmentation of international law: difficulties arising from the diversification and expansion of international law”;
3. Draws the attention of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report;
4. Reiterates its invitation to Governments, within the context of paragraph 3 above, to provide information to the International Law Commission regarding State practice on the topic “Unilateral acts of States”;
5. Also reiterates its invitation to Governments to submit the most relevant national legislation, decisions of domestic courts and State practice relevant to diplomatic protection in order to assist the International Law Commission in its work on the topic “Diplomatic protection”;
6. Recommends that the International Law Commission, taking into account the comments and observations of Governments, whether in writing or expressed orally in debates in the General Assembly, continue its work on the topics in its current programme;
7. Invites the International Law Commission to continue taking measures to enhance its efficiency and productivity;
8. Takes note of paragraph 524 of the report of the International Law Commission with regard to cost-saving measures, and encourages the Commission to continue taking such measures at its future sessions;
9. Takes note also of paragraph 532 of the report, and decides that the next session of the International Law Commission shall be held at the United Nations Office at Geneva from 5 May to 6 June and from 7 July to 8 August 2003;
10. Stresses the desirability of further enhancing the dialogue between the International Law Commission and the Sixth Committee, and in this context encourages, inter alia, the holding of informal discussions between the members of the Sixth Committee and those members of the Commission attending the fifty-eighth session of the General Assembly;
11. Requests the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;
12. Also requests the International Law Commission to continue the implementation of article 16, paragraph (c), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;
13. Notes that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;
14. Reaffirms its previous decisions concerning the critical role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission;
15. Reaffirms also its previous decisions concerning the summary records and other documentation of the International Law Commission;
16. Expresses the hope that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;
17. Requests the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;
18. Also requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commis-
sion at the fifty-seventh session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice:

10. Requests the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session and the draft articles adopted on either first or second reading by the Commission;


International liability

In 2002, ILC began to examine the liability aspects of the topic on international liability for injurious consequences arising out of acts not prohibited by international law, having completed in 2001 the draft articles on the prevention aspects of transboundary harm arising out of hazardous activities [YUN 2001, p. 1225]. A working group chaired by Special Rapporteur Pemmaraju Sreenivasa Rao (India) met in May, July and August to deal with that second part in terms of allocating liability for loss among the different actors involved in hazardous operations. It examined the scope of the question, the role of the operator and the State involved, and identified additional issues to be considered: inter- or intra-State mechanisms for the consolidation of claims, the international representation of the operator, the processes for assessment, the quantification and settlement of claims, access to relevant forums and the nature of available remedies. The working group’s report was amended and adopted by ILC on 9 August.

Unilateral acts of States

ILC in 2002 [A/57/10 & Corr.1] considered the fifth report on unilateral acts of States [A/CN.4/925 & Add.1/Corr.1.2 & Add.2] by Special Rapporteur Victor Rodriguez Cedeno (Venezuela) and the replies from States [A/CN.4/924] to a 2001 questionnaire on the topic [YUN 2001, p. 1224]. The Special Rapporteur’s report described progress made on the topic and the reasons for changes to certain concepts and terms. It dealt with the definition of unilateral acts, conditions of validity and causes of invalidity, rules of interpretation and the classification of unilateral acts. It examined three questions that might make possible the elaboration of common rules applicable to all such acts, regardless of their material content and legal effects: the rule regarding respect for unilateral acts, the application of the act in time, and its territorial application. It briefly dealt with the determination of the moment at which the unilateral act produced its legal effects, which would encompass the important and complex issues of revocation, modification and suspension of the act and its termination. It set out the structure of articles already drafted and future work plans. The Special Rapporteur indicated that, in preparing his report, he had considered the most important jurisprudence and the extensive literature in depth, but had been unable to consider the full range of State practice for various reasons, including the very limited replies by States to the 2001 questionnaire.

On 30 May, ILC established an open-ended informal consultation on unilateral acts of States, to be chaired by the Special Rapporteur.

Responsibility of international organizations

ILC decided in 2002 [A/57/10 & Corr.1] to include the topic “responsibility of international organizations” in its programme of work. A working group and Special Rapporteur Giorgio Gaja (Italy) considered the topic and issued a report, which ILC adopted on 2 August.

