# REPORT OF THE INTERNATIONAL COURT OF JUSTICE

## 1 AUGUST 2004-31 JULY 2005

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## I. SUMMARY

1. The International Court of Justice, principal judicial organ of the United Nations, consists of 15 judges elected for a term of nine years by the General Assembly and the Security Council. Every three years one third of the seats fall vacant. The last elections to fill such vacancies were held on 21 October 2002. Sitting Judges Shi Jiuyong (China) and Abdul G. Koroma (Sierra Leone) were re-elected; Messrs. Hisashi Owada (Japan), Bruno Simma (Germany) and Peter Tomka (Slovakia) were elected with effect from 6 February 2003.

On the latter date the Court, in its new composition, elected Judge Shi Jiuyong as its President and Judge Raymond Ranjeva as its Vice-President for a term of three years.

2. Following the resignation, as from 11 February 2005, of Judge Gilbert Guillaume (France), the General Assembly and Security Council, on 15 February 2005, elected Mr. Ronny Abraham (France) for the remainder of Judge Guillaume's term, which will expire on 5 February 2009.

3. As from 15 February 2005, the composition of the Court is consequently as follows: President: Shi Jiuyong (China); Vice-President: Raymond Ranjeva (Madagascar); Judges: Abdul G. Koroma (Sierra Leone); Vladlen S. Vereshchetin (Russian Federation); Rosalyn Higgins (United Kingdom); Gonzalo Parra-Aranguren (Venezuela); Pieter H. Kooijmans (Netherlands); Francisco Rezek (Brazil); Awn Shawkat Al-Khasawneh (Jordan); Thomas Buergenthal (United States of America); Nabil Elaraby (Egypt); Hisashi Owada (Japan); Bruno Simma (Germany); Peter Tomka (Slovakia); Ronny Abraham (France).

4. The Registrar of the Court, elected for a term of seven years on 10 February 2000, is Mr. Philippe Couvreur; the Deputy-Registrar, re-elected on 19 February 2001, also for a term of seven years, is Mr. Jean-Jacques Arnaldez.

5. It should furthermore be noted that, the number of judges ad hoc chosen by States parties currently stands at 19, with these functions being carried out by 16 individuals (the same person is on occasion appointed to sit as judge ad hoc in several different cases).

6. As the Assembly will be aware, the International Court of Justice is the only international court of a universal character with general jurisdiction. That jurisdiction is twofold.

7. In the first place, the Court has to decide upon disputes freely submitted to it by States in the exercise of their sovereignty. In this respect, it should be noted that, as at 31 July 2005, 191 States were parties to the Statute of the Court and that 65 of them had deposited with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction in accordance with Article 36, paragraph 2, of the Statute. Further, some 300 bilateral or multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of their application or interpretation. Finally, States may submit a specific dispute to the Court by way of special agreement, as a number have done recently.

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

9. Over the past year, the number of cases pending before the Court has remained high. Whereas in the 1970s the Court had only one or two cases on its docket at any one time, between 1990 and 1997 this number varied between nine and 13. Since then it has stood at 20 or more. As a consequence of the fact that the Court, during the period under review, has disposed of ten cases, the number now stands at 11.

10. The contentious cases come from all over the world, currently three being between African States, one between Asian States, four between European States and two between Latin American States, whilst one is of an intercontinental character.

11. Their subject-matter is extremely varied. Thus, the Court's docket has frequently contained cases concerning territorial disputes between neighbouring States seeking a determination of their land and maritime boundaries, or a decision as to which of them has sovereignty over particular areas. This is the position for four cases concerning, respectively,

Nicaragua and Honduras, Nicaragua and Colombia, Malaysia and Singapore, and Romania and Ukraine. Another classic type of dispute is where a State complains of treatment suffered by one or more of its nationals in another State; this is the position in the case between Guinea and the Democratic Republic of the Congo, and the case between the Republic of the Congo and France.

12. Other cases relate to events that have come to the attention also of the General Assembly or the Security Council. Thus the Court is seised of the two cases in which Bosnia and Herzegovina and Croatia, respectively, have sought the condemnation of Serbia and Montenegro for violation of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. Besides, the Democratic Republic of the Congo, in two separate cases, contends that it has been the victim of armed aggression on the part of Uganda and Rwanda respectively.

13. Furthermore, many cases have been rendered more complex as a result of preliminary objections to jurisdiction or admissibility, and of counter-claims and applications for permission to intervene, not to mention requests for the indication of provisional measures, which have to be dealt with as a matter of urgency.

14. During the period under review the Court, on 15 December 2004, handed down its Judgments in the eight remaining cases concerning Legality of Use of Force (Serbia and Montenegro v. Belgium); (Serbia and Montenegro v. Canada); (Serbia and Montenegro v. France); (Serbia and Montenegro v. Germany); (Serbia and Montenegro v. Italy); (Serbia and Montenegro v. Netherlands); (Serbia and Montenegro v. Portugal); and (Serbia and Montenegro v. United Kingdom); in each of the cases it found unanimously that it had no jurisdiction to entertain the claims made by Serbia and Montenegro.

15. When bringing those cases (a total number of ten) in 1999, Serbia and Montenegro (at the time the "Federal Republic of Yugoslavia") alleged that each of the respondent States had committed acts by which it had "violated its international obligation banning the use of force against another State, the obligation not to intervene in the internal affairs of another State, the obligation not to violate the sovereignty of another State, the obligation to protect the civilian

population and civilian objects in wartime, the obligation to protect the environment, the obligation relating to free navigation on international rivers, the obligation regarding fundamental human rights and freedoms, the obligation not to use prohibited weapons, the obligation not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". In all ten cases it invoked as a basis of the Court's jurisdiction Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948 ("the Genocide Convention"). In the six cases against Belgium, Canada, the Netherlands, Portugal, Spain and the United Kingdom, it also invoked Article 36, paragraph 2, of the Statute of the Court, while in the four cases against France, Germany, Italy and the United States it invoked Article 38, paragraph 5, of the Rules of Court. Besides, in the two cases against Belgium and the Netherlands, Serbia and Montenegro submitted a "Supplement to the Application", invoking as a further basis for the Court's jurisdiction the provisions of a convention on settlement of disputes, concluded with each of those States in the early 1930s.

16. By Orders of 2 June 1999 concerning requests for provisional measures submitted by Serbia and Montenegro in the cases against Spain and the United States, the Court decided that those cases were to be removed from its List for manifest lack of jurisdiction. By Orders of the same date in the eight remaining cases, the Court stated that it lacked jurisdiction prima facie. Subsequently the respondent States in those cases all submitted preliminary objections relating to the Court's jurisdiction to entertain the case and to the admissibility of the Application.

17. In its Judgments of 15 December 2004, the Court observed that the question whether the Applicant was or was not a State party to the Statute of the Court at the time of the institution of the proceedings was fundamental; for if it were not such a party, the Court would not be open to it, unless it met the conditions prescribed in Article 35, paragraph 2, of the Statute. The Court therefore had to examine whether the Applicant met the conditions for access to it laid down in Articles 34 and 35 of the Statute before examining the issues relating to the conditions laid down in Articles 36 and 37 of the Statute.

18. The Court pointed out that there was no doubt that Serbia and Montenegro was a State for the purpose of Article 34, paragraph 1, of the Statute. However, the objection had been raised by certain Respondents that, at the time when the Application was filed, Serbia and Montenegro did not meet the conditions set down in Article 35, paragraph 1, of the Statute, because it was not a Member of the United Nations at the relevant time. After recapitulating the sequence of events relating to the legal position of the applicant State vis-à-vis the United Nations, the Court concluded that the legal situation that obtained within the United Nations during the period 1992-2000 concerning the status of the Federal Republic of Yugoslavia, following the break-up of the Socialist Federal Republic of Yugoslavia, had remained ambiguous and open to different assessments. This situation had come to an end with a new development in 2000. On 27 October of that year, the Federal Republic of Yugoslavia requested admission to membership in the United Nations, and on 1 November, by General Assembly resolution 55/12, it was so admitted. The Applicant thus had the status of membership in the Organization as from 1 November 2000. However, its admission to the United Nations did not have, and could not have had, the effect of dating back to the time when the SFRY broke up and disappeared. The Court therefore concluded that the Applicant thus was not a Member of the United Nations, and in that capacity a State party to the Statute of the International Court of Justice, at the time of filing its Application to institute the proceedings in each of the cases before the Court on 29 April 1999. As it had not become a party to the Statute on any other basis, the Court was not open to it at that time under Article 35, paragraph 1, of the Statute.

19. The Court then considered whether it might have been open to the Applicant under paragraph 2 of Article 35. It noted that the words “treaties in force” in that paragraph were to be interpreted as referring to treaties which were in force at the time that the Statute itself came into force, and that consequently, even assuming that the Applicant was a party to the Genocide Convention when instituting proceedings, Article 35, paragraph 2, of the Statute did not provide it with a basis for access to the Court under Article IX of that Convention, since the Convention only entered into force on 12 January 1951, after the entry into force of the Statute.

20. In the cases against Belgium and the Netherlands, the Court finally examined the question whether Serbia and Montenegro was entitled to invoke the dispute settlement convention it had concluded with each of those States in the early 1930s as a basis of jurisdiction in those cases. The question was whether the conventions dating from the early 1930s, which were concluded prior to the entry into force of the Statute, might rank as a "treaty in force" for purposes of Article 35, paragraph 2, and hence provide a basis of access. The Court first recalled that Article 35 of the Statute of the Court concerns access to the present Court and not to its predecessor, the Permanent Court of International Justice (PCIJ). It then observed that the conditions for transfer of jurisdiction from the PCIJ to the present Court are governed by Article 37 of the Statute. The Court noted that Article 37 applies only as between parties to the Statute under Article 35, paragraph 1. As it had already found that Serbia and Montenegro was not a party to the Statute when instituting proceedings, the Court accordingly found that Article 37 could not give it access to the Court under Article 35, paragraph 2, on the basis of the Conventions dating from the early 1930s, irrespective of whether or not those instruments were in force on 29 April 1999, the date of the filing of the Application.

21. In each of its Judgments, the Court finally recalled that, irrespective of whether it has jurisdiction over a dispute, the parties "remain in all cases responsible for acts attributable to them that violate the rights of other States".

22. On 10 February 2005 the Court rendered its Judgment on the preliminary objections to jurisdiction and admissibility raised by Germany in the case concerning Certain Property (Liechtenstein v. Germany). It found that it had no jurisdiction to entertain the Application filed by Liechtenstein.

23. When, in 2001, Liechtenstein brought the case before the Court, it based the Court's jurisdiction on Article 1 of the European Convention for the Peaceful Settlement of Disputes. Germany raised six preliminary objections to the jurisdiction of the Court and to the admissibility of Liechtenstein's Application.

24. The historical context of that case was as follows. In 1945 Czechoslovakia confiscated certain properties belonging to Liechtenstein nationals, including Prince Franz Josef II of Liechtenstein, pursuant to the "Beneš Decrees", which authorized the confiscation of "agricultural property" (including buildings, installations and movable property) of "all persons belonging to the German and Hungarian people, regardless of their nationality". A special régime with regard to German external assets and other property seized in connection with the Second World War was created under the "Convention on the Settlement of Matters Arising out of the War and the Occupation" (Chapter Six), signed in 1952 at Bonn. In 1991, a painting by the Dutch master Pieter van Laer was lent by a museum in Brno (Czechoslovakia) to a museum in Cologne (Germany) for inclusion in an exhibition. This painting had been the property of the family of the Reigning Prince of Liechtenstein since the eighteenth century; it was confiscated in 1945 by Czechoslovakia under the Beneš Decrees. Prince Hans-Adam II of Liechtenstein then filed a lawsuit in the German courts in his personal capacity to have the painting returned to him as his property, but that action was dismissed on the basis that, under Article 3, Chapter Six, of the Settlement Convention (an Article whose paragraphs 1 and 3 are still in force), no claim or action in connection with measures taken against German external assets in the aftermath of the Second World War was admissible in German courts. A claim brought by Prince Hans-Adam II before the European Court of Human Rights concerning the decisions by the German courts was also dismissed.

25. The Court, rejecting Germany's first objection, found that there existed a legal dispute between the Parties and that it was whether, by applying Article 3, Chapter Six, of the Settlement Convention to Liechtenstein property that had been confiscated by Czechoslovakia in 1945, Germany was in breach of the international obligations it owed to Liechtenstein and, if so, what was Germany's international responsibility.

26. Germany's second objection required the Court to decide, in the light of the provisions of Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes, whether the dispute related to facts or situations that arose before or after 18 February 1980, the date on which that Convention entered into force between Germany and Liechtenstein. The Court noted in this

respect that it was not contested that the dispute was triggered by the decisions of the German courts in the aforementioned case. The critical issue, however, was not the date when the dispute arose, but the date of the facts or situations in relation to which the dispute arose. In the Court's view, the dispute brought before it could only relate to the events that transpired in the 1990s if, as argued by Liechtenstein, in this period, Germany either departed from a previous common position that the Settlement Convention did not apply to Liechtenstein property, or if German courts, by applying their earlier case law under the Settlement Convention for the first time to Liechtenstein property, applied that Convention "to a new situation" after the critical date. Having found that neither was the case, the Court concluded that, although these proceedings were instituted by Liechtenstein as a result of decisions by German courts concerning a painting by Pieter van Laer, these events have their source in specific measures taken by Czechoslovakia in 1945, which led to the confiscation of property owned by some Liechtenstein nationals, including Prince Franz Jozef II of Liechtenstein, as well as in the special régime created by the Settlement Convention; and that the source or real cause of the dispute was accordingly to be found in the Settlement Convention and the Beneš Decrees. In light of the provisions of Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes, the Court therefore upheld Germany's second preliminary objection, finding that it could not rule on Liechtenstein's claims on the merits.