The report dealt with the scope of the topic, including the concepts of responsibility and of international organizations; relations between the topic of responsibility of international organizations and the articles on State responsibility adopted by ILC in 2001 and annexed to General Assembly resolution 56/83 [YUN 2001, p. 1218]; questions of attribution of wrongful conduct, of responsibility of member States for conduct attributed to an international organization, of content and implementation of international responsibility and other questions; provisions for the settlement of disputes; and practice to be considered in respect of the subsidiary responsibility of member States. The working group recommended that the Secretariat approach international organizations with a view to collecting relevant materials, especially on questions of attribution and of responsibility of member States for conduct attributed to an international organization.

Fragmentation of international law

On 8 May [A/57/10 & Corr.1], ILC decided to include the topic “risks ensuing from fragmentation of international law” in its programme of work. The report of the study group established to address the topic was considered by ILC on 6 and 7 August. The report discussed the question of support for study of the topic, the procedural
issues involved, a more appropriate title for the topic, the methodology and format of work, and suggestions as to the possible outcome of ILC’s work. The study group proposed that the title be changed to “Fragmentation of international law: difficulties arising from the diversification and expansion of international law”. It recommended that a series of studies on specific aspects of the topic be undertaken for the purpose of assisting international judges and practitioners to cope with the consequences of the diversification of international law. The studies would aim to provide a “toolbox” to assist in solving practical problems arising from incongruities and conflicts between existing legal norms and regimes. ILC adopted the report after making amendments, including to the title as proposed.

**International State relations and international law**

**Jurisdictional immunities of States and their property**

In accordance with General Assembly resolution 56/78 [YUN2000, p. 1224], the Ad Hoc Committee on Jurisdictional Immunities of States and Their Property, established by the Assembly in resolution 55/150 [YUN2000, p. 1246], met in New York from 4 to 13 February 2002 to consolidate areas of agreement and resolve outstanding issues, with a view to elaborating a generally acceptable instrument based on the draft articles on jurisdictional immunities of States and their property, adopted by ILC in 1991 [YUN1991, p. 829], and on the discussions of the open-ended working group of the Sixth Committee, established by resolution 53/98 [YUN1998, p. 125]. Before the Ad Hoc Committee were the comments submitted by States in accordance with resolution 49/61 [YUN1994, p. 1296] and comments on the reports of the open-ended working group of the Sixth Committee, as contained in earlier reports of the Secretary-General [YUN1997, p. 1344; YUN1998, p. 125; YUN1999, p. 123; YUN2000, p. 1246; YUN2001, p. 1224]. Also before the Committee were the 1999 [YUN1999, p. 1225] and 2000 [YUN2000, p. 1246] reports of the Chairman of the Sixth Committee’s working group, the 1991 draft articles on jurisdictional immunities of States and their property, and the preliminary comments and suggestions made by ILC in 1999 [YUN1999, p. 123], in accordance with Assembly resolution 53/98.

The working group first discussed the five outstanding substantive issues previously identified by the Sixth Committee’s working group: the concept of a State for purposes of immunity; criteria for determining the commercial character of a contract or transaction; the concept of a State enterprise or other entity in relation to commercial transactions; contracts of employment; and measures of constraint against State property. It then discussed the remainder of the 1991 draft articles with a view to identifying and resolving any further issues arising from the text and held a second reading of the entire draft text.

Although the working group made substantial progress in reducing the number of outstanding issues and narrowed the divergences in views, agreement could not be reached on the remaining issues. The working group thus decided to reflect in the revised text the divergences on certain articles either as alternative proposals or as bracketed text to indicate disagreement. On 13 February, the Ad Hoc Committee adopted its report [A/57/22], which annexed the revised text of the draft articles on jurisdictional immunities of States and their property.

The Ad Hoc Committee emphasized the importance of the timely elaboration of a generally acceptable instrument based on the draft articles and, in the light of the trends that emerged in the discussions, it urged States to make every effort to resolve the remaining outstanding issues. It recommended to the Sixth Committee that it provide an opportunity for their resolution at the Assembly’s fifty-seventh (2002) session, including the possibility of convening an open-ended working group.

The Assembly, in resolution 57/16 (below), recommended that the Ad Hoc Committee reconvene in 2003.

**GENERAL ASSEMBLY ACTION**

On 19 November [meeting 32], the General Assembly, on the recommendation of the Sixth Committee [A/57/561], adopted resolution 57/16 without vote [agenda item 154].

**Convention on jurisdictional immunities of States and their property**

The General Assembly,


Having considered the report of the Ad Hoc Committee on Jurisdictional Immunities of States and Their Property, established pursuant to resolution 55/150,

Noting that only a few issues remain outstanding,

Stressing the importance of uniformity and clarity in the law applicable to jurisdictional immunities of States and their property,
1. Takes note with appreciation of the report of the Ad Hoc Committee on Jurisdictional Immunities of States and Their Property;

2. Decides that the Ad Hoc Committee shall be reconvened from 24 to 28 February 2003 in order to make a final attempt at consolidating areas of agreement and resolving outstanding issues, with a view to elaborating a generally acceptable instrument based on the draft articles on jurisdictional immunities of States and their property adopted by the International Law Commission at its forty-third session, and also on the discussions of the open-ended working group of the Sixth Committee and the Ad Hoc Committee and their results, as well as to recommend a form for the instrument;

3. Requests the Ad Hoc Committee to report to the General Assembly at its fifty-eighth session on the outcome of its work;

4. Decides to include in the provisional agenda of its fifty-eighth session the item entitled “Convention on jurisdictional immunities of States and their property”.

International terrorism

Convention for suppression of nuclear terrorism

Ad Hoc Committee

In accordance with General Assembly resolution 56/88 [YUN 2001, p. 1226], the Ad Hoc Committee on the convention for suppression of nuclear terrorism, established by Assembly resolution 51/210 [YUN 1996, p. 1208], held its sixth session (New York, 28 January–1 February) to continue, within the framework of a working group of the Sixth Committee, to elaborate a comprehensive convention on international terrorism, to resolve outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and to address the question of convening a high-level conference under UN auspices to formulate a joint international response to terrorism in all its forms and manifestations.

The Ad Hoc Committee held informal consultations on article 18, the preamble and article 1 of the draft comprehensive convention, followed by discussions on the outstanding issues pertaining to the draft international convention for the suppression of acts of nuclear terrorism. In that connection, the Committee was briefed by the International Atomic Energy Agency on measures it was considering to combat acts of terrorism involving nuclear and other radioactive materials. On 30 January, Egypt informed the Committee that bilateral consultations were in progress on the convening of a high-level conference, as called for by the Assembly.

On 1 February, the Ad Hoc Committee adopted its report [A/57/37 & Corr.1] and recommended that the Sixth Committee, at the Assembly’s fifty-seventh (2002) session, establish a working group to continue considering the subject on the basis of that report. Annexed to it were: a discussion paper prepared by the Bureau on the preamble and article 1 of the draft comprehensive convention on international terrorism; two texts relating to article 18—one circulated by the Coordinator and the other proposed by the Organization of the Islamic Conference; and the Coordinator’s report on the results of the informal consultations. Also annexed were the 2001 informal texts prepared by the Coordinator of articles 2 and 2 bis and the revised texts prepared by the Friends of the Chairman of articles 3 to 17 bis and 20 to 27 of the draft comprehensive convention; and the written amendments and proposals submitted by delegations to the Sixth Committee’s working group relating to the draft comprehensive convention and to the draft international convention for the suppression of acts of nuclear terrorism.

Sixth Committee working group

As recommended by the Ad Hoc Committee (see above), the Sixth Committee, on 7 October, established an open-ended working group on measures to eliminate international terrorism, which held two meetings (New York, 15-16 October) to continue the elaboration of a draft comprehensive convention on international terrorism, with appropriate time allocated to the continued consideration of outstanding issues related to the draft international convention for the suppression of acts of nuclear terrorism. Before the working group were the report of the Ad Hoc Committee on the work of its sixth session [A/57/37 & Corr.1] and the 1998 report of the Sixth Committee working group [YUN 1998, p. 1296], annexing a revised text of the draft convention on the suppression of acts of nuclear terrorism.

The working group reviewed the texts of article 18, the preamble and article 1, as well as of articles 2 and 2 bis of the draft comprehensive convention. It then focused on the outstanding issues pertaining to the draft international convention for the suppression of acts of nuclear terrorism. The Chairman recalled that most of the text of that draft convention had been completed, with the question of the scope of the convention remaining unresolved; he urged delegations to seek a resolution of the outstanding matters in a spirit of compromise. The working group also invited proposals from interested delegations regarding the convening of a high-level conference.
under UN auspices to formulate a joint international response to terrorism.