27. On 12 July 2005, the Chamber of the Court formed to deal with the case concerning the Frontier Dispute (Benin/Niger) rendered its Judgment. By that Judgment, it first determined the course of the boundary between the two Parties in the sector of the River Niger, decided which of the islands situated in the River Niger belonged to each of the Parties, and fixed the boundary line on two bridges in the River Niger; the Chamber further determined the course of the boundary between the Parties in the sector of the River Mekrou.

28. After outlining the geographical context and historical background to the dispute between these two former colonies, which were part of French West Africa (AOF) until their accession to independence in August 1960, the Chamber addressed the law applicable to the dispute. It stated that that law includes the principle of the intangibility of the boundaries inherited

from colonization or the principle of uti possidetis juris, whose "primary aim is . . . securing respect for the territorial boundaries at the moment when independence is achieved". The Chamber found that on the basis of that principle it had to seek to determine, in this case, the boundary that was inherited from the French administration. It noted that "the Parties agreed that the dates to be taken into account for this purpose were those of their respective independence namely 1 and 3 August 1960".

29. The Chamber then considered the course of the boundary in the River Niger sector. It first examined the various regulative or administrative acts invoked by the Parties in support of their respective claims and concluded that "neither of the Parties has succeeded in providing evidence of title on the basis of [those] acts during the colonial period". In accordance with the principle that, where no legal title exists, the effectivités "must invariably be taken into consideration", the Chamber further examined the evidence presented by the Parties regarding the effective exercise of authority on the ground during the colonial period, in order to determine the course of the boundary in the River Niger sector and to indicate to which of the two States each of the islands in the river belongs, and in particular the island of Lété.

30. On the basis of this evidence in respect of the period 1914-1954, the Chamber concluded that there was a modus vivendi between the local authorities of Dahomey and Niger in the region concerned, whereby both parties regarded the main navigable channel of the river as constituting the intercolonial boundary. The Chamber observed that, pursuant to this modus vivendi, Niger exercised its administrative authority over the islands located to the left of the main navigable channel (including the island of Lété) and Dahomey over those located to the right of that channel. The Chamber noted that "the entitlement of Niger to administer the island of Lété was sporadically called into question for practical reasons but was neither legally nor factually contested". With respect to the islands located opposite the town of Gaya (Niger), the Chamber noted that, on the basis of the modus vivendi, these islands were considered to fall under the jurisdiction of Dahomey. It therefore followed, in the view of the Chamber, that in this sector of the river the boundary was regarded as passing to the left of these three islands.

31. The Chamber found that the situation was less clear in the period between 1954 and 1960. However, on the basis of the evidence submitted by the Parties, it could not "conclude that the administration of the island of Lété, which before 1954 was undoubtedly carried out by Niger, was effectively transferred to or taken over by Dahomey".

32. The Chamber concluded from the foregoing that the boundary between Benin and Niger in this sector follows the main navigable channel of the River Niger as it existed at the dates of independence, it being understood that, in the vicinity of the three islands opposite Gaya, the boundary passes to the left of these islands. Consequently, Benin has title to the islands situated between the boundary thus defined and the right bank of the river and Niger has title to the islands between that boundary and the left bank of the river.

33. In order to determine the precise location of the boundary line in the main navigable channel, namely the line of deepest soundings, as it existed at the dates of independence, the Chamber based itself on a report prepared in 1970, at the request of the Governments of Dahomey, Mali, Niger and Nigeria, by the firm Netherlands Engineering Consultants (NEDECO). In the Judgment the Chamber specified the co-ordinates of 154 points through which the boundary between Benin and Niger passes in this sector; and determined to which Party each of the 25 islands of the river belongs, on the basis of the boundary line as described above. It stated inter alia that Lété Goungou belongs to Niger.

34. Finally, the Chamber concluded that the Special Agreement also conferred jurisdiction upon it to determine the line of the boundary on the bridges between Gaya and Malanville. It found that the boundary on those structures follows the course of the boundary in the River Niger.

35. In the second part of its Judgment, dealing with the western section of the boundary between Benin and Niger, in the sector of the River Mekrou, the Chamber examined the various documents relied on by the Parties in support of their respective claims. It concluded that, notwithstanding the existence of a legal title of 1907 relied on by Niger in support of the boundary which it claims, it was clear that, "at least from 1927 onwards, the competent administrative authorities regarded the course of the Mekrou as the intercolonial boundary separating Dahomey

from Niger, that those authorities reflected that boundary in the successive instruments promulgated by them after 1927, some of which expressly indicated that boundary, whilst others necessarily implied it, and that this was the state of the law at the dates of independence in August 1960". The Chamber concluded that in the River Mekrou sector the boundary between Benin and Niger is constituted by the median line of that river.

36. In view of the increasing number and complexity of cases brought before the Court it has become more and more difficult to hold hearings in all pending cases directly after the closure of the written proceedings. The judicial year 2004-2005 has been particularly busy, as will be the case for the coming year. In this connection the Court has already announced the opening of hearings in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro).

37. In order to cope with the unprecedented increase in its workload, the Court had already in 1997 taken various measures to rationalize the work of the Registry, to make greater use of information technology, to improve its own working methods and to secure greater collaboration from the parties in relation to its procedures. An account of these various measures was set out in the report submitted to the General Assembly in response to Assembly resolution 52/161 of 15 December 1997 (see Appendix 1 to the Report of the Court for the period 1 August 1997 to 31 July 1998). These efforts have been continued. The Court has also taken steps to shorten and simplify proceedings. In December 2000, it revised certain provisions of its Rules. As of October 2001, it adopted various Practice Directions (see pp. 98 and 99 of the Annual Report for 2001-2002). The Court welcomes the co-operation it has received from some parties to cases who have taken steps to reduce both the number and volume of written pleadings as well as the length of their oral arguments, and who in some cases provided the Court with their pleadings in both of its official languages. In April 2002, the Court reviewed again its working methods; they are subject to permanent re-examination. More recently, in July 2004, it adopted further measures which mostly concern the internal functioning of the Court and provide practical methods for increasing the number of decisions rendered each year, thereby shortening the period between the closure of written proceedings and the opening of oral proceedings. In addition, the Court seeks better

compliance by States parties to cases with its previous decisions aimed at accelerating the Court's procedure, which it intends to apply more strictly. The Court amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII (for the text of these Practice Directions, see pp. 46-47 of the Annual Report for 2003-2004). It also amended, in April 2005, additional provisions of the Rules of Court.

38. In the previous Annual Report, it was observed, with respect to the budget for the biennium 2004-2005, that the Court had, in view of its ongoing and increased reliance upon advanced technology, requested a modest expansion of its Computerization Division from one to two professional officers. The need for a professional staff member with advanced Information Technology (IT) skills appeared to be essential in order to meet the request by the General Assembly for enhanced use of modern technology. Unfortunately, the Court's request for 2004-2005 was not successful, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) having considered that further justification of the need for this position was required from an external expert. The ICJ engaged a consultant experienced with the United Nations to carry out an independent expert review, and, as recommended in the study, the ICJ proposed in its 2006-2007 budget submission that a new senior professional post, at the P4 grade, as Head of Computerization be approved. Since the budget of the Court, as principal judicial organ of the United Nations, is extremely modest (less than 1 per cent of the Organization's total budget and thus down compared to 1946, the year of the Court's installation), the Court sincerely hopes that the General Assembly will respond favourably to its few requests for the biennium 2006-2007, thus giving it the means to meet the challenges awaiting it during this period as it fulfils its statutory obligations.

39. In conclusion, the International Court of Justice welcomes the increased confidence that States have shown in the Court's ability to resolve their disputes. The Court has carried out its judicial tasks with care and determination during the 2004-2005 session. It will of course do so during the coming year.

## II. ORGANIZATION OF THE COURT

### A. Composition

40. The present composition of the Court is as follows: President: Shi Jiuyong; Vice-President: Raymond Ranjeva; Judges: Abdul G. Koroma, Vladlen S. Vereshchetin, Rosalyn Higgins, Gonzalo Parra-Aranguren, Pieter H. Kooijmans, Francisco Rezek, Awn Shawkat Al-Khasawneh, Thomas Buergenthal, Nabil Elaraby, Hisashi Owada, Bruno Simma, Peter Tomka and Ronny Abraham.

41. During the period under review, the General Assembly and the Security Council, following the resignation, as from 11 February 2005, of Judge Gilbert Guillaume, elected, on 15 February 2005, Mr. Ronny Abraham for the remainder of Judge Guillaume's term, which will expire on 5 February 2009.

42. The Registrar of the Court is Mr. Philippe Couvreur. The Deputy-Registrar is Mr. Jean-Jacques Arnaldez.

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

Members

| | |
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| President | Shi Jiuyong |
| Vice-President | R. Ranjeva |
| Judges | G. Parra-Aranguren, A. S. Al-Khasawneh and T. Buergenthal |

Substitute Members

| | |
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| Judges | N. Elaraby and H. Owada. |

44. Following the resignation of Judge Gilbert Guillaume as of 11 February 2005 and of an election held on 8 April 2005, the Court's Chamber for Environmental Matters, which was established in 1993 pursuant to Article 26, paragraph 1, of the Statute, and whose mandate in its present composition runs to February 2006, is composed as follows:

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| President | Shi Jiuyong |
| Vice-President | R. Ranjeva |
| Judges | P. H. Kooijmans, F. Rezek, N. Elaraby, B. Simma and P. Tomka. |

45. Following an election held on 16 February 2005, to fill the vacancy left by the resignation of Judge Guillaume, President of the Chamber formed to deal with the case concerning Frontier Dispute (Benin/Niger), the composition of that Chamber was as follows: President, R. Ranjeva; Judges: P. H. Kooijmans, R. Abraham; Judges ad hoc: M. Bedjaoui and M. Bennouna.

46. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Bosnia and Herzegovina chose Sir Elihu Lauterpacht and Serbia and Montenegro Mr. Milenko Kreća to sit as judges ad hoc. Following the resignation of Sir Elihu Lauterpacht, Bosnia and Herzegovina chose Mr. Ahmed Mahiou to sit as judge ad hoc.

47. In the case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Judge Tomka being disqualified from sitting, Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

48. In the case concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Guinea chose Mr. Mohammed Bedjaoui and the Democratic Republic of the Congo Mr. Auguste Mampuya Kanunk'a Tshiabo to sit as judges ad hoc. Following the resignation of Mr. Bedjaoui, Guinea chose Mr. Ahmed Mahiou to sit as judge ad hoc.

49. In the cases concerning the Legality of Use of Force (Serbia and Montenegro v. Belgium); (Serbia and Montenegro v. Canada); (Serbia and Montenegro v. France); (Serbia and Montenegro v. Germany); (Serbia and Montenegro v. Italy); (Serbia and Montenegro v. Netherlands); (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom), Serbia and Montenegro chose Mr. Milenko Kreća to sit as judge ad hoc; in the cases concerning (Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada) and (Serbia and Montenegro v. Italy), Belgium chose Mr. Patrick Duinslaeger, Canada Mr. Marc Lalonde and Italy Mr. Giorgio Gaja to sit as judges ad hoc. These judges sat during the examination of Serbia and Montenegro's requests for the indication of provisional measures. In March 2000 Portugal had also indicated its intention to appoint a judge ad hoc. With regard to the phase of the procedure

concerning the preliminary objections, the Court, taking into account the presence upon the Bench of judges of British, Dutch and French nationality, decided that the judges ad hoc chosen by the respondent States should not sit during that phase. The Court observed that this decision did not in any way prejudice the question whether, if the Court should reject the preliminary objections of the respondents, judges ad hoc might sit in subsequent stages of the cases.

50. In the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), the Democratic Republic of the Congo chose Mr. Joe Verhoeven and Uganda Mr. James L. Kateka to sit as judges ad hoc.

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

52. In the case concerning Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Nicaragua chose Mr. Giorgio Gaja and Honduras Mr. Julio González Campos to sit as judges ad hoc.

53. In the case concerning Certain Property (Liechtenstein v. Germany), Liechtenstein chose Mr. Ian Brownlie to sit ad judge ad hoc. After Mr. Brownlie's resignation, Liechtenstein chose Sir Franklin Berman. Judge Simma having recused himself, Germany chose Mr. Carl-August Fleischhauer to sit as judge ad hoc.

54. In the case concerning Territorial and Maritime Dispute (Nicaragua v. Colombia), Nicaragua chose Mr. Mohammed Bedjaoui and Colombia Mr. Yves L. Fortier to sit as judges ad hoc.

55. In the case concerning the Frontier Dispute (Benin/Niger), Benin chose Mr. Mohamed Bennouna and Niger Mr. Mohammed Bedjaoui to sit as judges ad hoc.

56. In the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), the Democratic Republic of

the Congo chose Mr. Jean-Pierre Mavungu and Rwanda Mr. Christopher J. R. Dugard to sit as judges ad hoc.

57. In the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France), the Republic of the Congo chose Mr. Jean-Yves de Cara to sit as judge ad hoc. Judge Abraham having recused himself, France chose Mr. Gilbert Guillaume to sit as judge ad hoc.

58. In the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore), Malaysia chose Mr. Christopher J. R. Dugard and Singapore Mr. Pemmaraju Sreenevasa Rao to sit as judges ad hoc.

## B. Privileges and Immunities

59. Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

60. In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (I.C.J. Acts and Documents No. 5, pp. 201-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps; the Dean, who ranks after the President, is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and Members of the Court (ibid., pp. 207-213).

61. By resolution 90 (1) of 11 December 1946 (ibid., pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that

> "if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there",

and that

> "judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

62. The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

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

## III. JURISDICTION OF THE COURT

### A. Jurisdiction of the Court in contentious cases

64. On 31 July 2005, the 191 States Members of the United Nations were parties to the Statute of the Court.

65. Sixty-five States have now made declarations (many with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Costa Rica, Cyprus, the Democratic Republic of the Congo, Denmark, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Ivory Coast, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, the Philippines, Poland, Portugal, Senegal, Serbia and Montenegro, Slovakia, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The texts of the declarations filed by the above States will appear in Chapter IV, Section II, of the next edition of the I.C.J. Yearbook.

66. Lists of treaties and conventions which provide for the jurisdiction of the Court will appear in Chapter IV, Section III, of the next edition of the I.C.J. Yearbook. There are currently in force approximately 100 such multilateral conventions and approximately 160 such bilateral conventions. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

### B. Jurisdiction of the Court in advisory proceedings

67. In addition to United Nations bodies (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly), the following organizations are at present authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities:

International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization;
International Civil Aviation Organization;
World Health Organization;
World Bank;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Telecommunication Union;
World Meteorological Organization;
International Maritime Organization;
World Intellectual Property Organization;
International Fund for Agricultural Development;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

68. The international instruments that make provision for the advisory jurisdiction of the Court will be listed in Chapter IV, Section I, of the next edition of the I.C.J. Yearbook.

## IV. FUNCTIONING OF THE COURT

### A. Committees of the Court

69. The committees constituted by the Court to facilitate the performance of its administrative tasks are composed as follows:

(a) The Budgetary and Administrative Committee: the President (Chair), the Vice-President and Judges Koroma, Vereshchetin, Kooijmans, Al-Khasawneh and Buergenthal.

(b) The Committee on Relations: Judges Parra-Aranguren, Rezek, Al-Khasawneh and Owada.

(c) The Library Committee: Judges Koroma (Chair), Kooijmans, Rezek, Buergenthal and Tomka.

(d) The Computerization Committee, under the Chairmanship of the Vice-President, is open to all interested Members of the Court.

70. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judges Higgins (Chair), Elaraby, Owada, Simma, Tomka and Abraham.

### B. The Registry of the Court

71. The Court is the only principal organ of the United Nations to have its own administration (see Art. 98 of the Charter). The Registry is the permanent administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Arts. 22-29 of the Rules). Since the Court is both a judicial body and an international institution, the role of the Registry is both to provide judicial support and to act as an international secretariat. Thus its work is, on the one hand, judicial and diplomatic, while, on the other, it corresponds to that of the legal, administrative, financial, conference and information departments of an international organization. The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar and its duties are worked out in instructions drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The Instructions for the Registry were drawn up in October 1946. An organizational chart of the Registry is appended at page 27.

72. Registry officials are appointed by the Court on proposals by the Registrar or, for General Service staff, by the Registrar with the approval of the President. Short-term staff are

appointed by the Registrar. Working conditions are laid down in Staff Regulations adopted by the Court (see Art. 28 of the Rules of Court). Registry officials enjoy, generally, the same privileges and immunities as members of diplomatic missions in The Hague of comparable rank. They enjoy a status, remuneration and pension rights corresponding to those of secretariat officials of the equivalent category or grade.

73. Over the last 15 years, the Registry's workload, notwithstanding its adaptation to new technologies, has grown considerably following the substantial increase in the number of cases brought before the Court.

74. Taking into account the creation of two security posts under the 2004-2005 biennium (see above, para. 28), the staffing chart for the Registry shows at present a total of 98 staff members as follows: 45 staff members in the administrator or higher category (of which 33 hold permanent posts and 12 temporary posts), 53 staff members in the General Service category (of which 51 hold permanent posts and 2 temporary posts).

75. In order further to enhance its efficiency and in accordance with the views expressed by the General Assembly, the Registry is in the process of setting up a performance appraisal system for the Registry staff.

The Registrar and Deputy-Registrar

76. The Registrar is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present in person, or represented by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and

financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, in particular with the organs of the United Nations, with other international organizations and States and in the fields of information concerning the Court's activities and the Court's publications (official publications of the Court, press releases, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

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

78. The Registrar and the Deputy-Registrar, when acting for the Registrar, are, pursuant to the exchange of correspondence mentioned in paragraph 60 above, accorded the same treatment as Heads of Diplomatic Missions in The Hague.

The Registry's substantive divisions and units

Department of Legal Matters

79. This Department, composed of seven staff members in the Professional category and one in the General Service category, is responsible for all legal matters within the Registry. In particular, its task is to assist the Court in the exercise of its judicial functions. It prepares the minutes of meetings of the Court and acts as secretariat to the drafting committees which prepare the Court's draft decisions, and also as secretariat to the Rules Committee. It carries out research in international law, examining previous legal and procedural decisions, and prepares studies and notes for the Court and the Registrar as required. It also prepares for signature by the Registrar all correspondence in pending cases and, more generally, diplomatic correspondence relating to the application of the Statute or the Rules of Court. It is also responsible for monitoring the Headquarters agreements with the host country. Finally, the Department may be consulted on all legal questions relating to the terms of employment of Registry staff.

80. Also attached to the Department is a pool of five law clerks, in the Professional category, whose task it is to undertake legal research at the request of Members of the Court.

Department of Linguistic Matters

81. This Department, composed of 18 staff members in the Professional category and one in the General Service category, is responsible for the translation of documents to and from the Court's two official languages. These documents include case pleadings and other communications from States parties, verbatim records of Court hearings, the Court's judgments, advisory opinions and orders, together with their drafts and working documents, judges' Notes, minutes of Court and committee meetings, internal reports, notes, studies, memos and directives, speeches by the President and judges to outside bodies, reports and communications to the Secretariat, etc. The Department also provides interpretation at private and public meetings of the Court and at meetings of the President and Court Members held with agents of the parties and other official visitors.

82. As a result of the growth of the Department since the 2002-2003 biennium, recourse to outside translators has been substantially reduced. However, outside translation assistance is still necessary on occasion, in particular for Court hearings. Outside interpreters are also still regularly required, notably for Court hearings and deliberations.

Information Department

83. This Department, composed of two staff members in the Professional category (one of these positions is shared by two staff members, each working half-time) and one in the General Service category, plays an important part in the Court's external relations. Its duties consist of preparing all documents or sections of documents containing general information on the Court (in particular the Annual Report of the Court to the General Assembly, the sections concerning the Court in various United Nations documents, the Yearbook, and documents for the general public); arranging for the circulation of printed publications and public documents issued by the Court; encouraging and assisting the press, radio and television to report on the work of the Court (in particular by preparing press releases); replying to all requests for information on the Court;

keeping Members of the Court abreast of information in the press or on the Internet concerning pending or possible cases; organizing the public sittings of the Court and all other official events, including a large number of visits.

Technical Divisions

Personnel Division

84. This Division, composed of one staff member in the Professional and one in the General Service category is responsible for various duties related to staff management and administration, including: planning and implementation of recruitment, placement, promotion, training and separation of staff. In administering staff, it ensures observance of Staff Regulations for the Registry, applicable United Nations Staff Regulations and Rules. As part of the recruitment exercise, the Division prepares vacancy announcements, reviews applications, arranges structured interviews for selection of candidates and prepares job offers for successful candidates, and provides introduction, orientation and briefing to new staff members. The Division also administers and monitors staff entitlements and benefits, handles the relevant personnel actions, liaises with the Office of Human Resources Management (OHRM) and the United Nations Joint Staff Pension Fund (UNJSPF).

Finance Division

85. This Division, composed of two staff members in the Professional category and three in the General Service category, is responsible for financial matters. Its financial duties include inter alia: preparation of the budget; financial accounting and reporting; procurement and inventory control; vendor payments; payroll and payroll related operations (allowances/overtime), and travel.

Publications Division

86. This Division, composed of three staff members in the Professional category, is responsible for preparation of manuscripts, proofreading and correction of proofs, study of estimates and choice of printing firms in relation to the following official publications of the Court: (a) Reports of Judgments, Advisory Opinions and Orders; (b) Pleadings, Oral Arguments, Documents (former "Series C"); (c) Bibliographies; (d) Yearbooks. It is also responsible for various other publications as instructed by the Court or the Registrar ("Blue Book" (handbook on

the Court for the general public), "Background Notes on the Court", "White Book" (composition of the Court and the Registry)). Moreover, as the actual printing of the Court's publications is outsourced, the Division is also responsible for the preparation, conclusion and implementation of contracts with printers, including control of all invoices. (For the Court's publications, see Chapter VIII below.)

Documents Division — Library of the Court

87. This Division, composed of two staff members in the Professional category and three in the General Service category, has as its main task the acquisition, conservation and classification of leading works on international law, as well as periodicals and other relevant documents. The Division operates in close collaboration with the Peace Palace Library of the Carnegie Foundation; it also procures for the Court on request items not included in the catalogue of that Library.

88. It also receives United Nations publications, including the documents of its principal organs, which it has to index, classify and keep up to date. It prepares bibliographies for Members of the Court as required and compiles an annual bibliography of all publications concerning the Court. It also has to make good the lack of a reference service for translators. The Division seeks to implement improved and more modern methods in performing its tasks, in particular through the gradual insertion of new technologies.

Archives, Indexing and Distribution Division

89. This Division, composed of one staff member in the Professional category and five in the General Service category, is responsible for indexing and classifying all correspondence and documents received or sent by the Court, and for the subsequent retrieval of any such item on request. The duties of this Division include in particular the keeping of an up-to-date index of correspondence, incoming and outgoing, as well as of all documents, both official and other, held on file. Automation of the management and status of archives files, the final phase of automation and computerization of the Division, is now in progress.

90. The Division also handles the despatch of official publications to Members of the United Nations, as well as to numerous institutions and private persons. It is also responsible for checking, distributing and filing all internal documents, some of which are strictly confidential.

Shorthand, Typewriting and Reproduction Division

91. This Division, composed of one staff member in the Professional category and nine in the General Service category, carries out all the typing work of the Registry and, as necessary, the reproduction of typed texts.

92. Other than actual correspondence, the Division is responsible in particular for the typing and reproduction of the following documents: translations of written pleadings and annexes, verbatim records of hearings and their translations, translations of judges' Notes and judges' amendments, judgments, advisory opinions and orders, translations of judges' opinions. In addition, it is responsible for checking documents and references, re-reading and page layout.

Judges' Secretaries

93. The work done by the 15 judges' secretaries is manifold and varied. As a general rule, the secretaries type Notes, amendments and opinions, as well as all correspondence of judges and judges ad hoc. They also check the references in Notes and opinions, and provide other assistance as required.

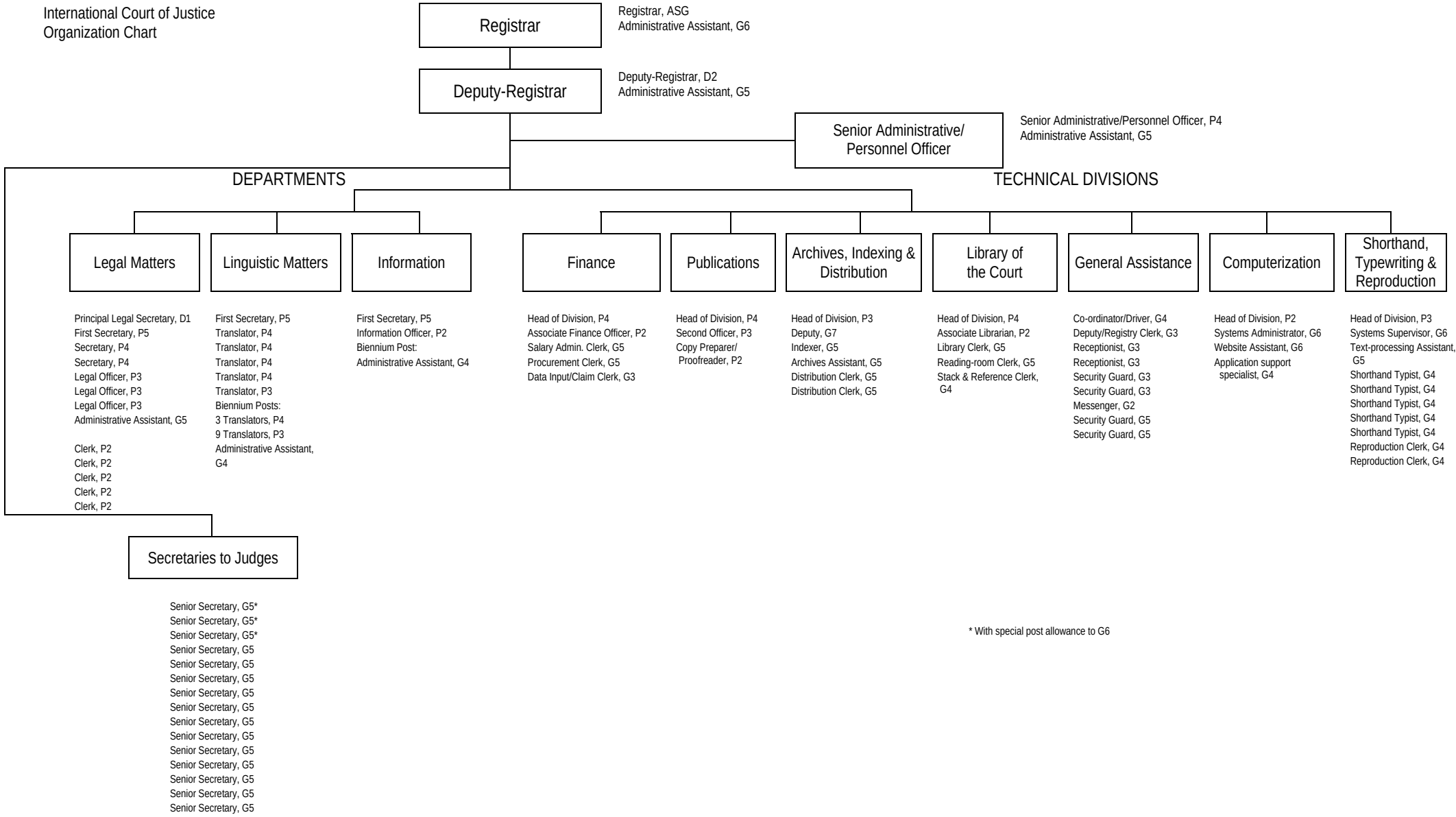
IT Division

94. The IT Division, composed of one staff member in the Professional category and three in the General Service category, is responsible for the efficient functioning and continued development of information technology at the Court. It is charged with the administration and functioning of the Court's local area networks and all other computer and technical equipment. It is also responsible for the implementation of new software and hardware projects, and assists and trains computer users in all aspects of information technology. Finally, the IT Division is responsible for the development and management of the ICJ website.