The working group’s report [A/C.6/57/L.9] contained the report of the Coordinator on the results of the group’s informal consultations. It also contained three lists of written amendments and proposals: those submitted to the 2002 session of the Ad Hoc Committee (see p. 1306) and to the Sixth Committee working group at the 2001 General Assembly session relating to the draft comprehensive convention on international terrorism; and those to the same working group in relation to the draft international convention for the suppression of acts of nuclear terrorism. The report was referred to the Sixth Committee with a recommendation that work on finalizing the texts of the two draft conventions should continue.

Measures to eliminate terrorism

Report of Secretary-General. In accordance with General Assembly resolution 50/53 [YUN 1995, p. 1306], the Secretary-General, in July, issued his annual report with a later addendum [A/57/185 & Corr.1 & Add.1] containing information on measures taken at the national and international levels by 24 States and 10 international organizations and UN agencies and bodies to implement the 1994 Declaration on Measures to Eliminate International Terrorism, approved by Assembly resolution 49/60 [YUN 1994, p. 1294], and Security Council resolution 1269(1999) [YUN 1999, p. 1240]. It listed 19 international instruments pertaining to terrorism, indicating the status of State participation in each, and provided information on workshops and training courses on combating terrorist crimes developed by two organizations. It also listed the States that had submitted texts of their laws and regulations to prevent and suppress terrorism for inclusion in the Secretariat’s compendium of such laws.

Further measures

In other action, the Secretary-General submitted to the General Assembly a number of proposals to strengthen the Terrorism Prevention Branch of the Secretariat (see p. 50). He also transmitted to the Assembly and the Security Council the report of the Policy Working Group on the United Nations and Terrorism, prioritizing UN activities regarding terrorism (see p. 57).


GENERAL ASSEMBLY ACTION

On 19 November [meeting 52], the General Assembly, on the recommendation of the Sixth Committee [A/57/567], adopted resolution 57/27 without vote [agenda item 160].

Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Recalling also the United Nations Millennium Declaration,

Recalling further all General Assembly and Security Council resolutions on measures to eliminate international terrorism,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,


Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373(2001) concerning counter-terrorism in monitoring the implementa- tion of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism, and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Mindful also of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and suppress effectively international terrorism in all its forms and manifestations,

Recalling the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, wherein the Assembly encouraged States to re-
view urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there was a comprehensive legal framework covering all aspects of the matter.

Taking note of the final document of the Thirteenth Ministerial Conference of the Movement of Non-Aligned Countries, held at Cartagena, Colombia, on 8 and 9 April 2000, which reiterated the collective position of the Movement of Non-Aligned Countries on terrorism and reaffirmed the previous initiative of the Twelfth Conference of Heads of State or Government of Non-Aligned Countries, held at Durban, South Africa, from 29 August to 3 September 1998, calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, and other relevant initiatives,

Bearing in mind the recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000 and 56/88 that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions,

Having examined the report of the Secretary-General, the report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the report of the Working Group of the Sixth Committee established pursuant to resolution 56/88,

1. Strongly condemns all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed;

2. Reiterates that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

3. Reiterates its call upon all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3 (a) to (f) of resolution 51/210;

4. Also reiterates its call upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

5. Reiterates its call upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

6. Reaffirms that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

7. Urges all States that have not yet done so to consider, as a matter of priority, and in accordance with Security Council resolution 1573 (2004), becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of Financing of Terrorism, and calls upon all States to enact, as appropriate, the domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts, and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

8. Urges States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other expert advice is provided to those States requiring and requesting assistance in becoming parties to the conventions and protocols referred to in paragraph 7 above;

9. Notes with appreciation and satisfaction that, consistent with the call contained in paragraph 7 of resolution 56/88, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions;

10. Reaffirms the Declaration on Measures to Eliminate International Terrorism, contained in the annex to resolution 49/60, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to resolution 51/210, and calls upon all States to implement them;

11. Urges all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

12. Welcomes the efforts of the Terrorism Prevention Branch of the Centre for International Crime Prevention in Vienna, after reviewing existing possibilities within the United Nations system, to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and in this context takes note with appreciation of the report of the Secretary-General on strengthening the Terrorism Prevention Branch of the Secretariat, requested by the General Assembly in its resolution 56/253 of 24 December 2001;