General Assistance Division

95. The General Assistance Division, composed of nine staff members in the General Service category, provides general assistance to Members of the Court and Registry staff in regard to messenger, transport, reception and telephone services. It is also responsible for security.

International Court of Justice
Organization Chart



C. Seat

96. The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

97. The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the Permanent Court of International Justice as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing, as well as a number of newly constructed offices on the third floor of the Peace Palace, were inaugurated in 1997.

98. An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946 and has undergone subsequent alterations. The agreement provides for the payment to the Carnegie Foundation of an annual contribution, which presently amounts to US$2,325,400.

D. Museum of the Court

99. On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions which occupy the Peace Palace) situated in the south wing of the Peace Palace.

100. Its collection presents an overview of the theme “Peace through Justice”, highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the subsequent construction of the Peace Palace as a seat for international justice; as well as the establishment and the functioning of the Permanent Court of International Justice and the present Court (different displays showcase the genesis of the United Nations; the Court and its Registry; the judges on the Bench, the provenance of judges and cases; the procedure of the Court; the world’s legal systems; the case law of the Court; prominent visitors).

## V. JUDICIAL WORK OF THE COURT

101. During the period under review 21 contentious cases were pending, 11 of which remain so.

102. Over this period the Court was seised of one new case: Maritime Delimitation in the Black Sea (Romania v. Ukraine).

103. The Court held public hearings in the cases concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) and Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda).

104. The Court rendered judgments on the preliminary objections raised by the respondent Party in each of the cases concerning Legality of Use of Force (Serbia and Montenegro v. Belgium); (Serbia and Montenegro v. Canada); (Serbia and Montenegro v. France); (Serbia and Montenegro v. Germany); (Serbia and Montenegro v. Italy); (Serbia and Montenegro v. Netherlands); (Serbia and Montenegro v. Portugal); (Serbia and Montenegro v. United Kingdom) and Certain Property (Liechtenstein v. Germany).

105. During the period under review, the Chamber of the Court formed to deal with the case concerning Frontier Dispute (Benin/Niger), also held hearings and delivered its Judgment in the case.

106. The Court made in the case concerning Frontier Dispute (Benin/Niger), an Order placing on record certain changes in the composition of the Chamber formed to deal with that case. It further made Orders fixing time-limits for the filing of pleadings in the cases concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) and Maritime Delimitation in the Black Sea (Romania v. Ukraine).

107. The President of the Court made Orders extending time-limits for the filing of pleadings in the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France).

108. The Court further amended certain provisions of its Rules.

A. Cases before the Court

1. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro

109. On 20 March 1993, Bosnia and Herzegovina filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"). As the basis of the jurisdiction of the Court, Bosnia and Herzegovina invoked Article IX of that Convention.

110. In its Application, Bosnia and Herzegovina, among other claims, requested the Court to adjudge and declare that Serbia and Montenegro, through its agents and surrogates, "has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina", that it had to cease immediately this practice of so-called "ethnic cleansing" and pay reparations.

111. On 20 March 1993 Bosnia and Herzegovina also submitted a request for provisional measures. Public hearings were held on 1 and 2 April 1993, and by an Order dated 8 April 1993 the Court indicated that Serbia and Montenegro "should immediately . . . take all measures within its power to prevent commission of the crime of genocide" and that both Serbia and Montenegro and Bosnia and Herzegovina "should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute . . . or render it more difficult of solution". The Court limited its provisional measures to requests falling within the jurisdiction conferred on it by the Genocide Convention.

112. On 27 July 1993 Bosnia and Herzegovina filed a second request for provisional measures, followed on 10 August 1993 by a request for provisional measures of Serbia and Montenegro. Public hearings were held on 25 and 26 August 1993, and by an Order dated 13 September 1993 the Court reaffirmed the measures indicated earlier, adding that they should be immediately and effectively implemented.

113. On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects".

114. The Memorial of Bosnia and Herzegovina was filed within the extended time-limit of 15 April 1994.

115. On 26 June 1995, within the extended time-limit for the deposit of its Counter-Memorial, Serbia and Montenegro filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After Bosnia and Herzegovina had filed a written statement on the preliminary objections within the time-limit of 14 November 1995 fixed by the Court' s Order of 14 July 1995, public hearings were held between 29 April and 3 May 1996. On 11 July 1996, the Court delivered its Judgment, rejecting the objections of Serbia and Montenegro; finding that, on the basis of Article IX of the Genocide Convention, it had jurisdiction to deal with the case; dismissing the additional basis of jurisdiction invoked by Bosnia and Herzegovina; and finding that the Application was admissible.

116. In the Counter-Memorial filed on 22 July 1997, Serbia and Montenegro submitted counter-claims requesting the Court to adjudge and declare that "Bosnia and Herzegovina [was] responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina" and that it "ha[d] the obligation to punish the persons held responsible" for these acts. It also asked the Court to rule that "Bosnia and Herzegovina [was] bound to take necessary measures so that the said acts would not be repeated in future" and "to eliminate all consequences of the violation of the obligations established by the . . . [Genocide] Convention".

117. By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

118. After each Party had filed written observations, the Court, by an Order of 17 December 1997, held that Serbia and Montenegro's counter-claims were "admissible as such" and that they formed "part of the current proceedings" in the case; the Court also directed the Parties to submit further written pleadings on the merits of their respective claims and fixed time-limits for the filing of a Reply by Bosnia and Herzegovina and of a Rejoinder by Serbia and Montenegro. Those time-limits having been extended at the request of each of the Parties, the Reply of Bosnia and Herzegovina was eventually filed on 23 April 1998 and the Rejoinder of Serbia and Montenegro on 22 February 1999. In these pleadings, each of the Parties contested the allegations made by the other.

119. Since then several exchanges of letters have taken place concerning new procedural difficulties in the case.

120. By an Order of 10 September 2001 the President of the Court placed on record the withdrawal by Serbia and Montenegro of the counter-claims submitted by that State in its Counter-Memorial. The Order was made after Serbia and Montenegro had informed the Court that it intended to withdraw its counter-claims and Bosnia and Herzegovina had indicated to the latter that it had no objection to that withdrawal.

121. It is recalled that, on 3 February 2003, the Court rendered its Judgment in the case concerning Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina), by which it found that the request for revision was inadmissible.

122. It is further recalled that, on 4 May 2001, Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) submitted a document to the Court, entitled "Initiative to the Court to reconsider ex officio Jurisdiction over Yugoslavia". The submissions presented in that document were, first that the Court had no jurisdiction ratione personae over Serbia and Montenegro, and secondly, that the Court should "suspend proceedings regarding the merits of the case until a decision on this Initiative", i.e. on the jurisdictional issue, had been rendered. In a

letter dated 12 June 2003, the Registrar informed the Parties in the case that the Court had decided that it could not effect such a suspension of the proceedings in the circumstances of the case.

123. The Court has fixed 27 February 2006 as the date for the opening of hearings.

2. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

124. On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> (a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> (b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> (c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

125. Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within the respective time-limits of 2 May 1994, 5 December 1994 and 20 June 1995, as fixed by the Court or its President.

126. Hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčíkovo-Nagymaros Project, by virtue of Article 66 of the Rules of Court.

127. In its Judgment of 25 September 1997, the Court found that both Hungary and Slovakia had breached their legal obligations. It called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

128. On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional judgment in the case. Such an additional judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

129. In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998 Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

130. As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

131. Hungary filed a written statement of its position on the request for an additional judgment made by Slovakia within the time-limit of 7 December 1998 fixed by the President of the Court.

132. The Parties subsequently have resumed negotiations and have informed the Court on a regular basis of the progress made.

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

133. On 28 December 1998 the Republic of Guinea filed an Application instituting proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

134. According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaire Shell, Zaire Mobil and Zaire Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaire and Africacontainers-Zaire.

135. As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998 and the declaration of the Democratic Republic of the Congo of 8 February 1989.

136. Guinea filed its Memorial within the time-limit as extended by the Court. On 3 October 2002, within the time-limit as extended for the deposit of its Counter-Memorial, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

137. By an Order of 7 November 2002 the Court fixed 7 July 2003 as the time-limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time-limit thus fixed.

4-11. Legality of Use of Force (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom)

138. On 29 April 1999 Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) filed Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom and United States of America "for violation of the obligation not to use force".

139. In its Applications, Serbia and Montenegro pointed out that the above-mentioned States had committed "acts . . . by which [they] have violated [their] international obligation[s] banning the use of force against another State, not to intervene in the internal affairs of [that State]" and "not to violate [its] sovereignty"; "[their] obligation[s] to protect the civilian population and civilian objects in wartime [and] to protect the environment"; "[their] obligation[s] relating to free navigation on international rivers"; "[their] obligation[s] regarding fundamental human rights and freedoms"; and "[their] obligation[s] not to use prohibited weapons [and] not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". Serbia and Montenegro requested the Court to adjudge and declare inter alia that the States referred to above were "responsible for the violation of the above[-mentioned] international obligations" and that they were "obliged to provide compensation for the damage done".

140. As a basis for the jurisdiction of the Court, Serbia and Montenegro referred, in the Applications against Belgium, Canada, Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Genocide Convention; and, in the Applications against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

141. On the same day, Serbia and Montenegro also submitted a request for the indication of provisional measures in each of these cases.

142. After public hearings on the requests for the indication of provisional measures had been held between 10 and 12 May 1999, the Court, on 2 June 1999, delivered eight Orders, by which, in the cases (Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada),

(Serbia and Montenegro v. France), (Serbia and Montenegro v. Germany), (Serbia and Montenegro v. Italy), (Serbia and Montenegro v. Netherlands), (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom), the Court, having found that it had no prima facie jurisdiction, rejected the requests for the indication of provisional measures submitted by Serbia and Montenegro and reserved the subsequent procedure for further decision. In the cases of (Serbia and Montenegro v. Spain) and (Serbia and Montenegro v. United States of America), the Court — having found that it manifestly lacked jurisdiction to entertain Serbia and Montenegro's Application and that, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appeared certain that the Court would not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice — rejected Serbia and Montenegro's requests for the indication of provisional measures and ordered that those cases be removed from the List.

143. After the Memorial of Serbia and Montenegro, in each of the eight cases maintained on the Court's List, had been filed within the prescribed time-limit of 5 January 2000, each of the respondent States (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised, on 5 July 2000, within the time-limit for the filing of its Counter-Memorial, certain preliminary objections of lack of jurisdiction and inadmissibility; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

144. In each of the cases, the Court, by an Order of 8 September 2000, fixed 5 April 2001 as the time-limit within which Serbia and Montenegro might present a written statement of its observations and submissions on the preliminary objections raised by the respondent State. At the request of Serbia and Montenegro, the Court, by Orders of 21 February 2001 and 20 March 2002, extended that time-limit twice, to 5 April 2002 and 7 April 2003 respectively. In each of the cases, Serbia and Montenegro's written statement on the preliminary objections raised by the respondent State concerned was filed on 20 December 2002, within the time-limit thus extended.

145. Public hearings on the preliminary objections raised by each of the respondent States were held from 19 to 23 April 2004. At the conclusion of those hearings the parties presented the following final submissions to the Court:

For Belgium:

> "In the case concerning the Legality of Use of Force (Serbia and Montenegro v. Belgium), for the reasons set out in the Preliminary Objections of Belgium dated 5 July 2000, and also for the reasons set out during the oral submissions on 19 and 22 April 2004, Belgium requests the Court to:
>
> (a) remove the case brought by Serbia and Montenegro against Belgium from the List;
>
> (b) in the alternative, to rule that the Court lacks jurisdiction in the case brought by Serbia and Montenegro against Belgium and/or that the case brought by Serbia and Montenegro against Belgium is inadmissible."

For Canada:

> "1. The Government of Canada requests the Court to adjudge and declare that the Court lacks jurisdiction because the Applicant has abandoned all the grounds of jurisdiction originally specified in its Application pursuant to Article 38, paragraph 2, of the Rules and has identified no alternative grounds of jurisdiction.
>
> 2. In the alternative, the Government of Canada requests the Court to adjudge and declare that
>
> (a) the Court lacks jurisdiction over the proceedings brought by the Applicant against Canada on 29 April 1999, on the basis of the purported declaration of 25 April 1999;
>
> (b) the Court also lacks jurisdiction on the basis of Article IX of the Genocide Convention;
>
> (c) the new claims respecting the period beginning 10 June 1999 are inadmissible because they would transform the subject of the dispute originally brought before the Court; and,
>
> (d) the claims in their entirety are inadmissible because the subject matter of the case requires the presence of essential third parties that are not before the Court."

For France:

> "For the reasons it has set out orally and in its written pleadings, the French Republic requests the International Court of Justice to:
>
> — principally, remove the case from the List;
>
> — in the alternative, to decide that it lacks jurisdiction to rule on the Application filed by the Federal Republic of Yugoslavia against France; and
>
> — in the further alternative, to decide that the Application is inadmissible."

For Germany:

"Germany requests the Court to dismiss the Application for lack of jurisdiction and, additionally, as being inadmissible on the grounds it has stated in its Preliminary Objections and during its oral pleadings."

For Italy:

"For the reasons set out in its Preliminary Objections and oral statements, the Italian Government submits as follows:

May it please the Court to adjudge and declare,

Principally, that:

I. No decision is called for on the Application filed in the Registry of the Court on 29 April 1999 by Serbia and Montenegro against the Italian Republic for 'violation of the obligation not to use force', as supplemented by the Memorial filed on 5 January 2000, inasmuch as there is no longer any dispute between Serbia and Montenegro and the Italian Republic or as the subject-matter of the dispute has disappeared.

In the alternative, that:

II. The Court lacks jurisdiction ratione personarum to decide the present case, since Serbia and Montenegro was not a party to the Statute when the Application was filed and also does not consider itself a party to a 'treaty in force' such as would confer jurisdiction on the Court, in accordance with Article 35, paragraph 2, of the Statute;

III. The Court lacks jurisdiction ratione materiae to decide the present case, since Serbia and Montenegro does not regard itself as bound by Article IX of the Genocide Convention, to which it made a reservation upon giving notice of accession in March 2001 and since, in any event, the dispute arising from the terms of the Application instituting proceedings, as supplemented by the Memorial, is not a dispute relating to 'the interpretation, application or fulfilment' of the Genocide Convention, as provided in Article IX;

IV. Serbia and Montenegro's Application, as supplemented by the Memorial, is inadmissible in its entirety, inasmuch as Serbia and Montenegro seeks thereby to obtain from the Court a decision regarding the legality of action undertaken by subjects of international law not present in the proceedings or not all so present;

V. Serbia and Montenegro's Application is inadmissible with respect to the eleventh submission, mentioned for the first time in the Memorial, inasmuch as Serbia and Montenegro seeks thereby to introduce a dispute altogether different from the original dispute deriving from the Application."

For the Netherlands:

"May it please the Court to adjudge and declare that:

— the Court has no jurisdiction or should decline to exercise jurisdiction as the parties in fact agree that the Court has no jurisdiction or as there is no longer a dispute between the parties on the jurisdiction of the Court

Alternatively,

— Serbia and Montenegro is not entitled to appear before the Court;

— the Court has no jurisdiction over the claims brought against the Netherlands by Serbia and Montenegro; and/or

— the claims brought against the Netherlands by the Serbia and Montenegro are inadmissible."

For Portugal:

"May it please the Court to adjudge and declare that:

(i) the Court is not called upon to give a decision on the claims of Serbia and Montenegro

Alternatively

(ii) the Court lacks jurisdiction, either

(a) under Article 36, paragraph 2, of the Statute;

(b) under Article IX of the Genocide Convention;

and

The claims are inadmissible."

For the United Kingdom:

"For the reasons given in our written Preliminary Objections and at the oral hearing, the United Kingdom requests the Court:

— to remove the case from its List, or, in the alternative,

— to adjudge and declare that:

— it lacks jurisdiction over the claims brought against the United Kingdom by Serbia and Montenegro

and/or

— the claims brought against the United Kingdom by Serbia and Montenegro are inadmissible."

For Serbia and Montenegro:

"For the reasons given in its pleadings and in particular in its Written Observations, subsequent correspondence with the Court and at the oral hearing, Serbia and Montenegro requests the Court

— to adjudge and declare on its jurisdiction ratione personae in the present cases;

— to dismiss the remaining preliminary objections of the respondent States, and to order proceedings on the merits if it finds it has jurisdiction ratione personae."

146. On 15 December 2004 the Court delivered its judgment in each of these cases, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

Unanimously,

Finds that it has no jurisdiction to entertain the claims made in the Application filed by Serbia and Montenegro on 29 April 1999."

In each of the cases, Vice-President Ranjeva and Judges Guillaume, Higgins, Kooijmans, Al-Khasawneh, Buergenthal and Elaraby appended a joint declaration to the Judgment of the Court; Judge Koroma appended a declaration. Judges Higgins, Kooijmans and Elaraby and Judge ad hoc Kreća appended separate opinions.

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

147. On 23 June 1999 the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU".

148. In its Application, the Democratic Republic of the Congo contended that "such armed aggression . . . ha[d] involved inter alia violation of the sovereignty and territorial integrity of the [Democratic Republic of the Congo], violations of international humanitarian law and massive human rights violations". The Democratic Republic of the Congo sought "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought "compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it], in respect of which the [Democratic Republic of the Congo] reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed".

149. Consequently, the Democratic Republic of the Congo requested the Court to adjudge and declare that Uganda was guilty of an act of aggression contrary to Article 2, paragraph 4, of the United Nations Charter; that it was committing repeated violations of the Geneva Convention of 1949 and the Additional Protocols of 1977 and also guilty of massive human rights violations in defiance of the most basic customary law; that more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, Uganda had rendered itself responsible for very heavy losses of life among the 5 million inhabitants of the city of Kinshasa and the surrounding area; and that by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians. Uganda had also violated certain conventions concerning international civil aviation. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

150. The Democratic Republic of the Congo invoked as basis for the Court's jurisdiction the declarations whereby both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

151. Taking into account the agreement of the Parties, the Court, by an Order of 21 October 1999, fixed 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Democratic Republic of the Congo was filed within the time-limit thus prescribed.

152. On 19 June 2000 the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of . . . Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the

attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

153. Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000. At a public sitting held on 1 July 2000, the Court rendered its Order, by which it unanimously found that both Parties must, "forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve"; "forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000"; and "forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law".

154. Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999, Uganda filed its Counter-Memorial. The Counter-Memorial contained three counter-claims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an Order of 29 November 2001 the Court found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both Parties, and fixed 29 May 2002 as the time-limit for the filing of the Reply and 29 November 2002 for the Rejoinder. Further, in order to ensure strict equality between the Parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Uganda

counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed within the time-limit fixed. By an Order of 7 November 2002, the Court extended the time-limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time-limit. The Rejoinder was filed within the time-limit as thus extended.

155. By an Order of 29 January 2003, the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time-limit for its filing. That written pleading was filed within the time-limit fixed.

156. As indicated in the previous report of the Court, the Court had fixed 10 November 2003 as the date for the opening of the hearings.

157. By a letter dated 5 November 2003, the Democratic Republic of the Congo raised the question whether the hearings might be adjourned to a later date, in April 2004, in order to enable the diplomatic negotiations engaged by the Parties to be conducted in an atmosphere of calm. By a letter of 6 November 2003, Uganda indicated that it supported the proposal and adopted the request of the Congo.

158. By a letter dated 6 November 2003, the Registrar informed the Parties that the Court, acting under Article 54, paragraph 1, of the Rules of Court, and taking account of the representations made to it by the Parties, had decided that the opening of the oral proceedings would be postponed but had also decided that it was impossible to fix a date in April 2004 for the adjourned hearings. As the Court's judicial calendar until well into 2004 had been adopted some time before, providing for the hearing of, and deliberation on, a number of other cases, a new date for the opening of oral proceedings in this case would have to be fixed subsequently.

159. Public hearings on the merits of the case were held from 11 to 29 April 2005. At the conclusion of those hearings the parties presented their final submissions to the Court.

For the Democratic Republic of the Congo (with respect to its claims):

> "The Democratic Republic of the Congo requests the Court to adjudge and declare:

1. That the Republic of Uganda, by engaging in military and paramilitary activities against the Democratic Republic of the Congo, by occupying its territory and by actively extending military, logistic, economic and financial support to irregular forces operating there, and having operated there, has violated the following principles of conventional and customary law:

— the principle of non-use of force in international relations, including the prohibition of aggression;

— the obligation to settle international disputes exclusively by peaceful means so as to ensure that international peace and security, as well as justice, are not placed in jeopardy;

— respect for the sovereignty of States and the rights of peoples to self-determination, and hence to choose their own political and economic system freely and without outside interference;

— the principle of non-interference in matters within the domestic jurisdiction of States, including refraining from extending any assistance to the parties to a civil war operating on the territory of another State.

2. That the Republic of Uganda, by committing acts of violence against nationals of the Democratic Republic of the Congo, by killing and injuring them or despoiling them of their property, by failing to take adequate measures to prevent violations of human rights in the DRC by persons under its jurisdiction or control, and/or failing to punish persons under its jurisdiction or control having engaged in the above-mentioned acts, has violated the following principles of conventional and customary law:

— the principle of conventional and customary law imposing an obligation to respect, and ensure respect for, fundamental human rights, including in times of armed conflict, in accordance with international humanitarian law;

— the principle of conventional and customary law imposing an obligation, at all times, to make a distinction in an armed conflict between civilian and military objectives;

— the right of Congolese nationals to enjoy the most basic rights, both civil and political, as well as economic, social and cultural.

3. That the Republic of Uganda, by engaging in the illegal exploitation of Congolese natural resources, by pillaging its assets and wealth, by failing to take adequate measures to prevent the illegal exploitation of the resources of the DRC by persons under its jurisdiction or control, and/or failing to punish persons under its jurisdiction or control having engaged in the above-mentioned acts, has violated the following principles of conventional and customary law:

— the applicable rules of international humanitarian law;

— respect for the sovereignty of States, including over their natural resources;

— the duty to promote the realization of the principle of equality of peoples and of their right of self-determination, and consequently to refrain from exposing peoples to foreign subjugation, domination or exploitation;

— the principle of non-interference in matters within the domestic jurisdiction of States, including economic matters.

4. (a) That the violations of international law set out in submissions 1, 2 and 3 constitute wrongful acts attributable to Uganda which engage its international responsibility;

(b) That the Republic of Uganda shall cease forthwith all continuing internationally wrongful acts, and in particular its support for irregular forces operating in the DRC and its exploitation of Congolese wealth and natural resources;

(c) That the Republic of Uganda shall provide specific guarantees and assurances that it will not repeat the wrongful acts complained of;

(d) That the Republic of Uganda is under an obligation to the Democratic Republic of the Congo to make reparation for all injury caused to the latter by the violation of the obligations imposed by international law and set out in submissions 1, 2 and 3 above;

(e) That the nature, form and amount of the reparation shall be determined by the Court, failing agreement thereon between the Parties, and that the Court shall reserve the subsequent procedure for that purpose.

5. That the Republic of Uganda has violated the Order of the Court on provisional measures of 1 July 2000, in that it has failed to comply with the following provisional measures:

'(1) Both Parties must, forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve;

(2) Both Parties must, forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000;

(3) Both Parties must, forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law.'"

For the Republic of Uganda (with respect to the claims of the Democratic Republic of the Congo and to its own counter-claims):

"The Republic of Uganda requests the Court:

1. To adjudge and declare in accordance with international law:

(A) That the requests of the Democratic Republic of the Congo relating to the activities or situations involving the Republic of Rwanda or her agents are inadmissible for the reasons set forth in Chapter XV of the Counter-Memorial and reaffirmed in the oral pleadings;

(B) That the requests of the Democratic Republic of the Congo that the Court adjudge and declare that the Republic of Uganda is responsible for various breaches of international law, as alleged in the Memorial, the Reply and/or the oral pleadings are rejected; and

(C) That Uganda's counter-claims presented in Chapter XVIII of the Counter-Memorial, and reaffirmed in Chapter VI of the Rejoinder as well as the oral pleadings be upheld.

2. To reserve the issue of reparation in relation to Uganda's counter-claims for a subsequent stage of the proceedings."

For the Democratic Republic of the Congo (with respect to the counter-claims of Uganda):

"The Congo requests the Court to adjudge and declare:

As regards the first counter-claim submitted by Uganda,

1. To the extent that it relates to the period before Laurent-Désiré Kabila came to power, Uganda's claim is inadmissible because Uganda had previously renounced its right to lodge such a claim: in the alternative, the claim is unfounded because Uganda has failed to establish the facts on which it is based;

2. To the extent that it relates to the period from the time when Laurent-Désiré Kabila came to power to the time when Uganda launched its armed attack, Uganda's claim is unfounded in fact because Uganda has failed to establish the facts on which it is based;

3. To the extent that it relates to the period subsequent to the launching of Uganda's armed attack, Uganda's claim is unfounded both in fact and in law because Uganda has failed to establish the facts on which it is based and, in any event, from 2 August 1998 the DRC was in a situation of self-defence.