13. Welcomes also the publication by the Secretariat of the volume of the United Nations Legislative Series entitled National Laws and Regulations on the Prevention and Suppression of International Terrorism, prepared by the Codification Division of the Office of Legal Affairs of the Secretariat pursuant to paragraph 10 (b) of the
Declaration on Measures to Eliminate International Terrorism;

14. Invites States that have not yet done so to submit to the Secretary-General information on their national laws and regulations regarding the prevention and suppression of acts of international terrorism, and takes note in this regard of the reports of Member States to the Security Council Committee established pursuant to resolution 1373 (2001);

15. Invites regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism;

16. Welcomes the important progress attained in the elaboration of the draft comprehensive convention on international terrorism during the meetings of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the Working Group of the Sixth Committee established pursuant to General Assembly resolution 56/88;

17. Decides that the Ad Hoc Committee shall continue to elaborate a draft comprehensive convention on international terrorism as a matter of urgency, and shall continue its efforts to resolve the outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism as a means of further developing a comprehensive legal framework of conventions dealing with international terrorism, and that it shall keep on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations;

18. Decides also that the Ad Hoc Committee shall meet from 31 March to 2 April 2003 to continue the elaboration of a draft comprehensive convention on international terrorism, with appropriate time allocated to the continued consideration of outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism as a means of further developing a comprehensive legal framework of conventions dealing with international terrorism, and that it shall keep on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, and that the work shall continue, if necessary, during the fifty-eighth session of the General Assembly, within the framework of a working group of the Sixth Committee;

19. Requests the Secretary-General to continue to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

20. Requests the Ad Hoc Committee to report to the General Assembly at its fifty-seventh session in the event of the completion of the draft comprehensive convention on the international terrorism or the draft international convention for the suppression of acts of nuclear terrorism;

21. Also requests the Ad Hoc Committee to report to the General Assembly at its fifty-eighth session on progress made in the implementation of its mandate;

22. Decides to include in the provisional agenda of its fifty-eighth session the item entitled "Measures to eliminate international terrorism".

On 20 December, the Assembly, by decision 57/385, decided that the agenda item on measures to eliminate international terrorism would remain for consideration during its resumed fifty-seventh (2003) session.

Additional Protocols I and II to the 1949 Geneva Conventions

In response to General Assembly resolution 55/148 [YUN 2000, p. 1231], the Secretary-General submitted a July report with a later addendum [A/57/164 & Add.1] on the status of the two 1977 Protocols Additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of armed conflicts [YUN 1997, p. 706], as well as on measures taken to strengthen the existing body of international humanitarian law with respect to, among other things, its dissemination and implementation at the national level, based on information received from a total of 22 States and the International Committee of the Red Cross. Annexed to the report was a list of 161 States parties to one or both of the Protocols as of 28 June 2002.

GENERAL ASSEMBLY ACTION

On 19 November [meeting 52], the General Assembly, on the recommendation of the Sixth Committee [A/57/599], adopted resolution 57/14 without vote [agenda item 152].

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,


Having considered the report of the Secretary-General,

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I, and recalling that the International Fact-Finding Commission may, where necessary, facilitate through its good offices the restoration of an attitude of respect for the Geneva Conventions and the Protocol,

Stressing also the need for consolidating the existing body of international humanitarian law through its universal acceptance and the need for wide dissemina-
tion and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions and the two Additional Protocols,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meeting of representatives of those bodies organized by the International Committee of the Red Cross at Geneva from 25 to 27 March 2002 to facilitate the sharing of concrete experience and an exchange of views on their roles and on the challenges they face,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the two Additional Protocols,

Recalling that the Twenty-sixth International Conference of the Red Cross and Red Crescent endorsed the recommendations of the Intergovernmental Group of Experts on the Protection of War Victims, including the recommendation that the depositaries of the Geneva Conventions should organize periodic meetings of States parties to the Conventions to consider general problems regarding the application of international humanitarian law,

Welcoming the adoption, at The Hague on 26 March 1999, of a second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and appreciating the ratifications received so far,

Acknowledging the fact that the Rome Statute of the International Criminal Court, which entered into force on 1 July 2002, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Acknowledging the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