As regards the second counter-claim submitted by Uganda:

1. To the extent that it now relates to the interpretation and application of the Vienna Convention of 1961 on Diplomatic Relations, the claim submitted by Uganda radically changes the subject-matter of the dispute, contrary to the Statute and to the Rules of Court; that part of the claim must therefore be dismissed from the present proceedings;

2. That part of the claim relating to the alleged mistreatment of certain Ugandan nationals remains inadmissible because Uganda has still failed to show that the requirements laid down by international law for the exercise of its diplomatic protection were satisfied; in the alternative, that part of the claim is unfounded because Uganda is still unable to establish the factual and legal bases of its claims.

3. That part of the claim relating to the alleged expropriation of Uganda's public property is unfounded because Uganda is still unable to establish the factual and legal bases of its claims."

160. At the time of the preparation of this Report, the Court was deliberating its Judgment.

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

161. On 2 July 1999 the Republic of Croatia filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) for violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide alleged to have been committed between 1991 and 1995.

162. In its Application, Croatia contended that "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, [Serbia and Montenegro] is liable for the 'ethnic cleansing' of Croatian citizens from these areas . . . as well as extensive property destruction — and is required to provide reparation for the resulting damage". Croatia went on to state that "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority . . . [Serbia and Montenegro] engaged in conduct amounting to a second round of 'ethnic cleansing'".

163. Accordingly, Croatia requested the Court to adjudge and declare that Serbia and Montenegro "has breached its legal obligations" to Croatia under the Genocide Convention and that it "has an obligation to pay to . . . Croatia, in its own right and as parens patriae for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".

164. As a basis for the jurisdiction of the Court, Croatia invoked Article IX of the Genocide Convention, to which, it stated, both Croatia and Serbia and Montenegro are parties.

165. On 14 March 2001, within the time-limit as extended by the Court, Croatia filed its Memorial. On 11 September 2002, within the extended time-limit for the filing of its Counter-Memorial, Serbia and Montenegro filed certain preliminary objections to jurisdiction and admissibility. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). On 25 April 2003, within the time-limit fixed by an Order of the Court of

14 November 2002, Croatia filed a written statement of its observations and submissions on the preliminary objections raised by Serbia and Montenegro.

14. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

166. On 8 December 1999 the Republic of Nicaragua filed an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

167. In its Application, Nicaragua stated inter alia that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", while Honduras's position was said to be that

> "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river".

According to Nicaragua, the "position adopted by Honduras . . . has brought about repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further stated that "[d]iplomatic negotiations have failed".

Nicaragua therefore requested the Court

> "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

168. As a basis for the Court's jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which, it stated, both Nicaragua and Honduras are parties, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

169. By an Order of 21 March 2000 the Court fixed 21 March 2001 and 21 March 2002 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Honduras. Those pleadings were duly filed within the prescribed time-limits.

170. Copies of the pleadings and documents annexed have been made available to the Governments of Colombia and of Jamaica, at their respective requests.

171. By an Order of 13 June 2002, the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras and fixed the following time-limits for the filing of these pleadings: 13 January 2003 for the Reply, and 13 August 2003 for the Rejoinder. The Reply of Nicaragua and the Rejoinder of Honduras were filed within the time-limits thus fixed.

15. Certain Property (Liechtenstein v. Germany)

172. On 1 June 2001 Liechtenstein filed an Application instituting proceedings against Germany relating to a dispute concerning "decisions of Germany, in and after 1998, to treat certain property of Liechtenstein nationals as German assets having been 'seized for the purposes of reparation or restitution, or as a result of the state of war' — i.e., as a consequence of World War II —, without ensuring any compensation for the loss of that property to its owners, and to the detriment of Liechtenstein itself".

173. In its Application, Liechtenstein requested the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requested "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

174. As a basis for the Court's jurisdiction, Liechtenstein invoked Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

175. By an Order of 28 June 2001, the Court fixed 28 March 2002 and 27 December 2002, respectively, as the time-limits for the filing of a Memorial by Liechtenstein and of a Counter-Memorial by Germany. The Memorial was filed within the time-limit thus fixed.

176. On 27 June 2002, Germany filed certain preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). Liechtenstein filed a written statement of its observations and submissions with regard to the preliminary objections raised by Germany, within the time-limit of 15 November 2002, as fixed by the President of the Court.

177. Public hearings on the preliminary objections raised by Germany were held from 14 to 18 June 2004. At the conclusion of those hearings the Parties presented the following final submissions to the Court:

For Germany:

"Germany requests the Court to adjudge and declare that:

— it lacks jurisdiction over the claims brought against Germany by the Principality of Liechtenstein, referred to it by the Application of Liechtenstein of 30 May 2001,

and that

— the claims brought against Germany by the Principality of Liechtenstein are inadmissible to the extent specified in its Preliminary Objections."

For Liechtenstein:

"[T]he Principality of Liechtenstein respectfully requests the Court:

(a) to adjudge and declare that the Court has jurisdiction over the claims presented in its Application and that they are admissible;

and, accordingly

(b) to reject the Preliminary Objections of Germany in their entirety."

178. On 10 February 2005, the Court delivered its Judgment, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

(1) (a) by fifteen votes to one,

Rejects the preliminary objection that there is no dispute between Liechtenstein and Germany;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Sir Franklin Berman;

AGAINST: Judge ad hoc Fleischhauer;

(b) by twelve votes to four,

Upholds the preliminary objection that Liechtenstein's Application should be rejected on the grounds that the Court lacks jurisdiction ratione temporis to decide the dispute;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Tomka; Judge ad hoc Fleischhauer;

AGAINST: Judges Kooijmans, Elaraby, Owada; Judge ad hoc Sir Franklin Berman;

(2) by twelve votes to four,

Finds that it has no jurisdiction to entertain the Application filed by Liechtenstein on 1 June 2001.

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Tomka; Judge ad hoc Fleischhauer;

AGAINST: Judges Kooijmans, Elaraby, Owada; Judge ad hoc Sir Franklin Berman."

179. Judges Kooijmans, Elaraby and Owada appended dissenting opinions to the Judgment of the Court; Judge ad hoc Fleischhauer appended a declaration; Judge ad hoc Sir Franklin Berman appended a dissenting opinion.

16. Territorial and Maritime Dispute (Nicaragua v. Colombia)

180. On 6 December 2001 Nicaragua filed an Application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

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

> "First, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);
>
> Second, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary."

182. Nicaragua further indicated that it "reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title". It also "reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua".

183. As a basis for the Court's jurisdiction, Nicaragua invoked Article 36, paragraph 2, of the Statute of the Court and Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which both Nicaragua and Colombia are parties.

184. Copies of the pleadings and documents annexed have been made available to the Government of Honduras, at its request.

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

186. On 21 July 2003, Colombia filed preliminary objections to the jurisdiction of the Court. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia, within the time-limit of 26 January 2004, fixed by the Court in its Order of 24 September 2003.

17. Frontier Dispute (Benin/Niger)

187. On 3 May 2002 Benin and Niger jointly notified the Court of a Special Agreement, which was signed between them on 15 June 2001 in Cotonou and entered into force on 11 April 2002.

188. Under Article 1 of that Special Agreement, the Parties agreed to submit their boundary dispute to a Chamber to be formed by the Court; they also agreed that pursuant to Article 26, paragraph 2, of the Statute of the Court, and that each of them would choose a judge ad hoc.

189. Article 2 of the Special Agreement stated the subject-matter of the dispute in the following terms:

> "The Court is requested to:
>
> (a) determine the course of the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector;
>
> (b) specify which State owns each of the islands in the said river, and in particular Lété Island;
>
> (c) determine the course of the boundary between the two States the River Mekrou sector."

190. Finally, Article 10 contained a "special undertaking" as follows: "Pending the judgment of the Chamber, the Parties undertake to preserve peace, security and quiet among the peoples of the two States."

191. By an Order of 27 November 2002, the Court, after its President had been informed of the view of the Parties on the composition of the Chamber and had reported to it, decided to accede to the request of both Parties that it should form a special Chamber of five judges and formed a

Chamber of three Members of the Court together with the two judges ad hoc chosen by the Parties, as follows: President Guillaume, Judges Ranjeva and Kooijmans, and Judges ad hoc Bedjaoui (chosen by Niger) and Bennouna (chosen by Benin).

192. The Court further fixed 27 August 2003 as the time-limit for the filing of a Memorial by each Party. Those Memorials were filed within the time-limit thus fixed.

193. In an Order of 11 September 2003 the President of the Chamber fixed 28 May 2004 as the time-limit for the filing of a Counter-Memorial by each of the Parties. Those Counter-Memorials were filed within the time-limit thus fixed.

194. On Thursday 20 November 2003 the Chamber held its first public sitting, the aim of which was to enable the two judges ad hoc to make the solemn declaration required by the Statute and the Rules of Court.

195. By an Order of 9 July 2004, the President of the Chamber, taking into account the wish of the parties to be authorized to submit a third pleading as provided for by the Special Agreement, authorized the submission of a Reply by each of the parties and fixed 17 December 2004 as the time-limit for the filing of that pleading. Those Replies were deposited within the time-limit thus prescribed.

196. By an Order of 16 February 2005, the Court declared that on 16 February 2005 Judge Ronny Abraham had been elected a member of the Chamber to fill the vacancy left by the resignation from the Court of Judge Guillaume, former President of that Chamber. Also as a result of that resignation, the Vice-President of the Court, Judge Raymond Ranjeva, had become the new President of the Chamber, which consequently was composed as follows:

| | |
|---|---|
| President | Ranjeva; |
| Judges | Kooijmans, |
| | Abraham; |
| Judges ad hoc | Bedjaoui, |
| | Bennouna. |

197. Public hearings were held by the Chamber from 7 to 11 March 2005. At the conclusion of those hearings the parties presented their final submissions to the Chamber.

For Benin:

"For the reasons set out in its written and oral pleadings, the Republic of Benin requests the Chamber of the International Court of Justice to decide:

(1) that the boundary between the Republic of Benin and the Republic of Niger takes the following course:

— from the point having co-ordinates 11° 54' 15" latitude North and 02° 25' 10" longitude East, it follows the median line of the River Mekrou as far as the point having co-ordinates 12° 24' 29" latitude North and 02° 49' 38" longitude East;

— from that point, the boundary follows the left bank of the River [Niger] as far as the point having co-ordinates 11° 41' 44" North and 03° 36' 44" East;

(2) that sovereignty over all of the islands in the River [Niger], and in particular Lété Island, lies with the Republic of Benin."

For Niger:

"The Republic of Niger requests the Court to adjudge and declare that:

(1) The boundary between the Republic of Benin and the Republic of Niger, from latitude 12° 24' 27" North, longitude 2° 49' 36" East, as far as latitude 11° 41' 40.7" North, longitude 3° 36' 44" East, follows the line of deepest soundings in the River Niger, insofar as that line can be established as it was at the date of independence.

(2) That line determines which islands belong to each Party;

— The islands between the line of deepest soundings and the right bank of the river, namely Pekinga, Tondi Kwaria Barou, Koki Barou, Sandi Tounga Barou, Gandégabi Barou Kaïna, Dan Koré Guirawa, Barou Elhadji Dan Djoda, Koundou Barou and Elhadji Chaïbou Barou Kaïna, belong to the Republic of Benin;

— The islands located between the line of deepest soundings and the left bank of the river, namely Boumba Barou Béri, Boumba Barou Kaïna, Kouassi Barou, Sansan Goungou, Lété Goungou, Monboye Tounga Barou, Sini Goungou, Lama Barou, Kotcha Barou, Gagno Goungou, Kata Goungou, Gandégabi Barou Beri, Guirawa Barou, Elhadji Chaïbou Barou Béri, Goussou Barou, Beyo Barou and Dolé Barou, belong to the Republic of Niger.

(3) The attribution of islands to the Republic of Benin and the Republic of Niger according to the line of deepest soundings as determined at the date of independence shall be regarded as final.

(4) With regard to the Gaya-Malanville bridges, the boundary passes through the middle of each of those structures.

(5) The boundary between the Republic of Benin and the Republic of Niger in the River Mekrou sector follows a line comprising two parts:

— the first part is a straight line joining the point of confluence of the River Mekrou with the River Niger to the point where the Paris meridian meets the Atacora mountain range, indicative coordinates of which are as follows: latitude: 11° 41' 50" North; longitude: 2° 20' 14" East;

— the second part of the line joins this latter point to the point where the former boundary between the cercles of Say and Fada meets the former boundary between the cercles of Fada and Atacora, indicative coordinates of which are as follows: latitude: 11° 44' 37" North; longitude: 2° 18' 55" East."

198. On 12 July 2005, the Chamber delivered its Judgment, the operative paragraph of which reads as follows:

"For these reasons,

THE CHAMBER,

(1) By four votes to one,

Finds that the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector takes the following course:

— the line of deepest soundings of the main navigable channel of that river, from the intersection of the said line with the median line of the River Mekrou until the point situated at co-ordinates 11° 52' 29" latitude North and 3° 25' 34" longitude East;

— from that point, the line of deepest soundings of the left navigable channel until the point located at co-ordinates 11° 51' 55" latitude North and 3° 27' 41" longitude East, where the boundary deviates from this channel and passes to the left of the island of Kata Goungou, subsequently rejoining the main navigable channel at the point located at co-ordinates 11° 51' 41" latitude North and 3° 28' 53" longitude East;

— from this latter point, the line of deepest soundings of the main navigable channel of the river as far as the boundary of the Parties with Nigeria;

and that the boundary line, proceeding downstream, passes through the points numbered from 1 to 154, the co-ordinates of which are indicated in paragraph 115 of the present Judgment;

IN FAVOUR: Judge Ranjeva, Vice-President of the Court, President of the Chamber; Judges Kooijmans, Abraham; Judge ad hoc Bedjaoui;

AGAINST: Judge ad hoc Bennouna;

(2) By four votes to one,

Finds that the islands situated in the River Niger therefore belong to the Republic of Benin or to the Republic of Niger as indicated in paragraph 117 of the present Judgment;

IN FAVOUR: Judge Ranjeva, Vice-President of the Court, President of the Chamber; Judges Kooijmans, Abraham; Judge ad hoc Bedjaoui;

AGAINST: Judge ad hoc Bennouna;

(3) By four votes to one,

Finds that the boundary between the Republic of Benin and the Republic of Niger on the bridges between Gaya and Malanville follows the course of the boundary in the river;

IN FAVOUR: Judge Ranjeva, Vice-President of the Court, President of the Chamber; Judges Kooijmans, Abraham; Judge ad hoc Bedjaoui;

AGAINST: Judge ad hoc Bennouna;

(4) Unanimously,

Finds that the boundary between the Republic of Benin and the Republic of Niger in the River Mekrou sector follows the median line of that river, from the intersection of the said line with the line of deepest soundings of the main navigable channel of the River Niger as far as the boundary of the Parties with Burkina Faso."