Noting the twenty-fifth anniversary of the Additional Protocols to the Geneva Conventions, which was observed in June 2002, as well as the commemorative events, organized in particular by Switzerland and the International Committee of the Red Cross, recalling the important achievement of enhancing the protection of civilians in armed conflicts,

1. Appreciates the virtually universal acceptance of the Geneva Conventions of 1949, and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;
2. Appeals to all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date;

3. Calls upon all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;
4. Calls upon all States that have not yet done so to consider becoming parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;
5. Calls upon all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;
6. Notes with appreciation the Plan of Action adopted by the Twenty-seventh International Conference of the Red Cross and Red Crescent, in particular the reiteration of the importance of universal adherence to treaties on humanitarian law and their effective implementation at the national level, and welcomes the efforts made by many States towards the fulfilment of their pledges relating to international humanitarian law made at that Conference;
7. Affirms the necessity of making the implementation of international humanitarian law more effective;
8. Welcomes the advisory service activities of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;
9. Welcomes also the increasing numbers of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;
10. Welcomes further the entry into force on 12 February 2002 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and calls upon all States to consider becoming parties to that Protocol;
11. Requests the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;
12. Decides to include in the provisional agenda of its fifty-ninth session the item entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”.

Safety and security of United Nations and associated personnel

first session (New York, 1-5 April) [A/57/52] to consider the Secretary-General’s 2000 report recommending measures to strengthen the protective legal regime for UN and associated personnel [YUN 2000, p. 1347].

A working group of the whole of the Ad Hoc Committee began its deliberations on two of the Secretary-General’s recommendations. There was general agreement to include key provisions from the 1994 Convention in the status-of-mission agreements concluded between the United Nations and States in whose territories peacekeeping operations were deployed, and in United Nations-host country agreements. It was further agreed that the Secretary-General already had the authority to initiate a declaration by the Security Council or the Assembly of an exceptional risk to the safety of UN and associated personnel.

Other measures discussed included: designating the Secretary-General as the “certifying authority” for purposes of attesting to a declaration of an exceptional risk by the Council or the Assembly, an agreement between the United Nations and a non-governmental organization (NGO), and the status of UN and associated personnel; empowering the Secretary-General, instead of or in addition to the Council and the Assembly, as competent to declare whether a particular operation involved an exceptional risk, and extending the Convention’s scope to all UN operations—both of which required amending the 1994 Convention; and extending the scope to include all UN and associated personnel, including humanitarian NGO personnel, dispensing with the requirement of a “contractual” link between their organizations and the United Nations.

With regard to the recommendations calling for amendments to the Convention, the view was expressed that the Convention’s potential utility had yet to be tested and any shortcomings that might emerge in the process could be rectified by short-term measures rather than by amendments. Thus the priority was to make every effort to encourage universal adherence to the Convention.

GENERAL ASSEMBLY ACTION

On 19 November [meeting 52], the General Assembly, on the recommendation of the Sixth Committee [A/57/568], adopted resolution 57/28 without vote [agenda item 161].

Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel

The General Assembly, Recalling its resolution 56/89 of 12 December 2001 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel,

Recalling also its resolution 49/59 of 9 December 1994, by which it adopted the Convention on the Safety of United Nations and Associated Personnel,

Recalling further the letter dated 24 October 2000 addressed to the President of the Security Council on behalf of the global staff of the United Nations system, drawing attention to the safety and security problems faced by United Nations and associated personnel,

Recalling the report of the Secretary-General and the recommendations contained therein,

Reaffirming also the obligation of all humanitarian personnel and United Nations and associated personnel to respect the national laws of the country in which they are operating, in accordance with international law and the Charter of the United Nations,

Deeply concerned by the increasing dangers and security risks faced by United Nations and associated personnel at the field level, and mindful of the need to provide the fullest possible protection for their security,

Expressing concern that locally recruited personnel are particularly vulnerable to attacks directed at the United Nations,

Welcoming the recent increase in the number of States that have become parties to the Convention, which entered into force on 15 January 1999, and noting that the Convention has been ratified or acceded to by sixty-three States as at the date of the present resolution,

Mindful of the need to promote the universality of the Convention,

Having considered the report of the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel, established pursuant to resolution 56/89, and taking account of the discussions in the Sixth Committee,