199. Judge ad hoc Bennouna appended a dissenting opinion to the Judgment of the Chamber.

### 18. Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)

200. On 28 May 2002, the Democratic Republic of the Congo filed an Application instituting proceedings against Rwanda in respect of a dispute concerning: "massive, serious and flagrant violations of human rights and of international humanitarian law" resulting "from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant breach of the sovereignty and territorial integrity of the [latter], as guaranteed by the United Nations and OAU Charters".

201. In its Application, the Democratic Republic of the Congo stated that Rwanda has been guilty of "armed aggression" from August 1998 to the present day. According to it, that aggression has resulted in "large-scale human slaughter" in South Kivu, Katanga Province and the Eastern Province, "rape and sexual assault of women", "assassinations and kidnapping of political figures and human rights activists", "arrests, arbitrary detentions, inhuman and degrading treatment", "systematic looting of public and private institutions, seizure of property belonging to civilians", "human rights violations committed by the invading Rwandan troops and their 'rebel' allies in the

major towns in the East" of the Democratic Republic of the Congo, and "destruction of fauna and flora" of the country.

202. In consequence, the Democratic Republic of the Congo requested the Court to adjudge and declare that by violating the human rights which are the goal pursued by the United Nations through the maintenance of international peace and security, Rwanda had violated and was violating the United Nations Charter as well as Articles 3 and 4 of the OAU Charter; that it further had violated a number of instruments protecting human rights; that, by shooting down a Boeing 727 owned by Congo Airlines on 9 October 1998 in Kindu, thereby causing the death of 40 civilians, Rwanda had also violated certain conventions concerning international civil aviation; and that, by engaging in killing, slaughter, rape, throat-slitting, and crucifying, Rwanda was guilty of genocide against more than 3,500,000 Congolese, including the victims of the recent massacres in the city of Kisangani, and had violated the sacred right to life provided for in certain instruments protecting human rights as well as the Genocide Convention. It further asked the Court to adjudge and declare that all Rwandan armed forces should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

203. In its Application the Democratic Republic of the Congo, in order to found the jurisdiction of the Court, relied on a number of compromissory clauses in treaties.

204. On the same day, 28 May 2002, the Democratic Republic of the Congo submitted a request for the indication of provisional measures. Public hearings on the request for provisional measures were held on 13 and 14 June 2002. On 10 July 2002, the Court delivered its Order, by which, having found that it had no prima facie jurisdiction, it rejected the request of the Democratic Republic of the Congo. The Court, in that Order, also rejected the submissions by the Rwandese Republic seeking the removal of the case from the Court's List.

205. By an Order of 18 September 2002, the Court decided, in accordance with Article 79, paragraphs 2 and 3, of the revised Rules of Court, that the written pleadings would first be addressed to the questions of the jurisdiction of the Court and the admissibility of the Application and fixed 20 January 2003 as the time-limit for the Memorial of Rwanda and 20 May 2003 for the

Counter-Memorial of the Democratic Republic of the Congo. Those pleadings were filed within the time-limits thus fixed.

206. Public hearings addressed to the questions of the jurisdiction of the Court and the admissibility of the Application were held from 4 to 8 July 2005. At the conclusion of those hearings the Parties presented their final submissions to the Court.

For Rwanda:

"[T]he Republic of Rwanda requests the Court to adjudge and declare that:

1. it lacks jurisdiction over the claims brought against the Republic of Rwanda by the Democratic Republic of the Congo; and

2. in the alternative, the claims brought against the Republic of Rwanda by the Democratic Republic of the Congo are inadmissible."

For the Democratic Republic of the Congo:

"May it please the Court,

1. to find that the objections to jurisdiction and admissibility raised by Rwanda are unfounded;

2. consequently, to find that the Court has jurisdiction to entertain the case on the merits and that the Application of the Democratic Republic of the Congo is admissible as submitted;

3. to decide to proceed with the case on the merits."

207. At the time of the preparation of this Report, the Court was deliberating its Judgment.

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

208. On 9 December 2002, the Republic of the Congo filed an Application by which it sought to institute proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Mr. Denis Sassou Nguesso, the Congolese Minister of the Interior, Mr. Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating

judge of the Meaux Tribunal de grande instance had issued a warrant for the President of the Republic of the Congo to be examined as witness.

209. The Republic of the Congo contended that by "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country", France violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

210. In its Application, the Republic of the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which will certainly be given". In accordance with this provision, the Application by the Republic of the Congo was transmitted to the French Government and no further action was taken in the proceedings at that stage.

211. By a letter dated 8 April 2003 and received on 11 April 2003 in the Registry, the French Republic stated that it "consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that "Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case".

212. The Application of the Republic of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux Tribunal de grande instance".

213. Taking into account the consent given by France and in accordance with Article 74, paragraph 3, of the Rules of Court, the President of the Court fixed 28 April 2003 as the date for the opening of the public hearings on the request for the indication of a provisional measure submitted by the Republic of the Congo.

214. After those hearings had been held, from 28 to 29 April 2003, the President of the Court, on 17 June 2003, read the Order, by which the Court found, by fourteen votes to one, that the circumstances, as they presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

215. Judges Koroma and Vereshchetin appended a joint separate opinion to the Order, and Judge ad hoc de Cara a dissenting opinion.

216. By an Order of 11 July 2003, the President of the Court fixed 11 December 2003 as the time-limit for the Memorial of the Republic of the Congo and 11 May 2004 as the time-limit for the Counter-Memorial of France. The Memorial and the Counter-Memorial were duly filed within the time-limits fixed.

217. By an Order of 17 June 2004, the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the Republic of the Congo and a Rejoinder by France, and fixed 10 December 2004 and 10 June 2005 as the respective time-limits for the filing of those pleadings. By Orders of 8 and 29 December 2004 and of 11 July 2005, the President of the Court, taking account of the reasons given by the Republic of the Congo and of the agreement of the Parties, extended to 10 January and 10 August 2005, then to 11 July 2005 and 11 August 2006, and finally to 11 January 2006 and 10 August 2007, these respective time-limits.

20. Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)

218. On 24 July 2003 Malaysia and Singapore jointly notified the Court of a Special Agreement, which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003.

In Article 2 of that Special Agreement, the parties requested the Court

"to determine whether sovereignty over:

(a) Pedra Branca/Pulau Batu Puteh;

(b) Middle Rocks;

(c) South Ledge,

belongs to Malaysia or the Republic of Singapore".

In Article 6, the Parties "agree to accept the Judgment of the Court . . . as final and binding upon them".

The Parties further set out their views on the procedure to be followed.

219. By an Order of 1 September 2003, the President of the Court, taking into account the provisions of Article 4 of the Special Agreement, fixed 25 March 2004 and 25 January 2005 as the respective time-limits for the filing, by each of the Parties, of a Memorial and of a Counter-Memorial. The Memorials and Counter-Memorials were duly filed within the time-limits fixed.

220. By an Order of 1 February 2005, the Court, taking into account the provisions of the Special Agreement, fixed 25 November 2005 as the time-limit for the filing of a Reply by each of the Parties.

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

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

222. In its Application Romania explained that, "following a complex process of negotiations", Ukraine and itself signed on 2 June 1997 a Treaty on Relations of Co-operation and Good-Neighbourliness, and concluded an Additional Agreement by exchange of letters between their respective Ministers for Foreign Affairs. Both instruments entered into force on 22 October 1997. By these agreements, "the two States assumed the obligation to conclude a Treaty on the State Border Régime between them, as well as an Agreement for the delimitation of the continental shelf and the exclusive economic zones . . . in the Black Sea". At the same time, "the Additional Agreement provided for the principles to be applied in the delimitation of the above-mentioned areas, and set out the commitment of the two countries that the dispute could be submitted to the ICJ, subject to the fulfilment of certain conditions". Between 1998 and 2004, 24 rounds of negotiations were held. However, according to Romania, "no result was obtained and an agreed delimitation of the maritime areas in the Black Sea was not accomplished". Romania brought the matter before the Court "in order to avoid the indefinite prolongation of discussions that, in [its] opinion, obviously cannot lead to any outcome".

223. Romania requested the Court "to draw in accordance with international law, and specifically the criteria laid down in Article 4 of the Additional Agreement, a single maritime boundary between the continental shelf and the exclusive economic zone of the two States in the Black Sea".

224. As a basis for the Court's jurisdiction Romania invoked Article 4 (h) of the Additional Agreement, which provides:

> "If these negotiations [referred to above] shall not determine the conclusion of the above-mentioned agreement [on the delimitation of the continental shelf and the exclusive economic zones in the Black Sea] in a reasonable period of time, but not later than 2 years since their initiation, the Government of Romania and the Government of Ukraine have agreed that the problem of delimitation of the continental shelf and the exclusive economic zones shall be solved by the UN International Court of Justice, at the request of any of the parties, provided that the Treaty on the regime of the State border between Romania and Ukraine has entered into force. However, should the International Court of Justice consider that the delay of the entering into force of the Treaty on the regime of the State border is the result of the other Party's fault, it may examine the request concerning the delimitation of the continental shelf and the exclusive economic zones before the entering into force of this Treaty."

225. Romania contended that the two conditions set out in Article 4 (h) of the Additional Agreement had been fulfilled, since the negotiations had by far exceeded two years and the Treaty on the Romanian-Ukrainian State Border Régime had entered into force on 27 May 2004.

226. In its Application Romania further provided an overview of the applicable law for solving the dispute, citing a number of provisions of the Additional Agreement of 1997, as well as the 1982 Montego Bay United Nations Convention on the Law of the Sea, to which both Ukraine and Romania were parties, together with other relevant instruments binding the two countries.

227. By an Order of 19 November 2004, the Court, taking into account the views of the Parties, fixed 19 August 2005 and 19 May 2006 as the time-limits for the filing of a Memorial by Romania and a Counter-Memorial by Ukraine.

B. Amendment to the Rules of Court

228. As part of the ongoing review of its procedures and working methods, the Court has adopted a new procedure for the promulgation of amendments to its Rules. It has amended the Preamble to the latter in order to reflect this procedure.

229. The Court has also amended Article 52 of its Rules.

New procedure for promulgation of amendments to the Rules of Court

230. Under the new promulgation procedure for amendments to the Rules, whenever the Court adopts an amendment to an Article of its Rules, the text will be posted on the Court's website, with an indication of its date of entry into force and a note of any temporal reservation relating to its applicability (e.g., whether application of the amended Article is limited to cases instituted after the date of entry into force of the amendment concerned). Previously, each amendment to the Court's Rules had been indicated in the Preamble. That practice is now discontinued.

231. In the integral updated text of the Rules, Articles amended since the Rules' entry into force, on 1 July 1978, will henceforth be indicated by an asterisk and footnote.

232. The integral updated text of the Rules of Court will continue to be published from time to time, as appropriate, in a printed version.

Amendment to Article 52 of the Rules of Court

233. The Court has amended Article 52 of its Rules (Subsection 2. The Written Proceedings).

234. Paragraph 3 of this Article, which concerns the procedure to be followed where the Registrar arranges for the printing of a pleading, has been deleted and the footnote to the Article has been amended. Paragraph 4 of Article 52 has been renumbered and is now paragraph 3.

235. The texts of the Preamble and of Article 52 of the Rules, as amended, are reproduced below:

**Preamble to the Rules of Court**

"RULES OF COURT (1978)

ADOPTED ON 14 APRIL 1978, ENTERED INTO FORCE ON 1 JULY 1978[1]

PREAMBLE[*]

The Court,

Having regard to Chapter XIV of the Charter of the United Nations;

Having regard to the Statute of the Court annexed thereto;

Acting in pursuance of Article 30 of the Statute;

Adopts the following Rules.

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[1] Articles amended since this date are marked with an asterisk and here appear in their amended form.
[*] Amendment entered into force on 14 April 2005."

**Article 52 of the Rules**

"Article 52[1 *]

1. The original of every pleading shall be signed by the agent and filed in the Registry. It shall be accompanied by a certified copy of the pleading, documents annexed, and any translations, for communication to the other party in accordance with Article 43, paragraph 4, of the Statute, and by the number of additional copies required by the Registry, but without prejudice to an increase in that number should the need arise later.

2. All pleadings shall be dated. When a pleading has to be filed by a certain date, it is the date of the receipt of the pleading in the Registry which will be regarded by the Court as the material date.

3. The correction of a slip or error in any document which has been filed may be made at any time with the consent of the other party or by leave of the President. Any correction so effected shall be notified to the other party in the same manner as the pleading to which it relates.