1. Expresses its appreciation for the work done by the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel;

2. Calls upon all States to consider becoming parties to and to respect fully their obligations under the relevant international instruments, in particular the Convention on the Safety of United Nations and Associated Personnel;

3. Recommends that the Secretary-General continue to seek the inclusion of, and that host countries include, key provisions of the Convention, among others, those regarding the prevention of attacks against members of the operation, the establishment of such attacks as crimes punishable by law and the prosecution or extradition of offenders, in future as well as, if necessary, in existing status-of-forces, status-of-mission and host country agreements negotiated between the United Nations and those countries, mindful of the importance of the timely conclusion of such agreements;

4. Recommends also that, consistent with his existing authority, the Secretary-General advise the Security Council or the General Assembly, as appropriate, where in his assessment circumstances would support
Diplomatic relations

Protection of diplomatic and consular missions and representatives

As at 31 December 2002, the States parties to the following conventions relating to the protection of diplomats and consular personnel were: 180 States parties to the 1961 Vienna Convention on Diplomatic Relations [YUN 1961, p. 321], 49 parties to the Optional Protocol concerning acquisition of nationality [ibid., p. 356] and 62 parties to the Optional Protocol concerning the compulsory settlement of disputes [ibid.].


The report also updated the status of State participation in the conventions named above.

ILC consideration. ILC, at its fifty-fourth session [A/57/10 & Corr.1], had before it the remainder of the second report on diplomatic protection by Special Rapporteur John R. Dugard (South Africa), deferred from 2001 [YUN 2001, p. 1229], and his third report on the subject. The remainder of the second report concerned draft articles 12 and 13, on other aspects of the local remedies rule. The third report dealt with the state of the study on diplomatic protection and draft articles 14, on exceptions to the local remedies rule, and 15, on the burden of proof relating to the rule; an addendum covered draft article 16, on local remedies and contractual stipulation (the “Gallo Clauses”). ILC referred to the Drafting Committee's report on articles 1-7, ILC provisionally adopted those articles and the commentaries thereon. In addition, the Commission established an open-ended informal consultation, to be chaired by the Special Rapporteur, on the
question of the diplomatic protection of crews as well as that of corporations and shareholders.

**GENERAL ASSEMBLY ACTION**

On 19 November [meeting 52], the General Assembly, on the recommendation of the Sixth Committee [A/57/560], adopted resolution 57/15 without vote [agenda item 155].

**Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives**

The General Assembly, having considered the reports of the Secretary-General,

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations,

Dismayed by the recent acts of violence against diplomatic and consular representatives, as well as against representatives of international intergovernmental organizations and officials of such organizations, which have endangered or taken innocent lives and seriously impeded the normal work of such representatives and officials,

Expressing sympathy for the victims of such illegal acts,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the functions of diplomatic and consular missions,

Emphasizing the duty of States to take all appropriate measures as required by international law, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established pursuant to General Assembly resolution 35/168 of 15 December 1980 and further elaborated in subsequent Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. Takes note of the reports of the Secretary-General;

2. Strongly condemns acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. Urges States strictly to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations and, in particular, to ensure in conformity with their international obligations the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. Also urges States to take all necessary measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above, and to ensure, with the participation of the United Nations where appropriate, that such acts are fully investigated with a view to bringing offenders to justice;

5. Recommends that States cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to the exchange of information on the circumstances of all serious violations thereof;

6. Urges States to take all appropriate measures, in accordance with international law, at the national and international levels, to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

7. Recommends that States cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its juridical authorities in order to bring offenders to justice;

8. Calls upon States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

9. Calls upon States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means available for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

10. Requests:

(a) All States to report to the Secretary-General as promptly as possible serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

(b) The State in which the violation occurred—and, to the extent possible, the State where the alleged offender is present—to report to the Secretary-General as promptly as possible on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and to report on measures adopted with a view to preventing a repetition of such violations.
(v) The States so reporting to consider using or taking into account the guidelines prepared by the Secretary-General;

11. Requests the Secretary-General:
   (a) To send, without delay, a circular note to all States reminding them of the request contained in paragraph 10 above;
   (b) To circulate to all States, upon receipt, the reports received by him pursuant to paragraph 10 above, unless the reporting State requests otherwise;
   (c) To draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 10 above, when a serious violation has been reported pursuant to paragraph 10 (a) above;
   (d) To address reminders to States where such violations have occurred if reports pursuant to paragraph 10 (a) above or follow-up reports pursuant to paragraph 10 (b) above have not been made within a reasonable period of time;

12. Also requests the Secretary-General to invite States, in the circular note referred to in paragraph 11 (a) above, to inform him of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

13. Further requests the Secretary-General to submit to the General Assembly at its fifty-ninth session a report containing:
   (a) Information on the state of ratification of, and accessions to, the instruments referred to in paragraph 8 above;
   (b) A summary of the reports received and views expressed pursuant to paragraphs 10 and 12 above;

14. Invites the Secretary-General to include in his report to the General Assembly any views he may wish to express on the matters referred to in paragraph 13 above;

15. Decides to include in the provisional agenda of its fifty-ninth session the item entitled “Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives”.

### Reservations to treaties

ILC, at its 2002 session [A/57/10 & Corr.1], considered the seventh report of Special Rapporteur Alain Pellet (France) relating to the formulation of, modification of and withdrawal of reservations to treaties and to interpretative declarations, following which ILC referred draft guideline 2.1.7 bis to the Drafting Committee. It considered draft guidelines 2.1.1 to 2.1.4, on form and notification of reservations; 2.1.5 and 2.1.6, on communication of reservations; 2.1.7, on functions of depositaries; 2.1.8 [2.1.7 bis] on procedure in case of manifestly [impermissible] reservations; and 2.4.1, 2.4.2 [2.4.1 bis] and 2.4.7 [2.4.2, 2.4.9], on procedure for interpretative declarations. ILC provisionally adopted those draft guidelines and commentaries thereon and reproduced in its report the text of the draft guidelines on reservations to treaties it had so far provisionally adopted.

The Special Rapporteur also introduced draft guidelines 2.5.1 to 2.5.3, 2.5.5 (including 2.5.5 bis and 2.2.5 ter), 2.5.6 (including 2.5.6 bis and 2.5.6 ter) and 2.5.7 to 2.5.12, dealing with withdrawal and modification of reservations. Having considered those draft guidelines, ILC referred them to the Drafting Committee.

### Treaties involving international organizations

The 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations [YUN 1986, p. 1006], which had not entered into force, had 37 parties as at 31 December 2002.

### Registration and publication of treaties by the United Nations

During 2002, the Secretariat received 1,635 international agreements, and 2,253 subsequent actions were registered or filed and recorded. In addition, 970 formalities concerning agreements for which the Secretary-General performed depositary functions were registered. Twelve issues of the *Monthly Statement of Treaties and International Agreements* were published.

Additionally, the texts of international agreements registered or filed and recorded by the Secretary-General from 1994 to 2000 were published in the United Nations *Treaty Series* in 78 volumes in the original languages during 2002, with translations into English and French where necessary. Volumes 35 to 37 of the *Cumulative Index to the Treaty Series* were also published in English and French.

### Multilateral treaties

The *UN Treaty Series* (2,136 printed volumes) and the regularly updated status of multilateral treaties deposited with the Secretary-General were available on the Internet at the UN Treaty Collection web site (http://untreaty.un.org).

### New multilateral treaties concluded under UN auspices

The following treaties, concluded under UN auspices, were deposited with the Secretary-General during 2002:

- Optional Protocol to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*
Punishment, adopted by General Assembly resolution 57/199 of 18 December 2002
Agreement on the Privileges and Immunities of the International Criminal Court, adopted at the meeting of the Assembly of States Parties, held at UN Headquarters in New York from 3 to 10 September 2002

Multilateral treaties deposited with the Secretary-General

At the end of 2002, the Secretary-General performed depositary functions for over 500 treaties. During the year, 196 signatures were affixed to treaties for which he performed depositary functions and 1,492 instruments of ratification, accession, acceptance and approval were deposited.

The following multilateral treaties, among others, in respect of which the Secretary-General acted as depositary, came into force in 2002:

Amendment to article 43 (2) of the Convention on the Rights of the Child, adopted in New York on 12 December 1995
Amendments to the Convention on the International Maritime Organization, adopted in London on 4 November 1993
International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999
Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Beijing on 3 December 1999

Information for 2002 regarding all multilateral treaties deposited with the Secretary-General was contained in Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2002, Vols. I & II [ST/LEG/SER.E/21], Sales No. E.03.V.3.