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[1]The agents of the parties are requested to ascertain from the Registry the usual format of the pleadings.
[*]Amendment entered into force on 14 April 2005."

## VI. VISITS

236. During the period under review, the President and Members of the Court, the Registrar and officials of the Registry received a great number of visits of, inter alia, members of government, diplomats, parliamentary delegations, presidents and members of judicial bodies, as well as other high officials.

237. A great number of groups of scholars and academics, lawyers and legal professionals, as well as others, was also received.

## VII. ADDRESSES ON THE WORK OF THE COURT

238. During the period covered by this Report, the President of the Court, in his official capacity, gave a speech to the meeting of Legal Advisers to Ministers for Foreign Affairs of the United Nations Member States on 1 November 2004. On 4 November 2004, the President addressed the 49th Plenary Meeting of the Fifty-Ninth Session of the General Assembly on the occasion of the presentation of the Court's Annual Report, while, on 5 November 2004, he also gave an address to the Sixth Committee of the General Assembly, On 14 July 2005, he addressed the United Nations International Law Commission, during its Fifty-Seventh Session (Second Part), which was held at Geneva.

## VIII. PUBLICATIONS, DOCUMENTS AND WEBSITE OF THE COURT

239. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, and to the major law libraries of the world. The sale of those publications is organized chiefly by the Sales and Marketing Sections of the United Nations Secretariat in New York and Geneva, which are in contact with specialized booksellers and distributors throughout the world. A catalogue (together with a price list) published in English and French is distributed free of charge. A revised and updated version of the Catalogue was published at the end of 2004.

240. The publications of the Court consist of several series, three of which are published annually: Reports of Judgments, Advisory Opinions and Orders (published in separate fascicles and as a bound volume), a Yearbook (in the French version: Annuaire) and a Bibliography of works and documents relating to the Court. At the time of preparation of this Report, the fascicles in the Reports series for the period under review have either been printed or are in preparation for printing. The bound volume of I.C.J. Reports 2002 has been printed, while the volume for 2003 will appear as soon as the Index has been printed. The I.C.J. Yearbook 2002-2003 is at press and that for 2003-2004 is in preparation.

241. The Court also prepares bilingual printed versions of the instruments instituting proceedings in a case before it (applications instituting proceedings, special agreements) as well as requests for an advisory opinion. In the period under review, the Court received an Application in the case concerning Maritime Delimitation in the Black Sea (Romania v. Ukraine) which is in preparation for printing.

242. Before the termination of a case, the Court may, pursuant to Article 53 of the Rules of Court, and after ascertaining the views of the parties, make the pleadings and annexed documents available on request to the government of any State entitled to appear before the Court. The Court may also, having ascertained the views of the parties, make copies of those pleadings and documents accessible to the public on or after the opening of the oral proceedings. The written pleadings in each case (in the format in which the parties produce them) are published by the Court after the end of the proceedings, in the series Pleadings, Oral Arguments, Documents. The annexes

to the pleadings and the correspondence in cases are now published only exceptionally, as far as they are essential for the understanding of the decisions taken by the Court. The following documents have been published or are at various stages of production in the reporting period: Frontier Dispute (Burkina Faso/Republic of Mali) (4 vols. of text plus 1 of maps); Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway) (3 vols.); Aerial Incident of 10 August 1999 (Pakistan v. India) (1 vol.); Legality of the Use by a State of Nuclear Weapons in Armed Conflict and Legality of the Threat or Use of Nuclear Weapons (to be published together) (5 vols.); East Timor (Portugal v. Australia) (3-4 vols).

243. In the series Acts and Documents concerning the Organization of the Court, the Court also publishes the instruments governing its functioning and practice. The latest edition, No. 5, was published in 1989 and has been reprinted since that date, most recently in 1996. A new edition is being prepared. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. Unofficial Arabic, Chinese, German, Russian and Spanish translations of the Rules (without the amendments of 5 December 2000) are also available.

244. The Court distributes press releases, summaries of its decisions, background notes and a handbook in order to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The fourth edition of the handbook, published on the occasion of the Court's 50th Anniversary, appeared in May and July 1997 in French and English respectively. A new edition in the two official languages of the Court has been prepared and is being printed. Arabic, Chinese, Russian and Spanish translations of the handbook published on the occasion of the 40th Anniversary of the Court were issued in 1990. Arabic, Chinese, Dutch, English, French, Russian and Spanish editions of a general information booklet on the Court, produced in co-operation with the Department of Public Information of the United Nations, and intended for the general public, have also been published.

245. In order to increase and expedite the availability of ICJ documents and reduce communication costs, the Court launched a website on the Internet on 25 September 1997, both in English and French. It features the full text of the Court's Judgments, Advisory Opinions and

Orders since 1971 (posted on the day they are delivered); summaries of earlier decisions; most of the relevant documents in pending cases (Application or Special Agreement; written pleadings (without annexes) as soon as they become accessible to the public, and oral pleadings); unpublished pleadings for earlier cases; press releases; some basic documents (United Nations Charter and the Statute and Rules of the Court); declarations recognizing as compulsory the jurisdiction of the Court and a list of treaties and other agreements relating to that jurisdiction; general information on the Court's history and procedure; and biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: http://www.icj-cij.org.

246. In addition to the website and in order to offer a better service to individuals and institutions interested in its work, the Court in June 1998 set up three new electronic mail (e-mail) addresses to which comments and enquiries can be sent. They are: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and documents) and mail@icj-cij.org (other requests and comments). An e-mail notification system for press releases posted on the Court's website was put into operation on 1 March 1999.

## IX. FINANCES OF THE COURT

### A. Method of covering expenditure

247. Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, Member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

248. States which are not Members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute, a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

249. If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations.

250. The contributions of States which are not Members of the United Nations are taken into account as miscellaneous income received by the Organization. Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat), bank interest, etc., are also recorded as United Nations income.

### B. Drafting of the budget

251. In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. This preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself.

252. When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions (ACABQ)

and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations.

C. Financing of appropriations and accounts

253. The Registrar is responsible for executing the budget, with the assistance of the Head of the Finance Division. The Registrar has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget. He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority. In accordance with a decision of the Court, adopted on the recommendation of the Sub-Committee on Rationalization, the Registrar now communicates every three months a statement of accounts to the Administrative and Budgetary Committee of the Court.

254. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly and, periodically, by the internal auditors of the United Nations. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations.

D. Budget of the Court for the biennium 2004/2005

255. In the last Annual Report, it was observed, with respect to the budget for the biennium 2004-2005, that the Court had, in view of its ongoing and increased reliance upon advanced technology, requested a modest expansion of its Computerized Division from one to two professional officers. The need for a professional staff member with high IT skills appeared to be essential in order to meet the request by the General Assembly for enhanced use of modern technology. Unfortunately the Court's request was not successful, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) having considered that further justification of the need for this position was required. An independent expert review was subsequently carried out at the request of the Advisory Committee and a senior post as Head of Computerization has been submitted for approval in the Court's 2006-2007 budget submission.

**Budget for 2004/2005**

| | |
|---|---|
| Programme: Members of the Court | |
| 0230000 Education Grants | 168,100 |
| 0242504 Travel to Court sessions/Home Leave | 322,100 |
| 0311023 Pensions | 2,803,000 |
| 2042302 Travel on official business | 45,400 |
| 0393902 Emoluments | 4,848,800 |
| | 8,187,400 |
| Programme: The Registry | |
| 0110000 Posts | 10,900,000 |
| 1210000 Temporary assistance for meetings | 1,554,200 |
| 1310000 General Temporary Assistance | 257,600 |
| 1410000 Consultants | 38,900 |
| 1510000 Overtime | 108,400 |
| 0170000 Temporary posts for the biennium | 2,213,400 |
| 0200000 Common staff costs | 6,232,800 |
| 0211014 Representation allowance | 7,200 |
| 20422302 Official travel | 34,100 |
| 0454501 Hospitality | 18,900 |
| | 21,365,500 |
| Programme: Common services | |
| 3030000 External Translation | 270,100 |
| 3050000 Printing | 628,500 |
| 3070000 Data processing services | 139,400 |
| 4010000 Rental/maintenance of premises | 2,577,100 |
| 4030000 Rental of furniture and equipment | 63,800 |
| 4040000 Communications | 297,600 |
| 4060000 Maintenance of furniture & equipment | 230,100 |
| 4090000 Miscellaneous services | 43,000 |
| 5000000 Supplies & materials | 254,500 |
| 5030000 Library books & supplies | 154,700 |
| 6000000 Furniture & equipment | 233,800 |
| 6025041 Acquisition of office automation equipment | 133,700 |
| 6025042 Replacement of office automation equipment | 253,100 |
| | 5,279,400 |
| TOTAL | 34,832,300 |

## X. EXAMINATION BY THE GENERAL ASSEMBLY OF THE PREVIOUS REPORT OF THE COURT

256. At the 49th Plenary Meeting of The Fifty-Ninth Session of the General Assembly, held on 4 November 2004, at which the Assembly took note of the Report of the Court for the period from 1 August 2003 to 31 July 2004, the President of the Court, Judge Shi Jiuyong, addressed the General Assembly on the role and functioning of the Court (A/59/PV.49).

257. In his address, the President stated himself "gratified" to note the "increased use of the Court by States over recent years", adding that "in order to meet this growing demand and fulfil its judicial responsibilities, the Court [had] taken further steps in the review period to improve its judicial efficiency". Over the past judicial year, the Court had "demonstrated its ability to deal with a varied and demanding case load" and "clearly shown that it can react urgently and efficiently to meet the needs of States . . . and to respond to requests from the General Assembly for an advisory opinion".

A substantial workload

258. The President told the Assembly that since August 2003 the Court had held "five sets of oral hearings relating to no less than 12 cases (the hearings in all eight cases concerning the Legality of Use of Force having been held simultaneously)". "In addition," explained the President, "the Court [had] rendered a final judgment in three cases and delivered one advisory opinion".

259. President Shi noted that "this level of activity is unprecedented in the history of the Court", and that, "as a result of such efforts, the number of cases on the Court's docket had been reduced from 25 a year ago to 20 at the end of the review period". At the time of his speaking there were 21 cases in the General List, following the institution of proceedings by Romania against Ukraine on 16 September 2004. That number of cases represented a substantial workload, he observed.

260. The past judicial year had in particular been distinguished by the Judgment rendered by the Court on 6 November 2003 in the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America), in which it held that the actions of the United States against the Iranian

oil platforms could not be justified as necessary to protect the essential security interests of the United States, but that they did not constitute a breach of the 1955 Treaty of Amity, Economic Relations and Consular Rights between the two States, since there was no commerce between Iran and the United States in respect of oil produced by these platforms at the time of the attacks. Finding that Iran had not breached the 1955 Treaty either, as alleged by the United States, the Court rejected the submissions and claims for reparation of both States.

261. A second Judgment was handed down in December 2003 in the case regarding Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras), in which the Chamber of the Court formed to deal with that case found that El Salvador's Application was inadmissible.

262. Then, on 31 March 2004, the Court delivered its decision in the case concerning Avena and Other Mexican Nationals (Mexico v. United States of America), in which it held that the United States had breached it obligations under the Vienna Convention on Consular Relations in regard to 51 Mexican nationals who had been tried, convicted and sentenced to death in the United States. The Court concluded that review and reconsideration by the United States courts of the convictions and sentences of the Mexican nationals would provide adequate reparation for the violations of the Convention.

263. Finally, on 9 July 2004, in response to an urgent request by the General Assembly, the Court rendered its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, finding that: "The construction of the wall being built by Israel, the occupying Power, in the occupied Palestinian territory, including in and around Jerusalem, and its associated régime, are contrary to international law." The Court also determined what the legal consequences of those breaches were: for Israel, for other States, and for the United Nations.

264. "The achievement of the Court during the review period", concluded the President, "reflects its commitment to dealing with cases as promptly and efficiently as possible, while maintaining the quality of its judgments and respecting the consensual nature of its jurisdiction".

A clear need for additional funds

265. President Shi presented an overview of the 21 cases still pending before the Court, which illustrate the variety of international disputes that are customarily referred to it: territorial disputes between neighbouring States, classic disputes in which one State complains of the treatment of its nationals by another, and cases concerning the use of force, which often relate to events that have been brought before the General Assembly or the Security Council.

266. With reference to the budget allocated to the Court to handle this workload during the 2004-2005 biennium, the President felt himself bound to draw the Assembly's attention to the fact that the budget had been agreed "in advance of the General Assembly's urgent request for an advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", a matter which had "attracted unprecedented world attention", for which "meeting the demands of the media and providing adequate security [had] placed a great burden on the Court's resources". As a result, stated the President, "the Court [would] require additional funds to cover its expenses for the 2004-2005 biennium", and he asked the Assembly to ensure that the Court would have "adequate financial support to perform its role in the year ahead".

267. President Shi concluded his address by thanking representatives of the United Nations Member States for their "encouragement and assistance" to the Court during the review period, expressing the hope that "this co-operation and understanding will increase in the years to come, so that the Court can contribute to the vision of a revitalized and effective United Nations".

268. Following the presentation of the Court's report by its President, the representatives of Guatemala, Japan, Malaysia, Mexico, Nigeria, Peru, the Russian Federation, Spain, Syria and Uganda made statements.

269. More comprehensive information on the work of the Court during the period under review will be found in the I.C.J. Yearbook 2004-2005, to be issued in due course.

SHI Jiuyong,
President of the International
Court of Justice.

The Hague, 5 August 2005.